COVID-19: THE ROLE OF PROPTECH IN ASSISTING OWNERS, MANAGERS, AND OCCUPIERS OF REAL ESTATE SAFELY RETURN TO WORK

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UK Real Estate Alert

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The commercial real estate industry has learnt to adapt to a constant changing regulatory environment due to the increasing number of COVID-19 cases both in the UK and globally. The way that buildings, and physical real estate, such as offices and construction sites, are owned managed and occupied during the crisis has been particularly impacted. “Work from home” has been a consistent message across the world for the office sector, and those construction sites which have been allowed to open are applying strict “social distancing measures.” There has been a raft of new legislation and regulations in relation to how buildings are owned, occupied and managed, often implemented at very short notice, to ensure safety and compliance during the peak stages of the lockdown.

The UK government has just released its draft plan to ease restrictions, and an increasing number of jurisdictions are taking small steps to consider what the “return to work” might look like in a COVID-19 environment.

Many of the “return to work” issues and questions the real estate industry are facing are the same, irrespective of jurisdiction. K&L Gates has established a global task force to guide our clients through a full spectrum of practical and legal solutions to address their coronavirus concerns. In this alert we will particularly focus on PropTech and how technology might assist the real estate sector in its “return to work.”

WHAT IS PROPTECH?

There are different definitions of PropTech, but for the purposes of this alert it is a simple definition to mean technology that can be applied to any part of the lifecycle of real estate. It can be applied to new technologies, but broadly it is any technology which encompasses the construction, investment, sustainability, management and occupation of real estate assets.

Irrespective of the regulations and/or legislation which will undoubtedly need to go alongside any return to work guidance, such as social distancing, a major factor in how smooth the return is will depend on how individuals feel about their own safety and work place wellbeing, both on the journey to work, and at the actual physical office/site environment. We won't be focussing on the aspects of travel to and from the office in this alert.

PROPTECH MEASURES OWNERS/MANAGERS/OCCUPIERS MIGHT CONSIDER PUTTING IN PLACE TO MINIMISE RISK AND ENHANCE WELLBEING

- We have all read about the various Apps being used by different jurisdictions which create an alert system to track suspected or confirmed cases of COVID-19. The UK Government is also looking at one

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such App for the population as a whole. There has been some discussion as to whether workplaces can implement a whole building type App, which operates on more of a micro model, identifying cases and exposure in a particular building Whether or not this assists on the return to work, or potentially creates a more anxious environment is questionable. Particularly in buildings which are mixed use, the technology might operate to disrupt rather than enhance the return. There are also legal issues such as data collection and privacy.

- Tech which avoids the need for business travel to affected countries and uses video conferencing, where possible is mainstream in many offices. Enhancing and updating this tech could operate to reassure those who potentially travel widely as part of their employment. As employees have adapted to, and potentially enjoyed, home working, going forward it is likely that an office will need to offer much more than desks and meeting rooms. Augmented reality, 3D printers, environmentally sustainable spaces, with enhanced conference facilities, all utilising the best technologies, that offer much more than a home working environment could better incentivise a return. Whilst this form of PropTech is more about "enhancing" the workplace rather than dealing with "reassuring returners" it is nevertheless technology which would be likely to be here to stay.
- Products which collect data and monitor movements, such as the number of tenants frequenting an office buildings canteen or gym, could be helpful, without violating privacy issues. Its all about helping occupiers feel and stay safe, so data which can help with social distancing could be very useful tech.
- Thermometer screenings, already used at airports in places like Singapore, can relatively easily be installed in reception entrances of office buildings in particular. Again the legal issues around data and privacy are an issue. There are also the questions as to who bears the cost, and that would likely be governed by the lease wording.
- Technology which provides contactless entry into and throughout a building already exists. Questions around who should bear the cost of enhancements, where existing building owners install new technology, will depend on the wording of leases and service charge clauses. PropTech does not have to come at an additional cost, but for existing buildings that may need some enhancements to help people feel safe in their return, it is likely that some of the costs can be recouped through service charge lease provisions. Our lawyers can help with particular questions on this.
- Internet connectivity has been an issue for many of those working from home. An office that makes best use of enhanced connectivity will be more attractive than those offices which don't.

CO-WORKING AND RETURN TO WORK PROPTECH

Reduced hot-desking and alternatives to social distancing where it is not possible, are among measures reportedly being considered by the UK government, to let workplaces reopen. Those operators of co-working spaces are more likely to really benefit from the not just “nice to have” but “need to have” technologies, which would enable the co-working model to operate. Hygiene will likely become part of a wider wellness agenda and PropTech which monitors and demonstrates hygiene ratings, identifies areas which need cleaning, and potentially even picks up and identifies virus could be essential in a co-working COVID-19 environment.

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FINANCIAL IMPLICATIONS OF PROPTECH

Just as we have seen with the “sustainability agenda” parties often seem to need financial stimulus or government intervention to drive new initiatives. Digitising a property asset, allowing data analytics for example to better operate a building and make it more sustainable, is technology which we already have, but is not always as widespread in the non trophy asset type properties.

It might be that in the future we see more incentives offered to owners and occupiers to “tech up a building,” just as we have seen with the “carrot and stick” type approach in making buildings greener. We already know that building owners and managers can save money on energy consumption within a building that is smarter and can respond to lower occupation rates. Technologies which can monitor occupants and respond accordingly, are able to manage an asset more dynamically. Improving the quality of the air for example is something which occupants of a building are much more likely to be interested in during COVID-19. When a building saves energy it reduces CO2 so it also enhances the green credentials of the building. Sustainable buildings have long since been seen as an attractive proposition, particularly in light of the legislation, but in a pandemic environment, those technologies are more likely to be seen as “must haves.” When it comes to who bears the cost, then as with many of these technologies it will come down to a number of factors, and the legal drafting.

PROPTECH AFTER THE RETURN TO WORK - WHAT THE FUTURE HOLDS

We have referred to some existing PropTech solutions which might operate to aid all those involved in the real estate lifecycle to feel safe on their return to work. Looking forward, many have commented that the COVID-19 pandemic could have changed how and why we choose to work in a physical office environment.

In a post COVID-19 world, collaboration between owners, occupiers and managers is likely to be the best way forward in creating sustainable long term solutions for all. The office of tomorrow could look very different as a result of COVID-19, but real estate fundamentals are likely to remain the same. Here at K&L Gates we operate a multi-disciplinary sector approach and our real estate lawyers, alongside our PropTech and COVID-19 Task Force are here to guide you through any questions you may have. Our real estate lawyers are actively monitoring developments in the PropTech space.

To view the UK Government's Coronavirus action plan, please click here.

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