



International Council for Research and  
Innovation in Building and Construction

## **MINUTES**

### **Meeting of CIB Working Commission (W113) on Law and Dispute Resolution**

**3.00 pm – 5.00 pm, Wednesday 1st September 2010, Room C114/116, First Floor,  
L'Universite Paris-Dauphine, COBRA 2010 RICS Research Conference**

#### **Attendance**

Paul Chynoweth, University of Salford, UK (Chair)  
Henk Visscher, Delft University of Technology, Netherlands  
Asanga Gunawansa, National University of Singapore  
Tinus Maritz, University of Pretoria, South Africa  
Julie Adshead, University of Salford, UK  
Jim Mason, University of the West of England, UK  
Helle Ina Elmer, Ministry of Environment, Denmark  
Paul H.K. Ho, City University of Hong Kong  
Louis Perreau-Sausinne, University of Nancy, France  
Tilak Ginige, Bournemouth University, UK  
David Wong, University of Reading, UK  
Philip Antino, ABA Property Services Ltd., UK  
Peter Williams, University of New South Wales, Australia  
Peter Kennedy, Glasgow Caledonian University, UK  
Michael Brand, University of New South Wales, Australia  
Elena De La Poza, Universidad Politecnica of Valencia, Spain  
Rachelle Alterman (International Academic Association on Planning, Law and  
Property Rights), Technion-Israel  
Brodie McAdam, University of Salford, UK  
Phebe Mann, University of Reading, UK

#### **Apologies**

Tim McLernon, University of Ulster, UK  
Jill Morgan, Swansea University  
Mark Stallworthy, Swansea University  
Frits Meijer, Delft University of Technology, Netherlands  
Michael Guan Rui, Hong Kong University, China  
Deniz Artan Ilter, Istanbul Technical University, Turkey  
Andrew Kelly, University of Wollongong, New South Wales, Australia  
Jane Ball, University of Sheffield, UK, University of Sheffield, UK  
Sergio Nasarre Aznar, Universitat Rovira i Virgili, Spain  
Penny Brooker, University of Wolverhampton, UK  
Suzanne Wilkinson, University of Auckland, New Zealand  
Francis Moor, University of Salford, UK

## **1. Welcome & introductions**

Those present were welcomed by the Chair, who apologised for the late start of the meeting and the change of venue. The Chair noted that the pre-conference meeting was now a tradition of the conference of 5 years standing. The meeting presented an opportunity to meet and discuss issues. It was not formal and the agenda was flexible. The participants introduced themselves, and their role within their institutions. Apologies (above) were noted from those who were unable to attend.

## **2. Who are all these groups? (BEL-NET, W113, ENHR, IAAPLPR – introductions, progress reports and open discussion)**

The Chair gave some history and information about the participant groups. BEL-NET had been established for five years. It served as an academic community for those with interest in law and dispute resolution. It had been meeting since 2006 (Hong Kong Polytechnic University and Imperial College). He noted that the built environment covers a wide range of areas; construction law, housing, property amongst others. The number of papers in the legal symposium had grown from 12 papers at University College London in 2006 to around 100 in Paris in 2010.

W113 CIB Working Commission on Law and Dispute Resolution had now become one with BEL-NET. The latter had effectively become the mailing list. W113 has three functions, the Chair explained: 1) As an umbrella for the Task Groups 2) To arrange meetings at COBRA and elsewhere 3) To support and promote the International Journal of Law and the Built Environment.

The question was asked as to how W113 and BEL-NET relate to Jane Ball's and Rachelle Alterman's groups and how they relate to each other. It was noted that they all have a very similar focus. Henk Visscher said that CIB was more construction orientated, whereas ENHR focused upon social and spatial research relating to housing. There were quite a number of people who joined more than one group. Henk had a previous association with ENHR as has Helle Ina Elmer. Rachelle's group is more aligned to the planning perspective.

## **3. Open discussion: does built environment law really exist?**

The Chair posed the question; What does built environment law mean to law schools? Tinus Maritz said that he received negative comment from his law school. Tilak Ginige thought that more explanation was needed for the benefit of law schools. Grants were these days geared towards multi-disciplinary work. It was noted that from the French perspective the view was even worse because of the divide between private and public law. Asanga Gunawansa noted that construction law was not generally taught in law schools. Michael Brand said that in his law school it was taught. Tilak thought it would be a good idea to have a multi-disciplinary key note speech. The Chair commented on the key note speech at the recent World Building Congress in Salford, which had been multi-disciplinary in nature. The suggestion was made that the group should perhaps have their own conference, engaging Rachelle's and Jane's groups. Jim Mason

and Julie Adshead both thought that a discrete law conference would attract more people from law schools. The Chair noted that it was interesting that most articles for the International Journal of Law and Built Environment were policy or socio-legal in type. There were few black letter law submissions to the Journal. Michael Brand noted that there was a move from black letter law towards law and economics and areas that would draw funding. Rachelle Alterman commented that in the area of land use, the demarcation between public and private law is more hazy. The Chair thought that Rachelle's group was more on the commercial side, but Rachelle disagreed, stating that there was much overlap between ENHR and her group.

#### **4. News from the CIB law task groups**

**TG 67** – Peter Kennedy gave a brief explanation of statutory adjudication. Michael Brand (Co-Coordinator) noted that it was an emerging area, with the three remaining jurisdictions in Australia bringing in legislation along the lines of New South Wales.

**TG 68** - The Chair reported in the absence of the Coordinators. The Task Group was engaged in comparative work on construction mediation. The work was now concluded and publication of the book was imminent.

**TG 69** – The Coordinator, Julie Adshead reported that the editing process was underway and publication was still scheduled for April 2011. The research was broad and holistic and not comparative.

**TG 79** - Henk Visscher explained the move from public to private in the sphere of building regulations. Deregulation was the trend in the Netherlands. The Task Group were looking at practice across different jurisdictions. It was intended to collect contributions worldwide. The Task Group was jointly led with Edwin Chan of Hong Kong. There would be a call for contributions at the next COBRA Conference.

**TG 80** – One of the Coordinators, Brodie McAdam gave an explanation of Building Information Modelling (BIM). BIM involves software that allows multiple contributions to design. The Task Group was looking at this from the perspective of a number of jurisdictions and addressing the question of how best to procure buildings of this sort. There were problems with both the regulatory process and tortious elements. A roadmap was in place and ultimately a book was proposed. Brodie would be looking for interest at the Conference. Kerry London, the other Coordinator of the Group had been linking with W78 and raising the profile of the Task Group at the Cairo Conference.

#### **5. Postgraduate Student Forum – progress report and call to action**

The Chair explained that CIB Student Chapters were now affiliated to Working Commissions. The W113 Law and Dispute Resolution organisation for those doing postgraduate work (PhDs and Masters' Degrees) was led by Francis Moor. A substantial event was planned for the next COBRA Conference and a call for papers would be circulated giving details. The Group has a mailing list and a

Facebook page. Any interested students should be referred to the Chair. There was currently no fee for joining the Student Forum and on joining, students became members of CIB.

## **6. Identification of future opportunities**

The Chair mentioned Task Group opportunities and indicated that CIB is currently looking favourably upon applications. Anybody interested, should contact the Chair. It was reported that the second volume of the International Journal of Law and Built Environment was almost complete. There would be special issues as part of the business plan. The Chair and Editor invited potential editors for special issues. One had already been published on housing law by Alice Christudason and Padraic Kenna. Michael asked what was needed for the proposal. The Chair/Editor said five papers. Rachelle commented that special issues could be good and bad and were often frowned upon. Guest editorship would be more worthwhile if a book could be published from the issue. The Chair/Editor agreed to raise this with the publishers. Rachelle agreed to give some examples of journals that have done this. Tilak noted that this was a good incentive.

## **7. Forthcoming meetings**

At the time of the meeting the next COBRA Conference was scheduled to be held in Perth, Western Australia and the next meeting would coincide with this. Thereafter with subsequent COBRA Conferences planned for Las Vegas and Cairo. The Chair reported that there were web pages already in place for COBRA 2011, 2012 and 2013.

## **8. Any other business**

There was no other business.

## **9. Date of next meeting**

The next meeting was originally scheduled to be held 30 August, 2011, Perth, Western Australia. This has since been changed to 11<sup>th</sup> September, 2011, Salford, UK.