

## TRANSACTIONS



Jill Briggs, associate partner at Keelys with Noel Davies of NAN Davies Ltd who has bought the franchise for ShakeAway in the Gracechurch Centre, Sutton Coldfield.

## Shaky Deal for Keelys

**The Corporate and Commercial Property divisions of Keelys have advised on both the franchise and the lease agreements for NAN Davies Limited in opening a new ShakeAway franchise in the Gracechurch Shopping Centre, Sutton Coldfield.**

ShakeAway positions itself as the re-inventor of the milk shake and has 55 shops and franchises across the UK in addition to outlets across Australia and Cyprus. ShakeAway was established in 1999 from a base in Bournemouth.

Associate Commercial Property partner, Jill Briggs undertook the legal work involving a sublease between Noel Davies and his company NAN Davies Ltd and ShakeAway while Corporate solicitor, Fiona Teague advised

Mr Davies on the franchise agreement. The lease on the property at 84 The Parade will expire in April 2015.

The head lease was agreed with ShakeAway and the Gracechurch Shopping Centre and Shakeaway was represented by Latham Commercial Services in Dorset.

Commenting on the deal, Jill Briggs says: "We wish Noel Davies and his team every success in this new venture. ShakeAway is a very successful and dynamic company and we are confident that the franchise in Sutton Coldfield will reflect this."

The ShakeAway franchise at the Gracechurch Shopping Centre has employed eight people as 'shakettes' to work in the new outlet.

## Chalet Park Purchase

**Keelys has undertaken the legal work for the purchase of a spectacular chalet park near Aberdovey in North Wales.**

Marc Harvey of Keelys' Commercial Property department acted for Stephen and Wendy Myatt to buy Panteidal Chalet Park – an eight acre site which houses 25 Canadian log cabin designed chalet.

The transaction to acquire the freehold, subject to planning permission for 25 chalets, was completed inside of 8 weeks.

The chalet park is in an area of outstanding natural beauty and is just three miles from the beach and within Snowdonia National Park. Commenting on his client's purchase, Marc Harvey says:

"We wish Stephen and Wendy every success with this exciting venture. The area has an abundance of outdoor activities such as sailing, climbing, canoeing and mountain biking and is undoubtedly an extremely popular venue for those wanting a holiday home benefiting from both mountains and sea. We are confident that Stephen and Wendy will be able to grow this business further and make it a particularly profitable enterprise."

The property was sold through Charles F Jones & Son LLP of Chester.

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## Keelys Acts for Housing Association

**Keelys has acted for Trent & Dove Housing Limited in the purchase of three properties in Burton-on-Trent to add to its stock of affordable housing for rent across East Staffordshire.**

Partner, James Chisholm and solicitor, Marc Harvey of Keelys' Real Estate department acted for Trent & Dove Housing Limited and undertook the transaction within a two month time frame.



Marc Harvey (left) of Keelys' Real Estate department and Tim Matthews of Trent & Dove Housing Association in front of the three properties purchased.

Tim Matthews, head of Business Development at Trent & Dove said, "These three and four bedroom family houses are desperately needed to meet demand in the inner Burton Area and as soon as Keelys completed the purchase we were able to let them."

This is the first time Keelys has worked with Trent & Dove although it has a track record of working with housing associations across the region. Its Real Estate department has a broad range of experience in all areas of commercial property including investment portfolios, development and joint ventures, construction and planning.

Trent & Dove Housing Limited is a charitable housing association that has offices in Burton upon Trent & Uttoxeter. It provides affordable homes for rent and shared ownership to families, younger and older people and those who are vulnerable. It also works in partnership with East Staffordshire Borough Council providing advice and support to those who are homeless or threatened with homelessness.

## Solicitor Turns Author

**Andrew Milne, head of conveyancing at Keelys in Lichfield, has turned his conveyancing skills to good use by writing a book on the subject.**

Entitled "A Solicitor's Guide to Moving Home", the book aims to help the public, estate agents and solicitors understand the mechanics behind conveyancing from both a buyer's and seller's perspective.

The book is now available from Waterstones' Gower Street branch in London and on-line through Amazon and Authorhouse – the publishers' own web site, as well as via Keelys. It is priced at £7.99.

Andrew, who specialises in residential property transactions for a range of private and corporate clients, believes this book will be extremely useful for anyone involved in buying or selling a home.

He comments: "The book gives an in-depth view of all stages in a conveyancing transaction and is designed to give knowledge and support in what is usually a highly stressful event for even the most seasoned of home movers.



Andrew Milne with his new book "A Solicitor's Guide to Moving Home".

"It is in an easy-to-read format and takes the reader through each step of the transaction from placing your property on the market to completion. It also highlights common problems during the process experienced by both buyer and seller and gives key advice on overcoming these. I hope that this book will prove to be a vital tool to all parties involved in buying and selling a home. Through gaining an in-depth understanding of the moving process, buyers and sellers will give themselves a big advantage and will be ensuring that the procedure is far less stressful than it might otherwise be."



## Nabjit Strengthens the Team

**Nabjit Dubb has joined Keelys in a move to expand its Residential Conveyancing Department.**

Nabjit from Tamebridge in Walsall has been appointed as a paralegal and will support head of department, Andrew Milne at the Lichfield office. She joins from Brownings Solicitors in Redditch and prior to that was with B E Legal in Burton.

Nabjit who has a law degree and has completed the Legal Practice Course at Staffordshire University will deal with all conveyancing matters at Keelys including sale and purchase transactions, transfer of equity, re-mortgage and re-possession, post-completion issues and liaison with solicitors and estate agents.

Commenting on her appointment, head of Residential Conveyancing Andrew Milne says: "We are delighted to welcome Nabjit to Keelys. The success of the department means we are having to take on more conveyancing specialists to meet the demands of a growing workload. We are confident that Nabjit's solid legal skills and background will substantially complement the department."

Nabjit has a young son and lists cooking and long haul holidays amongst her hobbies.

# Disappearing Tenants: a landlord's actions speak louder than his words!

Jill Briggs, Associate Partner at Keelys, looks at what can be done for landlords when tenants vacate their premises mid-term.

In the current financial climate, we are receiving many enquiries from landlords whose tenants have vacated their premises mid-term, asking what can be done about this? The landlord's behaviour following the departure of the tenant can have grave consequences. If the landlord behaves in a manner which is inconsistent with the continuation of the lease, there is a risk that he will be deemed to have accepted a surrender, thus denying the landlord the right to enforce the lease against the tenant.

A recent case has shown that in the eyes of the law, actions speak louder than words in these situations. Whilst the case related to residential property, it applies equally to commercial property. In this case, the landlord owned a large house which they let out to a family. The family were not happy with the property for various reasons and left with 15 months of the term outstanding.

They returned the keys to the landlord, and the landlord accepted them back. The landlord then obtained a 'check out' report and inventory, carried out redecoration works, utilised the driveway of the property to park cars, installed furniture and hung curtains, and moved members of his family into the property.

All of these acts taken together indicated that the landlord did not consider that the lease was continuing, and that he had accepted the surrender. This was in spite of the fact that his solicitors had written to the tenant several times making it clear that the landlord was not prepared to accept a surrender and that they regarded the tenant's liabilities as on-going. The landlord considered that the actions he had taken were consistent with the lease and were carried out in order to protect the property. The landlord bought a claim against the tenant for non-payment of rent but the



Jill Briggs

court rejected this, finding that moving into and living in a property, and treating it as your own, is not consistent with the continuance of the lease, as it negates the tenant's right to exclusive possession of the property. Thus the conclusion was that the landlord had taken back possession and there was an implied surrender.

This case does not prevent landlords from protecting their property when faced with an absent tenant. However, the landlord must be careful to ensure that they act in a way to mitigate their loss rather than utilising the property themselves. Equally, a landlord is entitled to remarket the property, despite a continuing tenancy, perhaps with a view to agreeing a formal surrender with the current tenant once a replacement tenant has been found. If a landlord is faced with a tenant who has vacated, or has the keys returned to him, he should always seek urgent legal advice, as his immediate response could be extremely costly.

# Creative Ways to cut Staff Costs

Associate partner, Ravinder Sandhu, explains how Keelys is working with clients to come up with more creative ways to reduce staff costs without having to make redundancies.

At the outset of the credit crunch, many of our clients made redundancies. As we are still feeling the effects of the credit crunch, we are finding that many of our clients need to reduce staff costs further, but are unable to make more redundancies because they will then be unable to function as a business. They will also be without the staff they will need to handle an upturn in business when it eventually comes. We are therefore working with clients on more creative ways of reducing staff costs.

The first step is to see whether the contract of employment allows any flexibility. Ideally, you need a clause allowing you to lay staff off temporarily or to impose short time working. If the contract contains such a clause, there is no particular procedure which the employer needs to follow in order to implement the changes. The employees in question can simply be informed of the likely duration and extent of the lay-off (i.e. the number of hours or days a week for which the employee is no longer required to carry out work). The employer also has discretion as to whether to make these changes across the business or only in certain departments.

In most cases, an employee will be entitled to what is known as a 'guarantee payment' in cases of lay-off. There are very few exceptions to entitlement to such payments in lay-off situations. Payment is limited to a maximum of five days in any period of three months and the daily amount is subject to an upper limit which is reviewed annually. (If the employee does not work full-time, the payment is reduced, according to the number of days that the employee works in a week.) If the days of the lay-off are not consecutive, the three-month period must be calculated separately for each day. The maximum amount of a guarantee payment for any one day, is currently £21.50.

Guarantee payments can be made only in respect of a complete working day lost – they are not required to be made in respect of a day in which some work is provided. On days on which a guarantee payment is not payable, employees may be able to claim Jobseekers Allowance and should contact their local Jobcentre about eligibility.

A period of lay-off can last indefinitely. However, if an employee is either laid-off (that is, receives no wages) or put on short-time working (that is, receives less than half a week's pay) for four consecutive weeks – or for six weeks in a period of 13 weeks – the employee can give the employer written notice that he or she intends to claim a redundancy payment. The employer can then put the employee back on full time work or allow them to go, and to pay an employee a redundancy payment.

Many contracts do not include lay-off clauses, particularly for white collar staff. If the contract does not include a lay-off clause, you will need to negotiate the flexibility that you need with your employees. This may include agreeing with staff that they can be laid-off or put on short-time working or agreeing pay cuts. We are finding that most employees are prepared to agree to these changes with a view to keeping their jobs.

As a last resort, if staff are not prepared to agree to these changes, you can then terminate their current contracts on notice



Ravinder Sandhu

and then offer them new contracts which incorporate the terms that you need. However, you should take advice before doing this to ensure that you are not exposed to claims for unfair dismissal.

**If you need support on employment issues, our Employment Healthcheck Plan offers unlimited advice from as little as £80 plus per month. For a quote, call Ravinder Sandhu on 01543 420042.**

## Law on Tour

**Paul Roberts, head of Keelys' employment department has spoken at two recent events. In London, Paul was invited by the Evangelical Alliance to address 50 HR managers from Churches and Christian charities. Back in Staffordshire Paul ran a seminar for local HR managers in conjunction with the Chamber of Commerce.**

At both events, Paul reassured delegates that the Equality Act 2010 largely consolidates existing law on discrimination rather than advancing protection significantly. Contrary to many newspaper headlines, even pre-employment health questionnaires are not banned outright. It is appropriate to ask questions to assess whether an applicant is physically and mentally capable of carrying out a role. Unless a candidate is disabled, they will have no come back even if more general questions are asked, such as about their attendance record.

Paul also reminded delegates that the statutory retirement age of 65 is being abolished in October 2011. After that date, it will be very difficult to force an employee to retire and employers will have to tackle issues such as ill health or poor performance as they arise. This may mean that employers will force employees who are already over 65 to retire now, while they still can.

**If you would like us to review your Equal Opportunities Policy to check that it complies with the Equality Act, please e-mail a copy to [proberts@keelys.co.uk](mailto:proberts@keelys.co.uk)**

## Keelys London Office on the Move

**The London office has upgraded its offices and how now relocated to 141-143 Shoreditch High Street London E1 6JE.**

## PEOPLE



## John Retires after 21 Years at Keelys

**Corporate Partner John Primmer has taken a well earned retirement after working for the firm for more than two decades.**

John started off his legal career in 1967 working for a Wolverhampton firm of solicitors Dunham Brindley and Linn (DB&L) becoming a partner in 1971. At this time Keelys was a branch office of DB&L and was bought out by Steve Keely and John Smith to become Keely Smith.

John was invited by Steve Keely to join Keely Smith in 1988 and there he remained within the Corporate department, becoming head of the department in 1995.

John specialised in both Company and Commercial law working at national and international levels. In this role, he advised numerous high profile clients including a Virgin Group Company subsidiary for some 17 years.

John walked away in style with a celebratory retirement party and generous gifts of a travel voucher and John Lewis vouchers from Keelys' partners and staff. John says the travel voucher will come in very handy as he and his wife Maggie are keen to continue their travels both here and abroad. He has also taken up cooking and is looking forward to spending more time with his grandchildren. Commenting on his long innings at Keelys he says: "I enjoyed my time at Keelys and made some good friends and I wish them all the very best."