



# GOVERNANCE BARRIERS TO ENERGY UPGRADES IN APARTMENT BLOCKS

Framing and  
Mapping the  
Problem  
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# THE CONTEXT

## The Energy Challenge

Domestic building stock accounts for 25% of UK carbon emissions

UK commitment to achieve 80% cut in carbon emissions by 2050



# A STORY FROM WESTMINSTER CITY COUNCIL...

## Energy Efficiency in Private Sector Flatted Buildings

Phase 1 Report

21st May 2010



# .... 'IT ISN'T EASY BEING "GREEN"'



- A 'wicked' problem (Rittel and Weber, 1973)
  - Complex and interdependent
  - Difficult to solve (may be difficult to recognize)
  - Addressing one aspect of a wicked problem may reveal (or create) other problems
- Energy upgrades in MoBs - a WICKED problem:
  - The building stock is diverse and complex.
  - Property ownership is diverse
  - Building governance is diverse
  - There are multiple stakeholders
  - One size will *not* fit all.

# AND IT'S NOT HAPPENING FAST ENOUGH.....

Flats in England are less likely than single dwelling houses to have energy upgrades



# THE BUILDING GOVERNANCE MODEL



## The technology of law

A non-human actor working through title documents, etc



## Organisational

How human actors work as a decision making community

# OWNERSHIP MODELS

Dualistic	Unitary	Outlier
Joint ownership of the land and the common parts of the building	Apartment owners co-own the whole building	England and Wales: Freehold of the building
Individual ownership of apartment	Exclusive individual rights of permanent occupation of apartment	Long leases of individual apartments
Eg: Strata title: Australia, Singapore  Condominium – Canada  Sectional title – South Africa	Austria, Netherlands, Switzerland, Hong Kong	Scotland: Co-ownership of common parts – but no universal approach to what is common parts  Individual ownership of apartment

# THE TECHNOLOGY OF LAW: LEASES IN ENGLAND AND THE SEAT OF POWER

Apartments owned by  
leaseholder  
Lease of 99, 125 or  
999 years

Building owned by 'freeholder'

Traditional model (non-resident,  
'absent', recovering ground rent  
and service charge)

Social housing – mixed tenure

Resident owned freehold



# THE TECHNOLOGY OF LAW: WHO OWNS WHAT? (IN ENGLAND)

The building (including the Common parts) owned by the building owner (freeholder)

Apartments owned by leaseholder

What are common parts? Depends on the wording...typically

Entrances, stairs, lifts, shared pipes; roof/floor above/below stairs

The freeholder

Internal walls, floors, ceiling.

The apartment owner

Exterior walls, foundations and roof below/above flat

The freeholder

Apartment windows

Depends on the wording of the lease

# THE TECHNOLOGY OF LAW: WHO CAN DO WHAT, AND HOW DOES THIS AFFECT INCENTIVES TO UPGRADE?

## Management - and Energy Efficiency

Repair and Maintenance		Improvements
Common parts (owned by freeholder)	Freeholder And can recover cost through the service charge	No provision – therefore no obligation, no incentive and no cost recovery

# THE TECHNOLOGY OF LAW: WHO CAN DO WHAT?

## Management - and Energy Efficiency

Repair and Maintenance		Improvements
Apartment	Apartment owner	Apartment owner: <ol style="list-style-type: none"><li>1. provided no prohibition (no structural alterations is common)</li><li>2. Provided it does not impact on the common parts</li></ol>

# ORGANISATIONAL PERSPECTIVES: CONSENT BARRIERS

Contacting People and  
Building Consensus

Title complexity

Mix of owners, renters,  
commercial etc

# ORGANISATIONAL PERSPECTIVES: A FURTHER INCENTIVE PROBLEM.....

I'm fine, nicely sandwiched. Why should I pay for you to be warmer?



My energy bills, my comfort

## DIFFERENTIAL INCENTIVES

# TECHNOLOGY OF LAW SHAPING ORGANIZATIONAL PERSPECTIVES

How are decisions  
taken?

In England:

No organised decision-making  
body

No regular meetings

No sinking/reserve fund  
required

No renovation plan required

# WHAT NEEDS TO BE DONE?

## Better understanding of the issues

Need for country-by-country detailed analysis of governance and management arrangements:

- How are buildings owned?
- Can co-owners recover costs for energy upgrades to common parts?

Empirical evidence about:

- How **decision-making** operates in apartment blocks;
- How energy upgrades are discussed in apartment blocks

Better awareness of governance barriers by policy makers

Better information about technical opportunities

Legal reform