

# GOVERNANCE BARRIERS TO ENERGY UPGRADES IN APARTMENT BLOCKS

Framing and
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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

21at May 2010







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



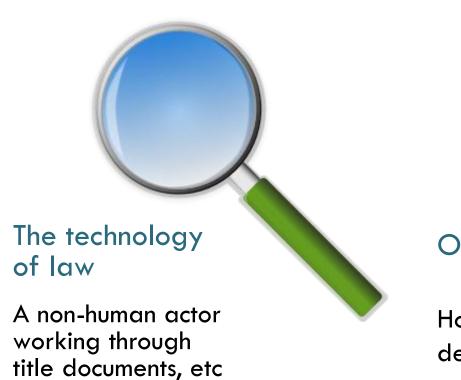
- A 'wicked' problem (Rittel and Weber, 1973)
  - Complex and interdependent
  - Difficult to solve (may be difficult to recognize)
  - Addressing one aspect of a wicked problem may reveal (or create) other problems
- Energy upgrades in MoBs a WICKED problem:
  - The building stock is diverse and complex.
  - 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



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	Austria, Netherlands, Switzerland, Hong Kong	Scotland: Co-ownership of common parts — but no universal approach to what
Condominium — Canada		is common parts
Sectional title — South Africa		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	<ol> <li>Apartment owner:</li> <li>provided no prohibition (no structural alterations is common)</li> <li>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.....



# 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