Claimant
Vivien Blacker
First
Exhibit VB/1
2 April 2012

IN THE HIGH COURT OF JUSTICE **CLAIM NO.** HQ12D01405

CHANCERY DIVISION

BETWEEN:

LEE VALLEY REGIONAL PARK AUTHORITY

Claimant

- and -

PERSONS UNKNOWN ENTERING OR REMAINING WITHOUT CONSENT ON THE CLAIMANT'S LAND KNOWN AS PORTER'S FIELD AND SURROUNDING LAND FORMING PART OF LEYTON MARSH IN CONNECTION WITH PROTEST ACTIVITY

Defendants

WITNESS STATEMENT OF VIVIEN BLACKER

I, Vivien Blacker, of Myddelton House, Bulls Cross, Enfield, Middlesex EN2 9HG will say as follows:

1 I am the Claimant's Deputy Chief Executive and I am responsible for the operating department of the Authority which includes all open spaces, environmental design and built facilities. Strategically, I also work closely with key stakeholders in the public, private and community sectors at national, regional and local level. This is very much the case with the development of the facilities and open spaces that will be delivered as part of the London 2012 Olympic and Paralympic Games ("the Games") which involves close working with the Olympic Delivery Authority ("ODA"). I have over 30 years experience in the leisure industry and joined the Claimant in 1995.

2 I am authorised to make this Witness Statement on behalf of the Claimant in support of its claim for possession and injunctive relief against the protesters as set out in the Claim Form herein dated 2 April 2012.

3 Insofar as the facts and matters referred to herein are within my own knowledge, they are true and in so far as they are not within my own direct knowledge my source of information is indicated and they are true to the best of my knowledge and belief.

4 I exhibit hereto a bundle of copy documentation and correspondence, to which I shall refer in the course of the Witness Statement, marked "VB/1".

5 The Claimant was established by the Lee Valley Regional Park Act 1966 ("LVRPA 1966"). According to the preamble of LVRPA 1966 the Claimant was established "*for the development, preservation and management for recreation, sport, entertainment and the enjoyment of leisure of an area adjoining the River Lee as a Regional Park*". The land included within Lee Valley Park ("the Park") was identified as "*suitable for development as a regional park for the purposes of providing opportunities for recreation, sport, entertainment and the enjoyment of leisure*". Parliament also considered it was "*in the public interest that an authority should be established.....to develop, improve, preserve and manage or procure or arrange for the development, improvement, preservation and management of the said land for such purpose*".

6 LVRPA 1966 provides the Claimant with various associated powers in order to carry out its statutory functions.

7 The property which is the subject of the claim ("the Land") is part of the land known as Porter's Field which forms part of a larger area of land known as Leyton Marsh owned by the Claimant under Land Registry title number EGL86020. A copy of the registered title is at pages 1 - 7 of exhibit VB/1. The Land is shown outlined and hatched red on the plan at page 8 of exhibit VB/1. This is part of a much larger area of land in the registered title which is the Park. I understand that the title plan is not currently available from the Land Registry but the copy held by the Claimant (which is too large to be easily copied) can be made available at the hearing of the claim.

8 The Park is governed by a set of bye laws, made by the Claimant under Section 28 of LVRPA 1966. I refer to pages 9 - 19 of VB/1. These are the current bye laws in effect that govern the Park. It should be noted that the Claimant is in the process of changing its byelaws but whilst the new byelaws have been approved and confirmed by the Secretary of State the Claimant is waiting for confirmation of the

date on which they come into force. In any event both sets of byelaws are in line with DEFRA's model set of byelaws and specifically the 3 byelaws that are breached and cited here are substantially the same.

9 By an agreement dated 7 July 2011 ("the Licence") (page 20 - 41 of VB/1) the Claimant granted the ODA an exclusive licence to occupy the area of land shown edged and hatched red on the plan at page 1 of VB/1 ("the ODA Site") to carry out works and to use the ODA Site during the period 1 February 2012 to 15 September 2012 for the purpose of building a temporary basketball practice facility ("the Basketball Facility") for the Games. By a deed of variation dated 10 November 2011 (page 42 - 45 of VB/1) the licence period was varied to start on 1 March 2012 and end on 15 October 2012. The Licence provides for access from the public highway known as Lea Bridge Road to the ODA Site for vehicles and pedestrians from the car park of the Ice Centre (an ice rink owned and operated by the Claimant) and along an unadopted gravel roadway known as Sandy Lane ("the Access Route"), as shown on the plan within the Licence. There is no other means of access to the ODA Site.

10 Local residents have voiced objections to the use of the ODA Site as the Basketball Facility and they opposed the grant of planning permission. Planning permission was granted on 8 February 2012 and a copy of the permission is at pages 46 -52 of VB/1.

11 The protesters have formed a protest group called "Don't be Harsh, Save the Marsh" which has a website at http://saveleytonmarsh.wordpress.com/ (see printout at pages 53 to 71 of exhibit VB/1) and a presence on Facebook. Since the Permission was granted these protestors have held a series of meetings and rallies on the Authority's land surrounding the Site in the vicinity of Sandy Lane, to protest against the ODA's use of the Site. The website includes a 10 minute video showing the protest and a transcript of the video is at pages 72 to 75 of exhibit VB/1.

12 I am informed by Jon Carney, Senior Parklands Manager employed by the Claimant, and by Mark Sorrell of the ODA, that there have been various incidents of the Access Route being obstructed as set out below.

13 Since around 20 March 2012 there has been a series of short term obstructions of the Access Way by local residents standing on Sandy Lane in the path of delivery lorries for periods of up to 30 minutes at a time. The Police were called on various occasions but the protestors moved on before they arrived. On 22 March 2012, one of these obstructions resulted in a waste collection for Springfield Marina (a facility

operated by the Authority which is situated at the end of Sandy Lane) being turned away.

14 On 23 March 2012 a group of protestors played a game of boules on Sandy Lane for several hours starting sometime between 8am and 9am and continuing until mid-afternoon. During this period delivery vehicles were unable to access the ODA Site and had to turn back, which eventually brought work on the ODA Site to a standstill. The police were called and requested to remove the protestors but we were advised that they were unable to intervene.

15 The local protestors appear to have sought support from the 'Occupy London' protestors who are currently occupying a site in Finsbury Square. On 24 March 2012 a pre-arranged march from the 'Occupy London' site in Finsbury Square to Leyton Marsh took place. Since then, a number of protestors have been permanently blocking the Access Route by camping on Sandy Lane and the surrounding area in breach of byelaw 5. The protestors have encouraged others to join them and the camp appears to be growing.

16 I was advised by Jon Carney, Senior Parklands Manager, and I believe that on 25 March the first tent appeared next to the ODA Site in breach of byelaw 10.

17 On the morning of 26 March 2012, the lock on the gate between the Ice Centre Car Park and Sandy Lane was found to have been glued shut and I believe this was done with the intention of blocking access to delivery lorries. The lock was broken and the delivery lorries attempted to access the ODA Site but were prevented from doing so by protestors lying under and in front of the lorries. There was no alternative but to reverse the lorries away from the ODA Site.

18 I am informed by the ODA all deliveries to the ODA Site due on or after 26 March 2012 have been suspended on health and safety grounds until such time as access can be assured and there is presently no work being undertaken on site. The ODA has increased the level of security that it has on site as a result of the threat presented by the protesters.

19 I am informed by Jon Carney that more tents appeared on 26 March 2012. There were at that time three in total, with approximately 15-20 protesters. The Police Counter Terrorism Unit attended the site and have advised the Authority that some of the protesters were from the St Paul's Occupation and that caution should be used.

20 The Claimant met with the Police Borough Commander on 27 and 28 March to discuss an action plan for dealing with the protesters but the police considered that they were unable to act because of the technical power of the Authority to enforce its own byelaws.

21 The Claimant employs 12 full time Park Rangers who amongst other duties are responsible for enforcing the bye laws. However, they do not have the equipment, facilities or manpower to deal with the protesters in these circumstances so as to enable them to take effective enforcement action. In addition, as referred to above, the police have advised the Claimant to treat the protesters with caution.

22 The Defendants did not seek and were not given any permission to enter upon the Land and occupy it in the way that they have done. Ges Hoddinot, the Senior Ranger (South) employed by the Authority has handed out copies of the byelaws to those who are camping on the Land and told them that they did not have permission to remain. Despite this the Defendants remain on the Land without the permission of the Claimant.

23 The Defendants' occupation and use of the land is unlawful. I am advised by Jon Carney, that contrary to the byelaws currently in force, the Defendants have been camping on the Land without permission (contrary to byelaw 5), lighting fires without the permission of the Claimant (byelaw 12). The protesters have been damaging trees in order to obtain fuel for their fires. As this amounts to criminal damage, the incident was reported to the police on 29 March 2012, but no action was taken by them.

24 I am advised by Jon Carney that on 29 March 2012 there were six tents on site with a continued presence of approximately 15 to 20 protesters during the day.

25 The activities of the Defendants in obstructing the unadopted gravel roadway known as Sandy Lane and also obstructing the entrance to the ODA Site amounts to a breach of a byelaw prohibiting any person from obstructing any person carrying out an act which is necessary to the proper execution of any contract with the Claimant and/or obstructing any other person in the proper use of the ground (byelaw 24).

26 I am informed by Mark Sorrell of the ODA (and I believe that his source of information is Philipp Mohr of the ODA's contractor) that employees of the ODA's contractor and sub-contractors have been threatened, harassed and intimidated by the protesters who have subjected them repeatedly to foul and abusive language,

followed them to their cars in the Ice Centre Car Park and threatened to cause damage and spat at them.

27 I am concerned that the ongoing protest poses a risk to the health and safety of its Rangers in dealing with the protesters when seeking to enforce the byelaws, and the ODA's contractor's workforce. It is clear that the protesters are willing to use force of the threat of force against those lawfully using the Park, and have abused and sought to intimidate them. The ODA need to continue with their works without being subjected to such threats and abuse. There is also an unacceptable risk of public disturbance which goes way beyond the capacity of the Rangers to contain.

28 I am also concerned that the Defendants are acting unlawfully and criminally in breaching the bye-laws of the Park, as described above. The Claimant considered at a meeting on 30 March 2012 how best to address this and what course of action it should take. It considered enforcement of the bye-laws through the Magistrates Court but because of the difficulties in obtaining the defendants individual names and addresses and the delays involved in prosecuting the matter in the Magistrates' Court, the Claimant concluded that it had to take immediate action to prevent the unlawful conduct of the Defendants. In making this decision, it had in mind in particular the protection of the environment in the Park, the rights of other members of the public to use the Park lawfully and peacefully and without being subjected to threatening actions of the Defendants, the rights of ODA to make use of the ODA Site, the obligations of the Claimant under the ODA Licence to provide access to the ODA Site and the risk that the occupation of the Defendants could further get out of control and result in a breach of the peace.

29 For the reasons set out in this Statement, the Claimant seeks an order for possession of the Land forthwith against the Defendants. Possession is claimed of the whole of the area surrounding the ODA Site and not just the area currently being occupied because the Claimant believes that if the protesters are ordered to give up possession of the land currently occupied they will simply move to other land surrounding the ODA Site. In seeking to identify the area of the Land, the Claimant has borne in mind the need not to be disproportionate in seeking possession of a larger area of the Park than is reasonably necessary to achieve its objectives.

30 The Claimant also seeks injunctive relief to restrain breaches of the bye-laws in the Park, both as ancillary to the order for possession and, in the event that the claim for possession is not disposed of on a first hearing, on an interim basis, given that there can be no possible justification or defence available to the Defendants that

would entitled them to continue with breaches of the criminal law in the Park. Accordingly, I respectfully invite the Court to make an order restraining the protesters from:

30.1 camping on any part of the Park;

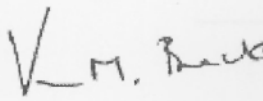
30.2 lighting fires, including campfires, on any part of the Park; and

30.3 obstructing any person carrying out on any part of the Park an act which is necessary to the proper execution of any contract with the Claimant, in particular the agents, employees and contractors of the ODA and/or obstructing any other person in their use of the Park.

31 I am not aware of the names of any of the Defendants.

32 I believe that the facts stated in this witness statement are true.

Dated the 2nd day of April 2012.



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Vivien Blacker