



FPRA
FEDERATION OF PRIVATE
RESIDENTS' ASSOCIATIONS

P O Box 10271
EPPING
CM16 9DB

Telephone Number:
0871 200 3324

E-mail: info@fpra.org.uk
Website: www.fpra.org.uk

The Voice of Leaseholders

The Federation of Private Residents Associations Ltd.
PO Box 10271
Epping, CM16 9DB
E-mail. info@fpra.org.uk.
Web. www.fpra.org.uk.
Main Telephone Number: 0871 200 3324

FOR IMMEDIATE RELEASE: (Monday 5th July 2010)

Leaseholders group see problems ahead for new Equality Act!

The Federation of Private Residents' Associations (FPRA) who represent 1000's of leaseholders and resident groups have written to the new Equalities Minister Theresa May MP having been invited by the Office for Disability Issues to contribute to the Equality Act 2010 legislation in so far as the new law will affect the 'Common Parts' of blocks of flats and legislates for disability-related improvements to 'common parts' of let residential premises.

Federation Chairman Bob Smytherman said:

"Many private residents' associations and management companies are formed to run their residential blocks and are often run by Directors who are volunteers from the tenants or leaseholders who give of their time freely and it is this type of organisation on whom many of these new duties under the legislation will fall in their role as "landlord and manager".

"We are therefore calling on the new Equality Ministers in the coalition to work with us and to minimise the burdens and complexities of the new Single Equality Act and provide clear and unambiguous advice to supplement legislation to ensure that the law that is meant to prevent discrimination does not discriminate

against the very people they are trying to protect."

Ends

Press Release issued by the Equalities Office on Saturday 3rd July 2010

Government Equalities Office simplifies legislation for business

http://www.equalities.gov.uk/media/press_releases/government_equalities_office_s.aspx

Implementation of majority of the Equality Act will begin on 1st October 2010.

All Press Enquiries:

Chairman: Bob Smytherman
Home (01903) 507073
Mobile: 07867 562538
Direct email: Bob@fpra.org.uk

Notes to Editors

A summary of The Federation of Private Residents' Associations (FPRA) concerns include:-

Substantial Disadvantage

We are in favour of introducing a single threshold of "substantial disadvantage" provided that the new threshold is related, as it is now in the 2005 amendments to the Disability Discrimination Act 1995, sections 24C and 24D, to the lease or tenancy and the rights or benefits arising from it.

Code of Practice

In terms of the proposals in respect of common parts, we consider that the statutory Code of Practice will be very important. The requirement on landlords to act reasonably in deciding whether or not to meet a request for a disability-related alteration will be very relevant to our members.

Potential Difficulties

Whilst we welcome the potential extension of the rights of disabled people, we have identified a number of potential difficulties associated with introducing the legislation in respect of common parts. These include conflicting demands from various disabled residents with different disability needs (for example visibility-related alterations may not be compatible with mobility-related alterations), the need to comply with fire safety and other regulations which apply to common parts and control matters such as emergency

exit routes (Regulatory Reform (Fire Safety) Order 2005) and the actual practicalities of installing and maintaining the disability-related alteration.

An audit of all other legislation affecting common parts and its relationship with the proposed legislation should be carried out to identify and address potential conflicts and difficulties.

We consider that with each of these potential difficulties there are also potential liability issues for landlords/managers and this needs to be recognised as do the consequent financial impacts. For example, the introduction of apparatus on to stairways may impact on insurance costs for landlords both in terms of occupier's liability and fire safety risk.

Costs to the Disabled Person

It follows from the above, that the disabled person requesting the alteration must be required to meet all reasonable additional costs to which the landlord/manager will be subjected as a result of the alteration. The removal of the alteration and/or any making good to the common parts needs to be explicitly included in the proposal as being potentially required by the landlord/manager. At present only reasonable maintenance costs are mentioned in addition to the actual cost of the alteration itself. There are potentially additional insurance costs, consequential additional health and safety costs, cleaning costs, energy costs and so on. These additional and consequential costs must all be able to be recovered from the tenant requesting the alteration so that they do not fall on the other leaseholders to be recovered from the general service charge account.

Ownership of the Alteration

The landlord/manager retains ownership of the common parts and grants rights to the tenants to use those areas in common with others. Office for Disability Issues' stated that the landlord and tenant should be able to negotiate whether or not an alteration should be treated as a tenant's fixture. We are very concerned about this statement and hope that it does not form part of the actual legislation in respect of common parts. The landlord/manager needs total control over the common parts

Because of all of the obligations and liabilities that exist in respect of those areas imposed either through other legislation or under the lease. Of course, there would be nothing to stop a landlord/manager offering back the alteration (e.g. a stair lift) to a tenant who is leaving the property where appropriate or practically possible.

The FPRA exists to advise and support leaseholders (flat owners) and residential management companies, to lobby for the interests of leaseholders, to be a forum for debate and to keep members informed of legal and practical developments in leasehold matters. The FPRA was set up in 1971 as a non-political, non-profit making voluntary organisation by a group of private sector residents' associations. It became a limited company in 1986. Its directors are unpaid volunteers, and have long experience in leasehold matters.

This email was sent from or on behalf of The Federation of Private Residents Associations Ltd.

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FPRA only advises member associations - we cannot and do not act for them.

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Main Office.

The Federation of Private Residents Associations Ltd,

P O Box 10271

EPPING

Essex CM16 9DB

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