FPRA
FEDERATION OF PRIVATE RESIDENTS' ASSOCIATIONS
THE VOICE OF LEASEHOLDERS
Representing Residents' Associations, Residents' Management Companies, Right to Manage Companies and similar groups

6 December 2017

To: housingstrategy@london.gov.uk

Dear Sirs

Having your say: Tackling London's Housing Crisis

This response to your call for evidence is on behalf of The Federation of Private Residents' Associations, which as far as we know, is the only national body that represents the voice of leaseholders in England and Wales.

We have over 500 member associations representing tens of thousands of individual leaseholders.

The basic premise of this consultation is excellent and is supported by our members. It is however, dealing with one small aspect of a bigger problem, so whilst it is welcome in itself, we urge you to also look at the bigger picture as the London situation is part of the bigger England and Wales condition.

We would draw your attention to the previous consultation conducted by your authority into the leasehold market and the conclusions reached there.

We would also draw your attention to the ongoing consultations and work being conducted by the Department of Communities and Local Government into leasehold reform.

In addition, we would draw your attention to the work of the All Party Parliamentary Group on leasehold reform.

The key point is that solving parts of the housing market without leasehold reform will lead to further problems.

At a national level, we are asking for the following to be considered and hope the Mayor of London will add his voice in supporting these.

1. Law Reform/Legislation

Leasehold law is unnecessarily fragmented and complicated.

This has made interpretation of leasehold law very difficult, even for the legal profession, never mind the average leaseholder or tenant.

Further, many of the processes and systems created by Acts of Parliament would benefit from simplification and/or updating so as to make them more workable.

There are trade bodies in the sector that are aware of abuses in leasehold management and try – through their codes of practice and membership – to improve an unsatisfactory situation. But they lack any real sanction on their members and membership of any trade body is completely optional, with there being no legal barrier to anyone, however disreputable, setting up in the sector.

Leaseholders who seek redress over abuses find the process complicated and expensive, whether taken through the Courts or the less formal First-Tier Tribunal.

The costs of legal action can be excessive with the worry of having to pay the landlord's costs as well.

FPRA continues to address this because of the glaring need to consolidate all landlord and tenant legislation.

2. Taking Control: Enfranchisement and the right to manage

One of the successes of our campaigns and legislation over our 45 plus year history, has been the introduction of leaseholders' right to enfranchise, by acquiring the freehold of their building. So encouraged, significant numbers of leaseholders acted together to take responsibility for the management of their homes, many forming Residents' Associations, Residential Management Companies, Right to Manage Companies, Flat Management Companies etc. and become members of FPRA. Just the number of types of groups listed gives you an idea of the complexity.

The solution, as used in practically every other country in the world is 'Commonhold' under its various names but there has been a lack of political will, to make this system work, by allowing leaseholder owned blocks to convert to Commonhold with the agreement of a majority, rather than 100 per cent, of the leaseholders.

FPRA considers that the directors of freehold and right to manage companies should not bear the same onerous duties as those borne by commercial companies. They are volunteers who give freely of their own time to make a difference to their community. We have also produced a comprehensive booklet, *A Guide to Formation, Recognition & Running Your Association* which is available via our website.

No new leasehold residential properties should be allowed to have ground rents, as already suggested in government consultations.

3. Protection of Leaseholders' Money

Leaseholders are usually required by terms of their lease, to make advance payments towards the service charge, and to contribute to a sinking or reserve fund. These sums can be substantial, especially if major works are in the offing.

It is believed that there is no other area in the UK in which money held by a third party is not regulated. It has been suggested that the sums held by unregulated and unprotected third parties may well exceed £1 billion. An individual can set up in business as a property manager without any formal qualifications or experience or insurance – even if they have a criminal background and hold these deposits or other sums.

Perhaps unsurprisingly, this has from time to time resulted in leaseholders falling victim to fraud or outright theft of their payments. Sometimes they lose money through incompetence and the Financial Conduct Authority has no involvement and therefore there is no compensation.

Shocking as this seems, there has been much legislation to protect much smaller sums and housing deposits for renters, but nothing to protect leaseholders' funds. FPRA believes that it is essential that a system is devised so that funds paid by leaseholders to managing agents or landlords are protected by a scheme similar to the Financial Services Compensation Scheme.

4. Insurance and other commissions and payments

FPRA believes it is immoral and fundamentally wrong that any payments for any service, including the payment of insurance commission be made.

The payment of these commissions is inappropriate and leads to increased charges. Some trade bodies make it compulsory for their members to disclose payments to leaseholders, but even in those cases, it is often well hidden.

All charges to leaseholders, whether it is for repairs, insurance, electricity, entry phone systems or anything else, should reflect the true cost and if a manager or freeholder requires payment, this should be completely transparent and charged separately.

5. Major Works Limit (Section 20)

Leaseholders are facing unnecessary costs and administration because under Section 20 of the Landlord and Tenant Act 1985, there are expensive and time consuming procedures for works over £250. The £250 limit has not been increased for over a decade and is not being kept in line with costs. We are aware that government is looking at revising Section 20 procedures but pending this, the monetary limit should be changed.

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General comments:

We also wish to raise the special vulnerability of elderly leaseholders especially those in 'extra care' homes and retirement properties. Many of these leaseholders lack the information, resources and indeed will to challenge poor practice and in some cases, are in actual fear or anxiety of doing so.

Conclusion:

FPRA welcomes this investigation but without leasehold reform, there are major barriers to tackling London's housing crisis.

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FPRA Voluntary Chairman

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