FEDERATION OF PRIVATE RESIDENTS' ASSOCIATIONS

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The Voice of Leaseholders

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29 June 2009

Dear Samya Muddathir

Response of Federation of Private Residents' Associations Ltd (FPRA) to Consultation by Department of Communities and Local Government on Right to Enfranchise (RTE) Provisions

This Federation is as you know the national non-profit organisation that represents the interests of long leaseholders which we do via their Residents' Associations, Resident Management Companies, Right to Manage and similar, as well as representing Commonhold Associations.

We would respond to your questions as follows:

1 Yes.

2. Yes.

3. Yes.

4. Yes.

5. Yes.

6. Yes. In principle the idea of allowing a leaseholder who did not originally participate (or his successor in title) the right to participate later would mitigate the injustices that occasionally occur when either one or more leaseholders are initially excluded from enfranchisement.

7. We agree that the issues mentioned are those that would arise with a right to become a member of the RTE company at a later date, but are unable to add any suggestions as to how they can effectively be dealt with.

8. Yes. Although we are aware of occasional cases where either one or more leaseholders are excluded for personal reasons from an initial enfranchisement (usually in very small blocks), and other cases where, following disputes, a group representing 50% of the leaseholders use the RTE provisions to "enfranchise" for a second time a block which is already enfranchised, we think that the disadvantages of complicating the enfranchisement mechanisms by bringing sections 121-4 into force outweigh the advantages that they would bring in such cases.

9. Yes.

10. By and large we would agree that it is. In a sense, however, the RTE provisions were evolved at a time when developments of leasehold flats tended to be simpler (i.e. the block comprising anything from 3 to a 100 or more residential flats, each of a broadly similar size and value). We do not feel that the RTE provisions are working so well with more recent developments, particularly inner-city developments, where:

(a) The exclusion from RTE where more than 25% of the block is commercial means that many mixed use developments (i) are simply ineligible; or (ii) even if the commercial elements are less than 25%, the cost of enfranchising the development becomes prohibitive because residential leaseholders are expected to find the capital value of the commercial element in the development in order to enfranchise. "Lease-back" arrangements may obviate this, but these are option of the ground landlord, and if the landlord refuses to negotiate on this, enfranchisement simply becomes prohibitively expensive. It is suspected that some developments are deliberately designed to include sufficient commercial elements to exclude enfranchisement.

(b) The requirement that social housing be included as part of the development again complicates and brings uncertainty into the exercise of the RTE.

We are also aware of ground landlords setting up elaborate structures of headleases to make collective enfranchisement more difficult to achieve, and landlord purchasing leases of individual flats to the same end.

We would also mention that the difficulties outlined in response to 8 above do occasionally mean that collective enfranchisement is working less effectively than it might.

11. Yes.

Thank for the opportunity to respond and we would be pleased to assist further as needed.

Yours sincerely

Robert Levene
Chief Executive for FPRA