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Mr Clive Betts MP

Chair of Housing, Communities and Local Government Select Committee

House of Commons

London

SW1 0AA

15th February 2019

Dear Mr Betts

Re: Leasehold reform inquiry

I wanted to take the opportunity to write after watching the Minister for Housing and Homelessness on Monday 4th February give evidence to your Committee. I am aware that you will have begun the process of reviewing the evidence to inform your final recommendations, so I wanted to address some of the points that were raised in the session and also provide further information that I hope will shed some light on the issues which were discussed. This follows our previous correspondence after we gave oral evidence on 19th November (also attached).

Role of a freeholder

Early in the session you asked the Minister if there is a future for leasehold or whether commonhold could replace it entirely in the future. Mrs Wheeler rightly stressed the importance of consumer choice and highlighted that many people in blocks of flats explicitly want no part in a decision-making process about how the building is run, referring to them "lock-up-and-go tenants".

Likewise, the Minister said very clearly that Government does "not want good professional freeholders exiting the market". The clear implication of both of these statements is that in a large number of cases the leasehold tenure works and that responsible freeholders play a valuable role in the market. This is a critical point which is often overlooked in the debate but it appears inconsistent with some of the Government's proposals which would remove this function from the market by reducing ground rents to a peppercorn.

Members of the Committee and the Minister indicated that a proportion of freeholders would manage a block of properties even where there was no financial incentive to do so. As one of the largest institutional freeholders in the country and with direct experience of the sector, I feel it is important to clarify that this would categorically not be the case in the professional sector, where the vast majority of leases exist.

The Minister cited Peabody as an example of a freeholder which does not monetise ground rents. It is important to note that Peabody is a not-for-profit enterprise and therefore does not represent the professional freehold market. To put this into context, professional freeholders account for 2.69m out of

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2.86m leasehold flats in the UK. This equates to 94% of the leasehold flat market which would potentially be deterred from the market by reducing ground rents to a peppercorn.

As we have said in previous correspondence, onerous ground rents must be eliminated from the market through regulation but the presence of a responsible, professional and active freeholder is contingent on a reasonable ground rent. This guarantees a freeholder has a limited financial incentive to oversee maintenance and hold service providers to account. While the managing agent is the day-to-day point of contact for all residents, both leaseholders and tenants in a given block, the freeholder is the ultimate arbiter that can terminate contracts if residents are not getting the best deal.

We firmly believe that a discussion about what constitutes a reasonable ground rent is required. A lease that does not include an onerous or escalating ground rent clause gives leaseholders a valuable choice of tenure and allows them to avoid the responsibilities and liabilities that come from alternative tenures, without being financially exploited.

Support for existing leaseholders

One of your colleagues pressed Mrs Wheeler about the options available to the Government to vary existing leases to help those leaseholders with onerous leases. The exchange that took place reflects some of the challenges we are having with communicating with leaseholders.

We, and many of our peers, are committed to supporting existing leaseholds to guarantee they will not be left with an escalating ground rent clause in their leases. Mrs Robinson asked how else the Government can force developers and freeholders to amend onerous leases as the voluntary route is not having the desired effect.

As stated in our written submission, and reiterated when we provided oral evidence, there is considerable scope for a strong regulatory framework. A Code of Practice will formalise and improve the management practices introduced by the institutional investment community over the past decade, with a view to creating a more transparent and consumer friendly landscape.

Additional costs for leaseholders

Another point raised concerned excessive and unexpected charges for leaseholders. There was a discussion about individual leaseholders being charged up to £50,000 without warning or prior consent. The example referenced should have been prevented using existing legal protections – under section 20 of the Landlord and Tennant Act 1985 (as amended by the Commonhold and Leasehold Reform Act 2002) – which prevents costs of above £250 being passed on to leaseholders without prior consent.

Notwithstanding the fact that this particular case would have constituted a breach of the law, it is important to note that situations like this are not a product of the leasehold tenure. In fact, these problems are often exacerbated by a resident-led system where Directors of RMCs often do not have the professional experience or expertise to manage sinking funds effectively. We would be happy to share examples of where RMC Directors have struggled or failed to fulfil their obligations and left residents facing onerous costs. A Code of Practice that strengthens the existing rules and ensures leaseholders are made aware of these rights would prevent these issues.

A number of your colleagues have also highlighted the problem surrounding extortionate permission fees being charged. It is important to note that the majority of the debate on this issue relates specifically to leasehold houses where residents are, for example, charged a consent fee for permission to build an extension or conservatory. We firmly support the Government's proposals to end the practice of developers selling on new build leasehold houses which would put an end to this practice. With limited exceptions, the purchase of a house should give the buyer ownership of the freehold with complete the choice and freedom, as well as the responsibility, to undertake the desired work in accordance with local planning rules.

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Outside of houses, we believe that a Code of Practice would establish clear parameters for permission and consent fees, ensuring residents are not unfairly treated and that legitimate services are priced fairly. Regulation can set a cap on any fees and provide clear pricing guidelines.

Finally, I have no doubt that it would be incredibly worthwhile if you and / or members of the Select Committee visited our office to see first-hand the level of professionally qualified, trained and committed staff that are dedicated to ensuring that our leaseholders are treated fairly and with respect. We are located within close proximity to Westminster, and I am sure it will assist in contextualising some of the conclusions in the Select Committee report. I will ask my office to liaise with your office to see if this is possible.

We look forward to reading you final report and would be happy to answer any further questions before then.

Kind regards,

Richard Silva

Executive Director