

## ACT NOW TO SET LEASEHOLDERS FREE

Since the 'Sportelli' judgment has sharply increased the cost and legal uncertainties faced by leaseholders seeking to acquire their freeholds, it is hardly surprising that the number of enfranchisement cases has hit an all-time low. This leaves a sizeable cloud over the heads of the UK's three million leasehold 'home-owners'.

The government should step in and resolve the valuation question once and for all. It must start from the premise that the freehold valuation should be fair to all parties. This would need to respect two simple facts:

- That at the start of a lease, the leasehold interest pays in full for the construction of the property as well as the land on which it stand; the developer simply collects the money, plus whatever profit can be made.

- That, throughout the course of the lease, it is the leaseholders who pay for maintenance and repairs; the freeholder pays none of these costs, and often profits from the many scams operating at the expense of leaseholders.

Ireland has a much fairer method of freehold valuation. If a lease has more than 15 years to run, the leaseholder can acquire the freehold by paying a simply multiple of the ground rent; if the lease has less than 15 years to run, the leaseholder must in addition pay a small fraction of the market value of the freehold. There has been no successful appeal against this valuation formula under the European Convention of Human Rights.

### CITYWEST TENANTS HAVE UTILITY BILLS SLASHED BY UP TO A THIRD

#### PIMLICO RESIDENTS CELEBRATE THEIR RELEASE FROM FUEL POVERTY

**Julia Eysenck**

**Campaigning Pimlico residents were celebrating after it was announced their heating and hot water bills would be slashed by this winter.**

Several residents claimed they were being plunged into fuel poverty after CityWest Homes, which manages Westminster Council's housing stock, overcharged for gas provided by Pimlico District Heating Undertaking. This supplies energy to 3,212 homes in the Pimlico area, including Churchill Gardens Estate and Abbots Manor Estate, 50 commercial properties and two schools.

Back in November, Allan Stone, chairman of the Glastonbury House Residents Forum, on the Abbots Manor Estate, said he wanted to leave his contract with CityWest Homes because he believed other suppliers would offer cheaper bills.

He told the Chronicle: "I'm paying hundreds of pounds a year to heat my flat, but I've approached other suppliers who have said I'd only have to pay around half the cost. We can't afford it."

He added that this plunged him into fuel poverty, a term which means more than 10 per cent of a household's income is being spent on fuel. Energy prices have now been slashed by about 35 per cent, varying according to different blocks, taking effect on 1 October.

Richard Beville, chairman of the Churchill Gardens Lessees Association, said he was delighted the bills would be reduced. "We have been complaining that these charges were too high for months," he said. "So I'm very pleased that charges have been brought down." He added that he still wanted CityWest Homes to drop capital costs of about £120, which are being charged to each leaseholder, on top of their energy bills.

A CityWest Homes spokeswoman said she was pleased costs of heating and hot water would be reduced. She added: "This has mostly been achieved through the negotiation of a new gas supply contract. CityWest Homes also undertook a robust review of maintenance works and costs and reduced them where appropriate to ensure that they represent value for money. All residents will receive letters informing them of the new reduced charges by the end of August. In future the income generated from electricity sales is to be ring-fenced."

London Informer, 13 August 2009

# Leaseholder



[www.carl.org.uk](http://www.carl.org.uk)

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## CALLING ALL MEMBERS

With the next general election less than seven months away, and the government now poised to introduce legislation to regulate managing agents, this is the time for CARL's members and supporters to leap into action.

Governments of all shades have throughout modern times tried and failed to reform the leasehold system. All this has done is to increase the legal complexities of living in a leasehold property. We all know the leasehold system is completely incapable of reform, and is worthy only of the scrapheap.

CARL takes the view that all the 'leasehold reforms' of the past forty years have achieved nothing, and simply regulating managing agents will achieve little. Only a transfer of ownership will give leaseholders control over their lives.

Managing agents and their landlord clients have an appalling reputation, and are able to intimidate leaseholders because they can threaten to forfeit leaseholders' homes. Industry trade associations, professional bodies, tribunals and most politicians are

not interested in the abuse of leaseholders.

This makes it easy for landlords and managing agents to demand money from leaseholders, attracting a significant criminal element into the business. Why take the risk of spending years in prison by robbing a bank, when you can rob leaseholders and get away with it?

Not only are there are now more leaseholders than ever before in the history of this country, but there are more leaseholders than ever before being ruthlessly exploited by unfair laws and rogue landlords and managing agents.

To be effective, we need our members and supporters to write to their MPs both to describe the serious problems that they are experiencing as well as setting out the solutions that parliament alone can provide.

These solutions include measures to help leaseholders to gain control of their own homes, by making it fairer and easier to acquire their freeholds and to promote the take-up of commonhold tenure. Simply trying to regulate managing agents will not solve the problem.

## ANNUAL CONFERENCE

**Saturday 14 November at 2:15 pm**

**Lecture Theatre, Kensington Library, Hornton Street, London W8  
(nearest tube station: Kensington High Street)**

As usual we have an interesting line-up of speakers. We have invited Sarah Teather MP, the LibDem spokesperson on housing. A brief AGM will follow, including reports and election of officers.

After the meeting we will move on to a nearby pub for an informal social. This is the ideal opportunity to meet and discuss common issues with the speakers, members of the committee and other leaseholders.

## ABUSE OF THE ELDERLY

Thanks to CARLEX, the Campaign Against Retirement Leasehold EXploitation, the activities of a number of well-known retirement home companies have been exposed in the media. Their website is <http://carlexuk.wordpress.com>. The extent of the abuse of elderly leaseholders by managing agents in this sector is indicative of just how low these people have sunk.

These agents act for equally unpleasant freeholders who have contributed absolutely nothing towards the maintenance of these retirement homes – nothing, that is, except grief.

There was a particularly hard-hitting programme on Channel 4 that contrasted the playboy lifestyle of Vincent Tchenguiz, owner of the largest retirement home company, with that of the plight of the elderly who have the misfortune to find that he is their landlord. Tchenguiz who is Iranian born, is not noted for his experience in the care of the elderly.

This is the link: <http://link.brightcove.com/services/player/bcpid1529573111?bclid=35553933001&bctid=36535795001>. You will need to cut and paste into your browser to view.

The government has been holding consultation meetings on its proposals to regulate managing agents, but don't expect any measures that would upset landlords and managing agents. Simon Llewellyn, of the Department for Communities and Local Government, invited Peverel, a company controlled by Tchenguiz, to attend.

Also invited was a representative of Grosvenor Estates, controlled by the Duke of Westminster, that well-known upholder of standards in public life. CARL refused to attend these meetings, and has demanded a meeting with the minister John Denham MP.

Rather than leaving the vulnerable to fight battles against well-heeled, but unscrupulous managing agents and landlords, the government needs to take urgent action:

- Firstly, it should ban all new leasehold retirement developments, requiring developers to sell on the basis of commonhold tenure. This will give ownership and control of these developments to the elderly who are actually investing their money in these homes, rather than the developers who simply retain the freehold title and reap the benefit.

- Secondly, the government should make it possible for existing leaseholders to transfer to commonhold tenure, by enabling leaseholders to buy their freeholds at a fair price and vote to transfer to commonhold on a simple majority basis.

### Insurance broker corruption

The Financial Services Authority has recently released the preliminary findings of its investigation into corruption by insurance brokers. Details are on the following link: [http://www.fsa.gov.uk/pages/About/What/financial\\_crime/library/interim.shtml](http://www.fsa.gov.uk/pages/About/What/financial_crime/library/interim.shtml).

The FSA lists nine specific practices in the broking industry that point to the presence of corruption. Brokers stand accused of failing to check the integrity of the third parties that they deal with. The FSA has found that commission is usually shared 50/50 between the brokers and third parties, i.e. landlords, with no real consideration of whether payments made to third parties were commensurate with the services they provide. Some firms, acting on the instructions of third parties, had made commission payments to persons other than the third party, without a clear understanding of why these payments were made.

However, the FSA has failed to acknowledge that “grossing up” is widespread in the business. This is where a landlord insures a number of blocks through a single policy. The insurance company then allows the broker to prepare summaries of the insurance policy for each block. In the process the broker inflates the premiums for each block, so that the total premiums collected from the leaseholders and commercial tenants far exceed the actual cost of the insurance policy.

Why it has taken so long for the FSA to uncover malpractices that leaseholders have been fully aware of for many years? The reason is, of course, that the FSA got much too close to the industry to bother itself about the consumers that it is supposed to protect. It took the arrival of the credit crunch to put an end to that cosy relationship.

There was an article by Rebecca O'Connor in The Times about the scandals in the insurance industry: [http://www.timesonline.co.uk/tol/money/property\\_and\\_mortgages/article6726962.ece](http://www.timesonline.co.uk/tol/money/property_and_mortgages/article6726962.ece)

## MEMBERSHIP

**If you are not yet a member of CARL, please join us so that we can speak from a position of even greater strength. Return the enclosed membership form together with your subscription. Existing members should have already received their membership cards.**

**We are extremely reliant on our members to spread the word about CARL's campaign. We need your help to distribute copies of the Leaseholder to your neighbours, work colleagues, libraries and local MPs. Contact us for further copies of the Leaseholder, by e-mailing us on [info@carl.org.uk](mailto:info@carl.org.uk).**

### Don't bother us .. we're the LVT

In the recent case 'Goldstein v Conlon', the leasehold valuation tribunal expressed concern that the parties had “troubled” the tribunal at regular intervals over disputes concerning “trivial” amounts. In this latest decision the tribunal ruled that approximately £1,500 demanded by the landlord were not reasonable. Their view that such an amount is trivial simply reflects the fact that these tribunals consist predominantly of millionaires who have made their money out of the leasehold system. They are completely out of touch with the lives of the majority people, and lack a moral compass. A landlord who demands such trivial and unreasonable amounts from 700 leaseholders would illicitly collect just over £1 million.

### OFT fines builders

The Office of Fair Trading has fined over 100 building firms a total of £130 million for big rigging on local authority building contracts, including schools and health centres. Well-known names such as Balfour Beatty and Kier Group were amongst those fined. The industry argued that such bid-rigging was standard practice for many years, acknowledging the extent of bid rigging in the business, and its lack of concern to root out corruption in the business.

The firms are now being pressed to repay councils for overcharging on major building contracts, the amounts running into hundreds of millions of pounds. Let's hope taxpayers can get their money back from these rapacious firms.

But the OFT has only tackled a small part of the problem. These contractors undertook many other large projects in which the bidding process must also look suspect. Such corrupt practices must also permeate down the scale to smaller contractors in the building sector, as leaseholders already know to their cost. Who knows, perhaps landlords and managing agents colluded in the practice.

### Ascham Homes

Ascham Homes, which manages council properties in Waltham Forest, has finally admitted defeat in its legal battle with leaseholders over major works charges. Many leaseholders living in flats purchased from the council face financial ruin after receiving massive bills out of the blue for repairs to their blocks. Many leaseholders faced bills in excess of £30,000.

However, the leasehold valuation tribunal ruled that Ascham Homes had failed to consult the leaseholders properly, and as a result could not recover more than £250 from each leaseholder. The Lands Tribunal upheld the decision.

Waltham Forest council now faces the prospect of using a £5 million contingency fund in order to pay for the works, in effect forcing the taxpayer to finance the failings of its property manager.

## Correction

Because of a printing error in the previous edition of The Leaseholder (Summer, No 27), there were a number of words missing from the third paragraph the very helpful article by Sarah Teather MP setting out the policy of the Liberal Democrats on leasehold issues. The whole of that paragraph is set out below:

“We need to make it much easier for leaseholders to transfer to the new commonhold tenure. Under current rules, every party with an interest in a block of flats, including all leaseholders, their mortgage lenders and the landlord must agree to the transfer to commonhold. We would allow the transfer to commonhold with a 75% or more majority of leaseholders, and without the consent of the landlord.”