## THE SHAME OF THE LIBDEMS

CARL has written to all Liberal Democrat MPs to find out what progress they are making in implementing their election pledge to help leaseholders. Before last year's general election, the LibDem housing spokesperson Sarah Teather MP wrote an article in The Leaseholder (Summer 2009) promising to "legislate to strengthen the protections available for leaseholders, and give us the right to quick and arbitration" over capital work and other service charges. She also promised "to make it much easier for leaseholders to transfer to the new commonhold tenure", as well as to "abolish forfeiture" and "the payment of marriage value" when leaseholders seek to buy their freeholds.

Since only three LibDem MPs bothered to respond to CARL's letter, we can safely assume that the interests of leaseholders are extremely low in their priorities. Holding on to ministerial portfolios are far more important that holding on to their commitments. They will find out in coming elections that leaseholders will regard voting for the LibDems to be an even lower priority.

John Pugh, the MP for Southport, replied to CARL's letter and requested a meeting with the chair of CARL. After trotting out the usual defences for the leasehold system ("they know what they are letting themselves in for when they sign the lease", "people might prefer to have someone else take care of the building", "landlords have rights too"), it was clear that he had some sympathy for leaseholders since he himself lives in a leasehold home in Southport. Let's hope his landlord turns nasty!

John Thurso, the MP for Caithness, Sutherland and Easter Ross, informed us that leasehold was not a problem north of the border. That's no surprise to us – it's because leasehold hardly exists at all in Scotland. They have a far superior system of tenure for flats – it's a form of freehold.

Norman Lamb, the MP for North Norfolk, has written to the housing minister Grant Shapps, asking what steps the government is taking to examine leasehold issues. I hope he is not expecting a lengthy reply.

### The other housing subsidy

Week after week the Earl of Cadogan's lawyers appear in the courts and tribunals to extract the last penny out of long-suffering leaseholders who dare to escape from his control over their lives by buying their freeholds. Cadogan, who is a multi-billionaire and leading light in the Chelsea Conservatives, clearly does not need the money. Nor does he deserve the money either, his entire dynasty having relied on tenants and leaseholders to finance the construction and maintenance of their homes on Cadogan land. When leaseholders purchase their freeholds, they have to pay not just for the land, but also for the buildings they have already paid for – many times over in the case of the Cadogan dynasty.

CARL estimates that the taxpayer is forking out in excess of £10 million a year to fund the multitude of cases brought by Cadogan to the courts and tribunals. That money would be better spent on the NHS.

## BIG SOCIETY? BIG RIP-OFF?

**Julian Knight**
**Independent on Sunday, 13 February**

**One man who apparently does know what the Big Society is all about is the housing minister Grant Shapps. One of the most bone-dry Tories in government was extolling the virtues of people taking up the right to manage their own property as the Big Society in action.**

**Now do I need to remind Mr Shapps that he is the minister who decided to tear up a cross-party consensus on improving the rights of leaseholder property owners – about 1.6 million households in this country and still counting – from being exploited by unscrupulous management companies appointed by the freeholder? The legislation – before it was killed off by Mr Shapps would have finally brought transparency to the whole managing agent industry and undoubtedly led to a large number of leaseholders exercising the right to manage.**

**Let me give one example of the type of abuse that currently goes on. I will introduce you to Company A, a landlord company, and Company B, a major insurance company. Company A forms its own "insurance company" and then takes out building insurance for, say, double the going rate on a block of flats it manages. Company B colludes with this by in effect reinsuring Company A's insurance policy and receives a kickback for so doing. It is then in the financial interests of Company A – which, remember, is supposed to be acting in the interests of leaseholders – to keep any insurance claims to a minimum because it's all profit.**

**This is a racket worth millions and if it were to happen in the United States would be deemed fraud, with the perpetrators being led away in handcuffs. Yet here it and many other instances of abuse are allowed to go on, thinks in no small part to Mr Shapps' inactivity. Mr Big Society Mr Shapps? Big rip-off more like.**


# Leaseholder

C.A.R.L
Campaign for the abolition of residential leasehold

www.carl.org.uk

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# RETIREMENT LEASEHOLDERS TAKE CENTRE STAGE

**In his keynote speech at CARL's annual conference, Joe Oldman – policy adviser at Age UK – criticised the behaviour of unscrupulous landlords and managing agents operating in the retirement leasehold sector.**

More and more elderly leaseholders and their relatives are complaining to Age UK about excessive service charges and other abuses, including the transfer fees imposed when flats are sold. Age UK is Britain's largest charity for the elderly and was created from the merger of Age Concern and Care for the Aged.

Most of the problems in retirement homes arise through the failure of the industry to adhere to and enforce its own existing rules and codes of conduct, and it is very hard for leaseholders to pursue a legitimate complaint through the existing complaints procedure. Taking action through the leasehold valuation tribunals is often too difficult for most leaseholders – but much easier for well resourced landlords.

Transfer fees that are charged when flats change hands – even when they are simply sub-let – came in for particular criticism. This fee is typically 1 per cent of the sale price, but can be much higher in some cases. Joe argued that there was no justification for such fees, since the landlord is not required to do anything in return. This is now the subject of an investigation by the Office of Fair Trading.

Joe also highlighted the widespread anti-competitive practices seen in the sector, with contracts often being awarded to firms connected to the landlord. There are many examples of poor insurance deals – at least at far as the leaseholders are concerned – with commissions being shared between the landlord, the managing agents and the insurance broker.

The rent on the scheme manager's flat is another contentious issue, with most leaseholders being charged above the market rental for the flat. All of this creates an unfair market, heavily rigged against leaseholders.

Age UK is pressing the government for the following reforms to help retirement leaseholders:

- a review of the regulations around leasehold tenure
- abolition of transfer fees when leases are sold
- a cap on management fees
- all charges imposed on leaseholders to be transparent
- easier access to legal advice and advocacy

***COMMENT:*** With Grant Shapps as housing minister little progress is likely with any of this, since Tory party funders have so much influence over housing policy. Shapps is not listening to leaseholders. Instead, he's listening to Tory landlords like the Earl of Cadogan and the Marquess of Salisbury, who have made their fortunes out of the pockets of their leaseholders and tenants.

# LEASEHOLD: A BATTLE TO FIGHT AND WIN

Writing in The Guardian, Patrick Collinson described the housing minister Grant Shapps as "breathtakingly out of touch" in claiming that the current system strikes the right balance between the rights and responsibilities of tenants and landlords. The article appears in the Money section of the newspaper on Saturday, 19 February: http://www.guardian.co.uk/money/blog/2011/feb/19/leasehold-stiffer-regulation?INTCMP=SRCH

For starters, Patrick Collinson suggests three obvious reforms:

- stop landlords charging leaseholders for their legal bills at the LVT
- force landlords to produce documents with stronger disclosure requirements
- end the payment of exit fees for retirement flats and claw back payment already made

Money section of The Guardian on Saturday 12 February had a three page feature about the leasehold victims of companies controlled by Vincent Tchenguiz, including Peverel and Solitaire. Although these companies are among the largest in the business, they are far from alone in the way they exploit leaseholders. This is a link to the feature: http://www.guardian.co.uk/money/2011/feb/12/peverel-tenants-fighting-back

The amount of coverage of the leasehold issue in the press has been steadily increasing, and rivals the coverage received back in 1995 when the Evening Standard launched its 'Nightmare Landlord' campaign, which was directed in particular against landlord Harold Bebbington. His accountants, Spofforths, were subsequently disciplined for professional misconduct.

## Justice for leaseholders is long overdue

The Guardian, 26 February

Your editorial and accompanying article about managing agents and leasehold properties were almost certainly fair and accurate, except for your reference to "leasehold . . . tenure . . . almost only found in the UK".

In Scotland, the granting of residential leases longer than 20 years has been unlawful since 1974 (and very rare before then) so they are unknown here, except for holiday lets and short-term leases to students, those saving to purchase, and those between houses etc. So while managing agents can cause problems in Scotland, it is to freehold owners (and thus the agents are more easily controlled), and the issue of residential leaseholds has been solved - by virtually not existing at all.

John Miller

Edinburgh

***COMMENT:*** CARL wants the government to go further than simply regulating managing agents. The banking system was fully regulated by the Financial Services Authority – that didn't prevent the onslaught of the worst financial crisis for two generations. We want to put an end to the leasehold system, which acts as a magnet to criminal elements able run rings round the regulators. It is a system that is dishonestly described by the government as home ownership. In fact it is a system enabling a few people, who simply hang on to a few documents of title, to ruthlessly exploit hard working people who have invested in and care for their homes.

Although replacing leasehold tenure with the much fairer commonhold system of tenure would not solve all the problems involved in managing a block of flats, it would certainly help by removing parasitic freeholders and their managing agents from the equation. Flat owners would then have an equal share in the control of their blocks. Equally importantly, they would also own their flats in perpetuity, just like the owner of a freehold house.

Commonhold was introduced in 2002, but so far only 200 flats have been registered under this form of tenure at the Land Registry. The government should now require all new developments of blocks of flats to be sold under commonhold tenure, thereby preventing yet another generation from facing the misery of leasehold.

## CARLEX

The CARLEX website (www.carlex.org.uk) is an invaluable source of information about the leasehold struggle, especially for retirement leaseholders.

## Mail on Sunday

The *Mail on Sunday* has added its voice to the leasehold campaign, with its property editor Sebastian O'Kelly producing a couple of hard-hitting articles: 'Is the party over for landlords who squeeze pensioners for every penny? (20 February), and 'Now squeezed pensioners see value of their flats plummet' (27 February). Too many leaseholders find their homes are blighted by corrupt landlords and their managing agents.

## 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. If you are aware of a neighbour or work colleague who is experiencing leasehold problems, let them know about CARL and pass on a copy of our newsletter. Our best form of recruitment is YOU, and YOUR efforts on CARL's behalf will make a difference. Contact us for further copies of The Leaseholder, by e-mailing us on info@carl.org.uk.**

## THEME OF THE ANNUAL CONFERENCE

If there was one decisive theme coming out of our annual conference, it was the need for all leaseholders to speak with one voice – and as loudly as possible. After Joe Oldman had delivered his keynote speech (see front page), our panel of experts dealt with a wide range of questions. We are very grateful to those panelists who gave their time to attend our conference: **Tony Essien,** chief executive of LEASE, **Brian Potter,** chair of Islington Leaseholders Association, **Sharon Crossland** of Leasehold Life, and **Cllr Gloria Thienel** of the London Borough of Tower Hamlets.

## Court of Appeal victory

The Court of Appeal has confirmed that the landlord company Daejan Investments Ltd failed to consult the leaseholders over major works at a block flats in North London ('Daejan Investments Ltd vs Benson and others', Estates Gazette, 5 February 2011). As a result the landlord was only able to collect £250 per leaseholder for major works costing approximately £270,000. The court also decided that the financial consequences for the landlord of its failure to consult were not a relevant consideration in reaching that decision.

Daejan had failed to supply the leaseholders with copies of the estimates received from contractors until after it had already awarded the contract to the managing agent's nominee. By that time the leaseholders had concluded that further representations to the landlord would be futile, thereby causing them significant prejudice.

The financial consequences for the landlord in this case were not just irrelevant; they were also negligible in relation to the resources available to the landlord. Daejan Holdings has total property investments worth over £1.1 billion. The company's chairman Benzion Freshwater and his family hold a majority shareholding in the firm. According to the Sunday Times Rich List he has assets well into the hundreds of millions, and is one of the richest men in Britain.

It is bad enough for a landlord to have the arrogance not to consult leaseholders over major works affecting their homes; it is quite another to drag those leaseholders through an arduous legal process on grounds that the court found to be completely irrelevant. Will Freshwater change his behaviour and start acting responsibly towards leaseholders? Highly unlikely on his past record.

## The 18 month rule

The Landlord and Tenant Act of 1987 says that demands for service charges made more than 18 months after the relevant cost were actually incurred are irrecoverable by the landlord. A recent case ('Holding & Management (Solitaire) Ltd v Sherwin', *Estates Gazette, 22 January*) looked at the situation where a balancing charge, or excess, is added to the bill when the final accounts are produced after the end of the service charge year. For the balancing charge to be payable, it has to be demanded within 18 months of any advance payments demanded during the service charge year having been fully expended.

This determination took fourteen years to arrive after the original legislation was enacted. Many contradictory decisions have been taken over the years on this issue, with leaseholders left none the wiser as to where the law stood. Leaseholders are used to dealing with our third rate legal system, which is designed to help abusive landlords.

## Managing agents: a response

A number of managing agents have criticized CARL for taking a negative view of the activities of managing agents and "tarring the whole industry with the same brush". These agents claim to represent the highest standards, whilst recognising that there are other managing agents who do not.

If this is a competitive industry, then why do the good guys (on their own estimation) tolerate such malpractice amongst their colleagues? Why don't they drive the incompetent and corrupt out of the industry and win a larger share of the business for themselves?

They could easily expose the wrongdoers in the press, or through their professional bodies and the relevant prosecuting authorities. Instead, what has happened in this industry is that the bad have driven out the good, and standards have sunk to the lowest common denominator and most notorious vulgar fraction.

At the risk of mixing metaphors: if the industry doesn't like being tarred with the same brush, it should try sweeping with a new broom.