



CRISPIN BLUNT MP  
Member of Parliament for Reigate

HOUSE OF COMMONS  
LONDON SW1A 0AA

Consultation Response Team  
Tackling Unfair Practices in the Leasehold Market  
Department for Communities and Local Government  
Fry Building  
2 Marsham Street  
London SW1P 4DF

Our reference: CB/GO

15<sup>th</sup> September 2017

Dear Sir/Madam,

**Tackling Unfair Practices in the Leasehold Market – Consultation Response**

As MP for Reigate, I am writing in response to the DCLG consultation on “Tackling unfair practices in the housing market.” Leaseholders are often taken advantage of by unscrupulous freeholders and residential property managers and I consider that regulation of this area as a matter of priority. I am fully supportive of the consultation response sent by the Reigate and Banstead Conservative Policy Forum, but would like to highlight some key points.

Q5. I support the proposal that the Government make it an obligatory requirement that all property title to new houses are created and transferred with Freehold Title Absolute and property title to flats are to be created and transferred with Commonhold title from hereon. In other words, I consider leasehold title property ownership as possessing structural disadvantages to the consumer home owner that can be avoided by legislative reform.

The Commonhold and Leasehold Reform Act 2002 introduced commonhold ownership and should have put an end to the problems many home owners faced but, because this was not made mandatory by law, developers have continued with the practice of creating title instruments using the feudal system of freehold and leasehold. It is known that the dominant reason for developers wishing to maintain status quo of the feudal system is because there is an economic arbitrage opportunity that can be exploited from splitting a piece of land into multiple land interests.

Failure to legislate that all new properties be subject to commonhold ownership has resulted in a collective social cost, for example; increased number of leasehold disputes going through the tribunal system, as well as emotional stress and economic costs to individual homeowners who regard their dwelling as shelter for themselves and their family. I would therefore argue that one of the measures that the Government should implement is to pass legislation making it mandatory that all new property title created is to be either freehold or commonhold ownership.

Q8. Paragraph 3.6 of the Consultation Paper, states that ‘developers argue that the sale of new build leasehold houses in some areas of England is an accepted custom and practice, and that selling a freehold house could create a potential competitive disadvantage. In some parts of northern England this has resulted in leasehold becoming the default tenure for consumers wanting to buy a new build house. ....’

I do not agree with this reasoning. If the developers’ argument that selling freehold houses would create a ‘competitive disadvantage’ to the consumer holds true, it is implicit in this argument that the developers regard themselves as quasi-financiers who are shouldering financial cost of the freehold interest in the property whilst leaving the consumer only having to fund the cost of purchasing the leasehold interest in the house.

Telephone: 020 7219 2254 Fax: 020 7219 3373 Constituency: 01737 222756  
e-mail: [crispinbluntmp@parliament.uk](mailto:crispinbluntmp@parliament.uk) website: [www.blunt4reigate.com](http://www.blunt4reigate.com)





Developers are therefore 'bank-rolling' the freehold interest in the property, they (or their financial backers) model the freehold value, predicated it on today's projection of the capital appreciation of the freehold title of the land coupled with the net present value of their likely revenue stream arising from the leasehold titles they've carved out of their freehold title.

Profit-making businesses such as housing developers, cannot be expected to wish to freely and voluntarily disclose their own 'monetisation maximisation' model. But given the prolific growth in activity of splitting the same land into two or more property titles, it is self-evident that the parts are economically greater than the sum.

The arcane feudal system that remains in existence in England and Wales (unlike in Scotland where the Scottish Parliament passed the Abolition of Feudal Tenure (Scotland) Act in 2000) is conducive to the developers maximising their land value to the financial detriment of the consumer.

I strongly doubt that the 'leasehold discount' (paragraph 3.5) is ever passed onto the consumer. If such a phenomenon exists, at the point of marketing or sale, how many owners of leasehold interest would have any idea of the magnitude of this?

If developers justify their play on freehold and leasehold titles as serving to plug a credit gap for otherwise would-be unaffordable houses for the average consumer, then there's no reason why the developers should not abide by the same suite of regulation that befalls all other credit providers.

Q14. I advocate that there should not be any ground rent as property titles should be either freehold or commonhold in the future. Titles to people's home is demonstrative of their ownership to their home that is to serve as a physical shelter and emotional safe-haven for the family. Shelter and security is a basic fundamental need. What the Consultation Paper seeks to rectify is the practice of people's homes being financially engineered and crafted to become an instrument for investors.

Q16. In the short term, developers' obvious reaction to any Government intervention will be negative. However, in the long run, the Government, by ridding the property market of the possibility of monetising and financially structuring a financial payout profile using feudal tenures, the larger developers who traditionally have been successful in capturing greater capital and liquidity, will have less of an funding advantage than small and medium house builders. The switch to commonhold title would not only result in a fairer distribution of land wealth amongst each class of society but it will also level out the playing field for smaller house builders.

Q17. There is no service given in exchange by the freeholder to the leaseholder in consideration of the payment of 'ground rent'. Present day 'onerous ground rents' are, more likely than not, the resultant of unconscionable conduct carried out by one sector of society who have superior information flow (developers, freeholders, funds, financiers, solicitors) at the expense of an unsuspecting and more naïve part of society (consumer homebuyer). This relationship is not equal. Government can support existing leaseholders with onerous ground rents by passing legislation to unwind and nullify those payment obligations.

Yours faithfully,

Crispin Blunt