

MAYOR OF LONDON

Rt Hon James Brokenshire MP

Secretary of State for Housing, Communities and
Local Government
Ministry of Housing, Communities and Local
Government
4th Floor, Fry Building
2 Marsham Street
London SW1P 4DF

Date: 26 November 2018

Dear James

Response to consultation on *Implementing reforms to the leasehold system in England*

I write on behalf of the Mayor of London in response to your consultation on leasehold reform.

The Mayor believes Government must continue to focus on leasehold issues and we welcome the chance to respond to this consultation. We firmly support reforms to leasehold tenure, and in the longer term, the Mayor believes that Government should promote the use of fairer tenures such as commonhold, for which there is legislation in place that is rarely used.

We are broadly supportive of the proposals outlined in the consultation document as far as they go. We are concerned, however, that this is the second consultation on this issue and no clear action has yet been taken; this is causing yet more delays to reform that is urgently needed. We urge you to introduce the proposed legislation at the earliest stage possible, so that Londoners can begin to benefit from these changes.

We are also concerned that these proposals offer no recourse for existing leaseholders facing difficulties, who make up the largest proportion of those who currently need help. Government should ensure that leasehold legislation and the legal system are fit for purpose to enable leaseholders to challenge reasonableness of service charges and ground rents. We urge you to bring forward proposals to help existing leaseholders as a matter of urgency.

I outline the Mayor's response to issues raised in the consultation below, which is intended to build upon his response to the 2017 consultation *Tackling unfair practices in the leasehold market*.

The unjustified use of leasehold in new build houses

As outlined in the Mayor's response to your previous consultation on the issue, we support a general prohibition on the sale of new leasehold houses. We agree with the proposal that this should be monitored through HM Land Registry but note that this will likely require extra resource for the Registry to implement effectively. Where a lease is incorrectly granted on a new house, we agree that the owner should be able to cancel the lease and have the freehold title transferred to them. Government must ensure that this is a straightforward process for the leaseholder and that there are sufficient deterrents in place to stop freeholders from attempting to sell leasehold houses.

The Mayor supports the proposed exemption from the ban on leasehold houses for community-led housing schemes, given the specific purpose for which this is used by these groups, and recognising the contribution to housing supply these schemes can make. However, it is important that there is a clear definition in place so that this cannot be exploited by homebuilders who aren't genuinely community-led. We suggest that Government uses the definition of community-led housing, agreed by community-led housing sector bodies, that is used in the London Housing Strategy (LHS). As the LHS outlines, although the legal form and activities of each community-led housing scheme differ, schemes that are genuinely community-led all share three common principles:

- meaningful community engagement and consent occurs throughout the development process. Communities do not necessarily have to initiate the conversation, or build homes themselves;
- there is a presumption that the community group or organisation will take a long-term formal role in the ownership, stewardship, or management of the homes; and
- the benefits of the scheme to the local area and/or specified community group are clearly defined and legally protected in perpetuity.

Government should also consider an exemption to the ban in circumstances where the nature of the land for development means that it has not been felt appropriate for the freehold interest to be passed on to the developer or to any future residents. For example, the GLA is a freeholder of contaminated land which is being brought forward for significant housing development. Developers would not be willing to take on the freehold interest and associated risk, nor would any future potential purchasers of the new homes. The GLA has instead issued a head lease to the developer, meaning that houses built on this site can only be sold on a leasehold basis. Without an exemption in this case the likelihood of housing being developed on this site would be reduced, which would have a negative impact on future housing supply.

The reduction of future ground rents to a nominal financial value

The Mayor supports the proposed cap on ground rents at £10 and agrees that this should not be exceeded for the whole term of the lease. We welcome the measures outlined to ensure that this legislation functions effectively.

The Mayor agrees with the proposed exemption which would allow for the use of ground rents in community-led housing schemes where they are used to fund shared services and organisational costs. However, Government should work with National CLT and others in the sector towards ensuring that there are no loopholes which would allow this

to be exploited. We do not believe there is a reason that these charges should increase beyond a verified index (such as RPI).

The GLA has limited experience of private retirement properties, but we are aware that some leaseholders of this type of property have reported concerns over the use of ground rents. We suggest Government should work with the retirement property sector as well as consumer groups to ensure that reforms ensure such homes remain affordable to consumers both at the point of purchase and during long-term ownership. Government should also ensure it uses a robust definition of 'retirement properties' in any exemption to ensure that it cannot be used to subvert the proposed reforms.

We agree that affordable housing delivered through S106 agreements should be funded by the developer rather than through ground rent contributions. The GLA is not aware of any schemes where the planned restriction on ground rents would reduce affordable housing delivery. We are aware of ground rents above the proposed cap being charged on shared ownership properties by at least one developer in London. However, we understand this developer is now taking ground rent income out of viability assessments following Government's announcement of its intention to reduce them to a peppercorn, so we do not believe that the proposed restriction is likely to affect the delivery of affordable housing.

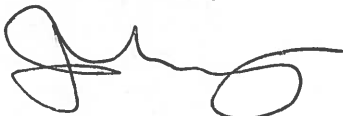
Other issues

The Mayor agrees with the proposal for freeholders to challenge service charges on private estates and to allow them to apply to change management of these services. Anything that gives residents improved transparency and control over service charges is beneficial. Given the requirement for freeholders to pay service charges in this situation is not widely known, Government should consider how it can promote alternative approaches to tenure and estate management on private estates as part of its work on leasehold reform.

The Mayor was supportive of the previous Secretary of State's decision to write to developers of Help to Buy properties to strongly discourage the use of Help to Buy equity loans for the purchase of leasehold houses. We would seek assurances from you that this is being upheld by developers, following your announcement earlier this year that you intended to provide no further Government funding for the unjustified use of leasehold houses.

The Mayor is committed to improving the lives of new and existing leaseholders in London. As such, my team would be happy to engage with you further on any of the above issues.

Yours sincerely,



James Murray

Deputy Mayor for Housing and Residential Development