



THE LEASEHOLDERS CHARITY

6 December 2021

Leasehold Reform (Ground Rents) Bill

WHO WE ARE

The Leasehold Knowledge Partnership (www.leaseholdknowledge.com) is a registered charity (number: 1162584), whose cross-party MP patrons are Sir Peter Bottomley, Justin Madders and Sir Ed Davey. It is secretariat of the All-Party Parliamentary Group on leasehold and commonhold reform

INTRODUCTION

Ground rents are an investment asset in the homes of other people created by housebuilders who subsequently retain or sell on the freehold to investors, habitually anonymous and often based offshore. With low interest rates, ground rents have become extremely valuable assets which interest far more investors than the former pension funds.

Notable recent investors are:

- Vincent Tchenguiz (Consensus Business Group, ultimately Tchenguiz Family Trust based in the BVI);
- Long Harbour, run by William Waldorf Astor, whereby beneficial owners of freeholders are not disclosed; Longharbour formed in October 2009 has grown from a turnover of just £25,000 in year ending March 2010 to holding assets of £2.4 billion ten year later^[1] of which > £1.5 billion are UK (England and Wales) ground rent assets on other peoples homes. <https://www.longharbour.co.uk/about-us/overview/>
- E&J Capital Partners, run by James Tuttiet in Winchester;
- Wallace Estates, run by Italian hedge funder Count Luca Rinaldo Contardo Padulli.

Continuing ground rents has the effect of discouraging the move to commonhold and helps create the conflict between landlord and leaseholder, especially when developers sell on the freehold titles to third party investors.

There is a strong case to make that control of the freehold and sale to third party interests for the ground rent investment has exacerbated the problems with build quality.

On most new developments the developer appoints the managing agent. The developer then sells on the freehold to a third-party ground rent investor and the managing agent works for them. At no point do the leaseholders have the right to inspect their building, to know if it was built to the correct standards.

The managing agent works initially for the developer who has an active interest in problems NOT being uncovered. The developer then sells the freehold to a third-party investor who also has no interest in the quality of the building, and is dependent on the developer selling future freehold investments to him. In this environment, the investor has a strong incentive to keep a good relationship with the developer.

LKP has always endorsed the move to a peppercorn, that is ZERO, ground rent. This is the view also expressed by almost all leaseholders.

CONCERNS

1/ Ground rents are routinely gamed to the detriment of ordinary consumers. Martin Paine operates at the lower end of the market, back-dating doubling ground rent lease variations to time of original issue and thus landing ordinary families with ground rents that have been up to £8,000 a year. Sir Peter Bottomley described Mr Paine as "a crook who has turned the sleaze of leasehold into an art form.

<https://www.leaseholdknowledge.com/martin-paine/>

2/ Debts for unpaid ground rent are aggressively pursued. Indeed, debt collectors are remunerated only from the debtor and rewarded by increasing the costs of recovering the debt.

Here is a threatened forfeiture of a London £800,000 flat owned by a Chinese national, where the debt collector's fee of £2,000 was halved on questioning:

<https://www.leaseholdknowledge.com/long-harbour-hits-reverse-on-forfeiture-to-800000-flat-over-400-ground-rent-and-jb-leitch-halves-its-legal-bill/>

Here Justin Madders MP raises the issue of the same debt collector raising an unpaid ground rent bill by 222%

<https://www.leaseholdknowledge.com/jb-leitch-loaded-leasehold-ground-rent-debt-by-222-justin-madders-tells-commons/>

3/ Leaseholders can and do lose their leases through forfeiture for failure to pay ground rent. Here is an example of a Chinese Canadian family having their Camden flat forfeited because correspondence was not forwarded to them. Unpicking this dispute cost c£40,000, but at least the flat was retrieved:

<https://www.leaseholdknowledge.com/moskovitz-forfeits-400k-camden-flat-from-24-year-old-woman-whose-brother-did-not-forward-correspondence-for-two-years/>

4/ Retirement housing in the UK is not a success story with only 2% of over-65s in designated retirement housing, as opposed to around 16% in N America and Australasia. Failures of the volume housebuilders active in the sector are held responsible, with two Office of Fair Trading investigations into the sector:

A/ one unjustifiable 1% exit fees as additional income to the freeholder on every lease sale (2012);

<https://www.betterretirementhousing.com/end-transfer-fees-or-let-lvts-rule-on-whether-they-are-reasonable-says-of/>

B/ The property manager Peverel's subsidiary Cirrus running a bid rigging scam at 65 retirement sites for electronic door entry systems that it provided (2013).

<https://www.betterretirementhousing.com/peverel-cirrus-price-fixing-story-far/>

Following the publication of the White Paper Fixing our Broken Housing Market, the volume housebuilder retirement developers lobbied to retain ground rents. This was opposed by LKP, www.BetterRetirementHousing.com, AgeUK and the Association Retirement Community Operators (ARCO), which represent private retirement housing providers with managed facilities and care

Retirement housebuilders initially secured exemption from the ban on ground rent, and now it is proposed that they have a two-year exemption. There is no reason for this. Retirement ground rents are extremely high (typically c£450) on flats that often sell for considerably lower than £450,000 ie retirement ground rents are often more than the 0.1% of sale price that is acceptable to the mortgage market.

Ex-communities secretary Robert Jenrick informed the Commons on 29 November 2021 that retirement developers had threatened a judicial review to including retirement housing in the ban on new ground rents.

Retirement housebuilders argue that ground rents mitigate the cost of providing communal space in retirement sites. In fact, retirement flats are sold at a premium compared with the local market, so they are already compensated.

It should be added that subsequent resales of retirement flats have been problematical, with astonishing falls in value compared with the prices paid when new.

These issues have been reported widely in the media:

<https://www.thisismoney.co.uk/money/news/article-10182583/The-retirement-home-scandal-wiping-life-savings.html>

<https://www.leaseholdknowledge.com/the-times-reports-that-families-lost-3-billion-on-resale-of-leasehold-retirement-flats-while-developers-and-freehold-speculators-made-millions/>

The Association of Retirement Community Operators, who represent private retirement housing providers with managed facilities and care, is strongly opposed to ground rents in retirement housing and deprecates the threat of a judicial review. So, the retirement housing providers are divided over a ban on new ground rents.

<https://www.arcouk.org/press-release/arco-statement-on-the-leasehold-reform-ground-rent-bill>

5/ With the end of ground rents looming, many developers have already abandoned them and created blocks of flats where the residents will control the site through a residents' management company.

LKP was aware first of Barratt at Black Horse View site in Walthamstowe:

<https://www.leaseholdknowledge.com/barratt-ground-rent/>

The Independent reported that five other developers are doing the same:

<https://www.independent.co.uk/news/business/leasehold-ground-rents-abolished-taylor-wimpey-barratt-b1768551.html>

LKP urges no buyer to purchase with ground rents:

<https://www.leaseholdknowledge.com/do-not-buy-a-new-property-with-ground-rents/>

6/ Freehold owning investors have also sought to justify ground rents.

The income pays these investors to provide a professional level of service that provides long-term stewardship of apartment buildings, it is claimed. The argument is specious. Ground rent investments are routinely like stocks and shares. Many own these assets hiding their beneficial ownership and often based offshore, providing no transparency or accountability for the leaseholder / consumer.

All large investors manage their sites through representative agents. These agents in turn argue that we need professional landlords, especially in the light of the building safety crisis which requires a responsible entity for complex sites.

This argument is made by the Association of Residential Managing Agents, which has a category of membership for investors in freeholds, ie it is a remunerated lobbyist for the status quo.

The cladding / building safety crisis has shown that very freehold owning landlords had "done the right thing" and paid to correct the defects their building.

Far from complex sites needing ground rent investors and professional landlords the evidence points to the fact they often cause problems. Their interests are often diametrically opposed to the leaseholder. They have an incentive to employ their own subsidiary companies to add to their profit line.

In terms of the difference between a third-party landlord and resident-run site we give as an example Charter Quay in Kinston, Surrey. A mixed-use site with 239 flats 5 town houses, 8 commercial units, a 990 seat theatre, two rivers, moorings, and a set of public spaces.

The residents association spent over 5 years fighting the developer and very large third-party landlord through the courts to recover over half a million pounds in overcharged and

poor quality services. To do this the residents association had to meet once a month with an average of 12-15 items on the agenda at every meeting. The workload was extreme, as leasehold law does not entitle leaseholders to their costs

Since buying the site's headlease and freehold in 2013 the residents' company has always met on a bi-monthly basis with an average of 4-5 items on the agenda. When needed it instructs the agent to employ relevant experts to help maintain the site in good condition.

The position with third party ground rent investors is that they never have any direct interest in the quality of the building. Their interest is only in the ground rents and other income streams they make out of the leaseholders.

7/ It was disappointing that the taxpayer funded Leasehold Advisory Service did nothing to alert government to the doubling ground rent scandal. LEASE supported ground rents below 0.1% of the sale value. It was questioned over leaseholders' dissatisfactions by the Communities Select Committee here:

<https://www.leaseholdknowledge.com/can-the-leasehold-advisory-service-monopoly-survive-devastating-questioning-by-select-committee/>

8/ Proposed exclusions to the GR bill: We have some concerns that a small number of exclusions are proposed under the bill. The community housing groups argue they want to keep ground rents for community projects but they also want to keep ground rents low. The position seems slightly illogical as the GR is a fixed amount so the community is either always collecting too much or does not have enough to fund only from GR incomes. It seems unclear why they could not introduce a relevant community levy member would agree to. However we respect the views of the community builders and do not object