

Sir Stuart Hampson
Chairman and First Commissioner
Crown Estate Commissioners
16 New Burlington Place
London W1S 2HX

16 June 2010

Dear Sir Stuart,

Thank you for taking the time to speak to us on 6 April and for granting us the opportunity to present our paper directly to the Board of the Crown Estate Commissioners. We now wish formally to respond to Paul Clark's letter dated 20 May explaining the outcome of the Board meetings.

We are disappointed that the board has decided to move to the next stage of a possible sale of the freeholds of the Cumberland Market, Millbank, Victoria Park and Lee Green housing estates. This decision is against the wishes of 99.9% of residents and overwhelming opposition from all other stakeholders. We are in the process of organising meetings with the residents on all the estates to formally solicit their views on the current situation. Informal feedback so far received suggests that the overwhelming majority of residents are still very much opposed to the sale, and that residents remain unconvinced that the proposal to sell offers any advantages to them.

The decision to proceed has created a mood of cynicism about the motives of the Crown's consultation: why ask us whether we are for or against a sale, they are wondering, if you are simply going to ignore our unequivocal answer? The decision to proceed to the next stage of a sale has undermined residents' sense of security as well as their trust in and previously highly opinion of the Crown.

As the residents' elected representatives we therefore feel compelled to reiterate the view set out in our submission to the Board that the Crown Estate should reaffirm its commitment to the provision of affordable rented housing, retain this portfolio and continue to manage it in the socially-responsible way that it has done for the past ninety years.

Nonetheless, we are pleased to note that no decision has yet been taken and that in the interests of good estate management the Board would not permit a sale to go ahead if certain conditions have not been satisfied. Should the Board decide finally not to permit a sale, we would welcome the opportunity to contribute constructively to future discussions as to how this vital public resource can best be managed in partnership with the Crown Estate Commissioners.

In the same spirit of cooperation, since the Crown Estate Commissioners have decided to move to the next stage of a possible sale, we wish to be active partners at all stages in the process going forward. We welcome the decision to open discussions with 'a broad range of interested parties' and we assume that this will include the Residents Associations. At our meeting with Andrew Payne and James

Cooksey on 20 May we asked that the Residents' Associations be involved in the development of criteria for the selection of any prospective landlord and in the selection process itself. We have yet to receive a response.

In our view, the RAs should be involved in: (i) establishing a rigorous quality test for a prospective purchaser; (ii) identifying options for the future management/ownership of the Estate; (iii) considering the management policies and practices of any prospective owner; (iv) testing these against the agreed quality criteria and (v) selecting a proposed new landlord for wider consultation. Such resident participation is essential, given that residents are the key stakeholders in this process and in light of the Board's own view that you lack expertise in managing this form of housing. The Residents Associations have skills that can be used to assist you. We could, for example, make site visits to estates and speak to tenants. This would not compromise confidentiality but could make a valuable input into the final selection. We wish to hold you to your commitment in Section 6 of the Tenancy Book to consult tenants on "all options" and to discuss any concerns or suggestions residents may have when considering changes in the ways the estates are managed.

We want to secure for the future – whoever owns the estate – a high level of resident participation in the future management of the estates. As Section 6 of the Tenancy Book indicates, The Residents Associations are organisations comprising people who want to make their homes and estates better places in which to live, and who are prepared to do something about it collectively. We wish to explore the possibility of establishing a subsidiary, cooperative organisation to achieve this aim in partnership with any future landlord. Such an approach accords with the principle of 'tenant empowerment' established as a key standard for social housing by the Tenant Services Authority. We would appreciate your cooperation as we go forward with this, since it is difficult to imagine how tenant participation can be maximised for the future if we are not involved at the earliest of stages.

A fully transparent approach to the 'discussion phase', as well as allaying residents' fears about a possible sale, could also improve the Crown Estate's relations with government and other stakeholders. A key recommendation of the Treasury Select Committee report was that the Crown Estate should engage more fully with key public bodies as well as pay greater regard to the public interest. As demonstrated at the GLA Housing and Planning Committee meeting on 8 June, GLA members and the Mayor of London still have serious concerns around the proposal to sell. We are convinced that a partnership working approach between the Crown Estate and the RAs is the best way to allay such concerns and secure an outcome that brings benefits to the Crown Estate, the residents and the wider public.

The first matter in which we must be involved relates to a discussion of the contractual obligations you propose to place on any new owner now and in the future. For while we welcome the additional conditions you intend to place upon any purchaser, many residents remain unconvinced that a sale will not diminish their existing rights, security of tenure and the future sustainability of their neighbourhoods. As RAs, we feel that we cannot provide full reassurance to the residents while there remain areas of vagueness and ambiguity and while many of the questions that we have raised on numerous previous occasions have yet to be answered. There are a number of issues here:

1. Commitment to key-worker rented provision: We are unclear what you mean by the statement that a new landlord would be bound to provide new lettings to key workers at the current level of around 90 per cent. Does this mean that they would be required to maintain 90 per cent of the estate as affordable housing (i.e. 1170 of the 1300 units), or does it mean that one in ten vacancies would not need to be re-let to keyworkers, leaving a new owner free to let at market rents or sell off the property? If the latter, year-on-year there would be an attrition of the affordable housing stock. This would quite clearly be at odds with the public commitment given before the GLA Housing and Planning Committee meeting that key-worker rented provision would be guaranteed, if not 'in perpetuity' then certainly for the very long term.
2. Rental framework: although you indicated at the GLA meeting that new lettings to key-workers would be at sub-market rents you have not specified how this is to be defined. Will the same rental framework apply as for existing tenants? Additionally, in respect of the existing framework we remain concerned that a contractual term of a 'ceiling' rent ... of usually between 40%-60% of market rents" is too vague, and in a legal case could be considered void for uncertainty. We would like this to be clarified. Would it not, for example, be clearer simply to state that no rent would be set any higher than 40% of the market rent? Even set at that level, rents would become unaffordable for some tenants, but this would at least give an indication of a commitment to setting a ceiling above which rents would not rise.
3. In relation to existing tenants, we would like to be reassured by your commitment that all existing rights under their tenancy agreements and the Tenancy Handbook would be transferred to and legally bind a new owner. Mr Clark's letter, however, makes reference only to matters of the rental framework and security of tenure provisions. There are, as we have previously pointed out, a number of other rights specified in the Tenancy Handbook on which no specific guarantees have so far been given, and it remains unclear how these are to be enforced. We are especially concerned about the rights of ASTs, rights of internal transfer within the estates, extra-statutory succession rights and rights of tenants to be consulted on management changes.

More generally, we do not understand how the assurances given at this stage will be protected in the long term. Your letter states the "current rental frameworks and security of tenure provisions would remain legally binding on a new landlord and *enforceable by residents under law*". Does this mean that tenants would need to seek court action to protect their rights? If so, how would this be funded? Do you envisage setting aside a substantial sum of money to fund any such legal action in the future? If not, what other mechanisms to protect residents' rights do you envisage? In our submission to the Board we asked specifically that in the event that tenants' rights are not upheld by a future landlord, will they be able to claim redress from CEC? Are the CEC willing to give a legally enforceable guarantee to this effect? These questions remain unanswered.

We foresee the likely emergence of problems in the event of a sale. We would like to identify, discuss and resolve any potential problems at the earliest possible stage and would imagine that this would be in the interest of any purchasers as well as the

tenants and indeed the CEC. We therefore repeat our request for an open dialogue between our respective legal advisers to clarify such matters. In our view, this dialogue should be funded by the CEC and would constitute a constructive first step towards meeting your commitment to fund reasonable legal expenses so that we can take independent legal advice on the contents of documentation intended to protect residents' rights after any possible sale.

In closing, despite our disappointment in your decision to proceed to the next stage, we would like to express our appreciation to the Board of the Crown Estate Commissioners for actively considering our case. We note the Board's recognition that this is a matter of great sensitivity to residents and acceptance that there is almost unanimous opposition from residents and other stakeholders to the sale going ahead. We welcome your acknowledgement that these estates provide a valuable stock of affordable rented housing for key workers. We take some reassurance from your statement that no final decision has yet been taken and that the Board would not permit the estates to be sold unless certain rigorous conditions were met and unless the contractual rights of residents are fully protected.

Since it is the view of the Board that a better landlord can be found, it is obviously essential that all the residents' concerns are met and their questions answered (summarised overleaf). We hope you will agree that full involvement of the Residents Associations in the next stages of this process is the best way to achieve a mutually satisfactory outcome.

Yours sincerely,

Ben Bowling,
Chair Crown Residents' Association (Millbank)
3 Buonaparte Mews
London SW1V 3SQ

for and on behalf of
Joannie Andrews, Chair Crown Residents' Association (Victoria Park)
Janine Rankine, Chair, Crown Residents Association (Lee Green)
Steve Smith, Chair, Crown Residents' Association (Cumberland Market)

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Summary of questions

1. Will the Residents' Associations be participants at all stages going forward? That is, will we be involved in: (i) establishing a rigorous quality test for a prospective purchaser; (ii) identifying options for the future management/ownership of the Estate; (iii) considering the management policies and practices of any prospective owner; (iv) testing these against the agreed quality criteria and (v) selecting a proposed new landlord for wider consultation?
2. Will the RAs be involved in discussing the contractual obligations you propose to place on any new owner?
3. Do you agree that we should identify, discuss and resolve any potential problems at the earliest possible stage through an open dialogue between our respective legal advisers? Do you agree that this should be funded by the CEC?
4. Will the CEC consider funding a tenants' advisor to provide assistance with the very significant demands that will be placed on the Residents' Association?
5. How will assurances that current rental frameworks and security of tenure given at this stage be protected in the long term?
6. Do you envisage setting aside a substantial sum of money to fund legal action that may need to be taken by tenants against a future landlord? If not, what other mechanisms to protect residents' rights do you envisage?
7. In the event that tenants' rights are not upheld by a future landlord, will tenants be able to claim redress from CEC? Are the CEC willing to give a legally enforceable guarantee to this effect?
8. What precisely is meant by the statement that a new landlord would be bound to provide new lettings to key workers at the current level of around 90 per cent? What happens to the 10% of voids at present? Will a purchaser be allowed to sell the 10% or let them at market rents?
9. How will the commitment to provide new lettings to key-workers at sub-market rents be defined?
10. For what period of time will the key workers' scheme be guaranteed?
11. Will you state simply that no rent would be set any higher than 40% of the market rent?
12. How will the rights of ASTs be protected?
13. How will the rights to internal transfer within the estates be protected?
14. How will extra-statutory succession rights be protected?
15. How will the right of tenants to be consulted on management changes be protected?
16. Are new lets being provided with the Tenancy Book and is it now being issued for tenancies granted after 21 July 2009?
17. Have the CEC now ruled out the range of management options considered in early 'Project Blue' documents for the retention of the ownership of the Estates now been ruled out?