

Crown Residents Against Sell Off

Sunday 28th November 2010

From the Chairs of the Residents' Associations

Dear resident,

The consultation on the proposed sale of all the Crown Estate rented accommodation to Peabody is due to close on 3 December. We requested an extension until 31 December but that has been refused. We wanted an extension because our legal advisers have not yet been able to complete their analysis of the measures the Crown Estate propose to put in place to safeguard tenants' rights. This is mainly because some complex legal issues have arisen on which negotiations are still ongoing. Residents' representatives and legal advisers are meeting with the Crown Estate and their solicitors next week and we hope that most outstanding issues can be resolved then. We will update you further when negotiations have finished, but that will be after the close of the consultation.

In the meantime, we feel it is very important to update you on where we are at present, the progress that we have made on some key points, and what issues remain unresolved, so that you can, if you choose, make a more informed response to the consultation. We have been negotiating hard both with the Crown and with Peabody to get the best deal we possibly can, and we will continue to do so.

Legal protections for existing tenants: our lawyers have advised us that in principle the draft covenant and addenda to tenancies is a sensible and potentially effective way to protect our rights. However some important issues have yet to be resolved to our satisfaction. The major unresolved issue is the position of regulated tenants discussed separately below. Apart from this, our lawyers have also identified a number of other problems with the Crown Estate's draft legal documents. They have suggested changes to the documents to fix those problems and are negotiating with the Crown Estate's lawyers. Some changes have been accepted, some have been refused and some are still under negotiation. The changes refused include protection of some Tenancy Book provisions, including: the right to have the same tenancy after a transfer; commitment by the landlord to try to reach a repayment agreement with any tenant who has rent arrears before trying to evict them; commitment by the landlord to consider transferring a joint tenancy to one of the tenants in the case of a household break –up; and commitment by the landlord to a complaints procedure. We are hopeful that some of these issues can be negotiated separately with Peabody as matters of policy.

Position of regulated tenants: this is still being negotiated. The legal process was delayed because the Crown Estate was not open from the start about uncertainty over the future of regulated tenants. After our lawyers identified the uncertainty, the Crown Estate admitted that they cannot be sure whether regulated tenants would become secure tenants or assured tenants after a sale to Peabody. Our lawyers have advised that if regulated tenants become secure tenants, they will automatically continue to have a legal right to the "fair rent" system. However, if regulated tenants become assured tenants they will have no legal right to the "fair rent" system, and our lawyers have advised that at present, the Crown Estate's legal documents do not provide a satisfactory replacement of the "fair rent" system. Our lawyers are working on a way to resolve that problem and are negotiating with the Crown Estate's lawyers about that.

The Crown Estate have now offered to pay for a case in the High Court for a judge to decide what will happen to regulated tenants. As things stand, regulated tenants could be worse off if they become assured tenants than if they become secure tenants. The court case could therefore have a bad outcome for tenants. The Residents' Associations think that is unacceptable. We have therefore told the Crown Estate that the Residents' Associations will not take part in the proposed court case unless and until our lawyers can advise us that the rights of regulated tenants have been properly protected in the event that they become assured tenants, as well as in the event they become secure tenants. We hope the Crown Estate and their lawyers will accept our lawyers' suggestions to provide proper protection in the event regulated tenants become assured tenants.

Tenancy Book : Peabody has agreed to extend the extra rights afforded by the tenancy addenda to all existing tenants, whether or not they were given a copy of the Tenancy Book. This should

mean if you have moved in since the Tenancy Book was withdrawn in July 2009, you will have the same rights as everybody else. Most importantly, you will be protected by a 60% of market rent ceiling, and will not be forced to move out at the end of any fixed period unless you have broken the terms of your tenancy. We fought extremely hard for this as it is an important point of principle.

However, the Crown Estate have refused to remove uncertainty about the Tenancy Book from the legal documents. Our lawyers have advised this could put any individual assured or assured shorthold tenant in danger of being denied all of the rights in the addenda. We and our lawyers will continue to fight for the removal of this uncertainty.

Peabody rent policy for assured and AST tenants: Our request to the Crown to place a limit on rent increases in the addenda was refused, as was our request to Peabody to agree to set our rents in line with their policy for their social rent tenants, ie linked to the Retail Price Index. After being pressed to be absolutely clear about their rent policy, Peabody have now confirmed it will be essentially the same as the Crown Estate have been operating since 2002. The annual maximum percentage increase for the first year after they take over will be 9%. Those currently at the 'ceiling rent' will see a 4% increase and others will see an increase somewhere between 5 and 8%. What increase you will face depends on how near you are to the 'ceiling rent' for your property. We have asked the Crown to tell every individual tenant their 'ceiling rent' but they have refused. However they have told us that individual tenants can be given this information if they request it – our advice is to do this. All tenants should contact the Crown Estate and ask what the current ceiling rent is on their individual property and to request a copy of your tenancy file. You may need a copy of your Crown Estate tenancy file to make sure your current rights are protected if and when Peabody take over. The Tenancy Book says that the Crown Estate do not normally charge for first requests for information.

This rent policy obviously falls short of what we have asked for, and the continued link to inflated 'market rents' is disappointing. However it is no worse than the policy the Crown has been using. Peabody has said that in cases of individual financial hardship they would consider freezing the rent. If Peabody buy the estates we will of course continue to campaign to keep rents at an affordable level for both existing and new tenants.

Future of keyworker provision: the conditions imposed by the Crown bind any purchaser to let 9 out of 10 vacancies to key-workers on sub-market rents. Peabody have said they do not intend to sell the 1 in 10, and that they may instead be used for transfer cases or occasionally let at market rents for a short period. New keyworker tenants will have to pay up to 80% of market rent. This is not ideal – we would have preferred all vacancies to be guaranteed for keyworkers and for incoming tenants to have the same rent framework as we do. However it is important to recognise that our campaign has made a huge contribution to safeguarding the future of the estates as keyworker accommodation.

Transfers: Peabody have confirmed that a similar transfer policy to the Crown Estate's will be put in place so that Crown tenants will be able to apply for transfer to other Crown properties as they have before. They have also said that tenants transferring will pay no more than 60% of the market rent for the new property (and not 80% like a new tenant) after transfer.

Our position: we realise that there are numerous other issues and concerns, including repairs contracts and policies, rights of leaseholders, rights of first refusal for those that qualify, and many more, that are not covered in this update. If you have specific questions relating to your own situation we urge you to raise them in the consultation.

Our overall view is that while we have not got everything we wanted, our campaign has been successful in many respects. We made it impossible for the Crown to sell to a private landlord and we have secured major concessions. Peabody are a respected organisation and may well prove a better landlord than the Crown Estate – certainly than the Crown Estate has been since 'Project Blue' was hatched. And we now have a Residents' Association that is stronger than ever before, which will help us protect our rights and communities into the future. Thanks for all your support.

Yours sincerely,

Joannie Andrews (Chair, Victoria Park)
Madeleine Davis (Vice-chair, Victoria Park)
Steve Smith (Chair, Cumberland Market)

Ben Bowling (Chair, Millbank)
Janine Rankine (Chair, Lee Green)