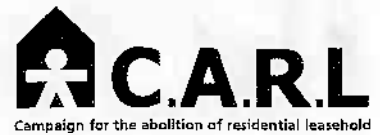


THE Leaseholder



NEWSLETTER FROM CARL www.carl.org.uk

SPRING 2004 ISSUE 11

Commonhold – all spin and no substance

The government is about to achieve a remarkable feat on the housing front. It will shortly be introducing the regulations governing commonhold property ownership, two years after passing legislation effectively killing off all prospect of commonhold tenure becoming a reality. The government has already admitted that there will be little commonhold development despite the demand from home owners.

Commonhold ownership would give flat owners a form of property tenure as close to freehold as could be achieved. Flats would be owned in perpetuity, just like freehold, while flat owners would also own the common parts of the building on a mutual basis. There would be no third party landlord, lacking a direct interest in the property and motivated by a desire to exploit the leaseholders.

CARL sees commonhold ownership as crucial to resolving most of the problems that flat owners currently experience. The inferior leasehold system has been abandoned in virtually every other part of the globe, including Scotland.

Although commonhold tenure may operate under different names in different countries – condominium ownership in the United States, strata title in Australia, cooperative ownership in Europe – commonhold is by far the most successful form of shared property ownership.

The Labour Party's publication *An End to Feudalism*, issued just before the 1997 general election and written by Nick Raynsford and Frank Dobson, said: "Labour will

FORFEITURE – THE LATEST

Shona McIsaac is one of a number of MPs who support our campaign to abolish forfeiture (see back page). She has written to housing minister Keith Hill arguing that draconian forfeiture provisions have no place in modern housing legislation.

Write to your MP to get him/her to support the abolition of forfeiture. Point out that the latest proposals from the Law Commission to try and soften the blow of forfeiture – by simply renaming it "termination of tenancy" – do not address the problem. Deprivation of someone's home for a breach of the lease is not just disproportionate (and therefore in breach of Article 1 of the European Convention on Human Rights); it also constitutes a breach of Article 3 since it constitutes

inhumane and degrading treatment. The government failed to seek legal advice whether the forfeiture provisions in the Commonhold and Leasehold Reform Act actually comply with the European Convention.

The right to forfeit or terminate a tenancy is particularly inappropriate in a jurisdiction where any individual, whatever the length of his/her criminal record, can own the roof over someone else's home. The Law Commission claims that it is an independent body; in fact its five commissioners are appointed by an unelected government minister who sits in the House of Lords.

introduce legislation creating the commonhold tenure. Our proposal is that this should apply where new tenancies are created and where existing leaseholders wish to transfer from their current status. In such cases the support of a majority of the leaseholders will be required to effect the transfer."

However, the government has fallen a long way short of this objective. Its Commonhold and Leasehold Reform Act does not make commonhold compulsory for new developments; nor does it enable leaseholders to transfer to commonhold on a simple democratic majority basis. Instead, the government now insists that such a transfer can only take place if each and every party with an interest in a block agrees, guaranteeing that minority rule prevails – and commonhold remains out of reach.

MEMBERS SOCIAL

**Come to our first ever
'members social.'**

**We have organised the social
so that leaseholders can
meet each other;
discuss common issues;
and relax!**

Join us on

**Saturday 6 March,
upstairs at
'The Plough'
in Museum Street,
London WC1,
starting at 5 pm.**