Rt. Hon Grant Shapps MP
Housing Minister
Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU

Ms Noëlle Rawé
[✂]

See 4 Feb 11 'reply'

19 January 2011

Dear Minister,

Further to my letter to you of 16 December 2010, I received a 5 January 2011 reply from Chris Humphreys, said to be on your behalf. Not knowing Mr Humphreys's role, I am opting to reply to you.

1. ***"…regulation of managers of leasehold properties…"***

   It is abundantly clear from my 16 December letter that I refer not only to managing agents, but **also** to residential leasehold landlords i.e. **owners** of the headlease and / or freehold and hence, individuals who appoint – and control – managing agents for blocks of flats.

   In your letter, you focus on *"the managers"*, totally ignoring the landlords. WHY?

2. ***"…codes of management practice approved by the Secretary of State setting out the law and best practice that landlords and managers should have regard to. These codes published by the RICS and the Association of Retirement Housing Managers (ARHM) can be used in evidence at Court or tribunal proceedings if necessary"***

   As an introduction: I am way, way past your manual's 'standard replies' that dish out deceit.

   (As captured on my website (**http://www.leasehold-outrage.com/pg_works/ics.htm**), at the time of my complaint to the Royal Institution of Chartered Surveyors (RICS) against Joan Hathaway, MRICS, and Barrie Martin, FRICS, Martin Russell Jones (MRJ), I bought, from the RICS bookshop, a copy of 'The RICS Service Charge Residential Management Code' (RMC).

   In the 19 page summary of my 2 February 2005 complaint to the RICS - of which I attach pages 1-6 as examples [1] (this document is located under point #1, at **http://www.leasehold-outrage.com/pg_works/ics.htm**) - I went through this code line by line, reproducing ALL the relevant *"Rules"*, as well as *"Core Values"* (which amounted to capturing practically the whole code) and, in each instance, under each, captured events demonstrating how Joan Hathaway and Barrie Martin had breached the *"Rule"* / *"Core Value"*.

   As can be seen in the enclosed letter of 10 June 2005 [2] from Simon Love, the RICS caseworker, he wrote:

   > *"The Service Charge Residential Management Code is* ***not mandatory****…is classified as a Guidance Note…* ***an RICS member is not per se in breach of RICS requirements if he does not comply with its recommendations.***
   >
   > *The Management Code was approved by the Secretary of State under the provisions of Section 87 of the Leasehold Reform, Housing and*

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[1] Pages 1-6 of the 19 page summary of my 2 February 2005 complaint to the RICS
[2] 10 June 2005 letter from RICS caseworker

> *Urban Development Act 1993.*
>
> *I believe this could be an explanation as to why the **Code does not have the status of being a practice statement** as the Secretaries approved it. **It is therefore outside the control of the RICS**"*

Contrast that with what Simon Love wrote, three months previously, in his enclosed 1 March 2005 [3] letter to me:

> *"Members who depart from* [the code] *should be able to justify their reasons for doing so"*
>
> *"…the RICS will consider whether such criticism constitutes a breach of RICS regulations"*
>
> *" …the LVT can take the code into consideration when considering allegations that a member has not followed the recommendations of the code"*

It led me to reply in my 5 March 2005 letter (under point #1, at **http://www.leasehold-outrage.com/pg_works/ics.htm**):

> *"RICS Rules of Conduct – Part II Personal and professional standards, item numbered 3.2 states: "…in the course of carrying out any work, the **Member…shall not act in a manner which compromises or impairs**, or is likely to compromise or impair, any of the following:… (d) **compliance with any code**, standard or Practice Statement **of the Institution** or any statute in force at the time"*
>
> *It follows from this that the RMC is a code of practice to be followed by RICS members in the context of the said activities"*

The unequivocal wording *"the Member… shall not…"* and *"(d) "any code"* - contrasted with the RICS reply to me that the code is *"not mandatory"* and "*an RICS member is not per se in breach of RICS requirements if he does not comply with its recommendations"* - demonstrates that the code is just window dressing.

Indeed, in the light of the RICS' position:

1. How can there be a breach of the code by RICS members?
2. How can e.g. the LVT (as quoted by the caseworker), *"take it into consideration"* in its determination?
3. How can the RICS *"consider whether there is a breach?"*

In law, a cause of action only exists if there is a breach of a legal principle i.e. a legally enforceable requirement.

In further support of my position that the RICS code is just window dressing, I quote:

1. 17 June 2003 so-called 'determination' by the London LVT, ref. LVT/SC/007/120/02 ('So-called' as the LVT *failed* to perform its legal remit by *not* including a summary of its determination in its report)

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[3] 1 March 2005 letter from RICS caseworker

- Under point 62, page 13, the LVT states, in relation to the contingency fund which 'Steel Services' (SS) (i.e. Andrew Ladsky et.al.) and MRJ were refusing to use against the 15 July 2002 'service charge' demand:

  "The Tribunal draws the parties attention to the RICS Code to which property managers should subscribe and abide by, *as a matter of good practice. Section 10 of the Code covers reserve funds…"*

2. West London County Court (WLCC)

- On 29 November 2002, a fraudulent claim ref. WL203537, was filed against me and 10 of my fellow leaseholders, representing a total of 14 flats at Jefferson House, by Cawdery Kaye Fireman & Taylor (CKFT), London NW3 1QA, on behalf of SS – with the statement of truth endorsed by Joan Hathaway, MRICS, MRJ. (This was done *in spite of* our being told by the London LVT, at the 29 October 2002 pre-trial hearing, to *not pay* the service charge demand *until* the tribunal had issued its determination - and it had been implemented (Court of Appeal ruling, Daejan Properties v London LVT). (The claim was pursued by WLCC *in spite* of my repeatedly informing it of the action in the LVT – and that we, leaseholders had specifically been told by the LVT: "*don't pay*").

- Among my several letters to WLCC in which I repeatedly raised the fact that SS-MRJ had *not* implemented the LVT so-called 'determination' – in my 22 June 2003 letter to District Judge Wright (under point #8 at **http://www.leasehold-outrage.com/pg_lso/west_london.htm**), under header 1.2 *"The LVT has also decided that the contingency fund must be used as contribution towards the (legitimate) part of the costs"* – I quoted from point 62 of the LVT report. Outcome? IGNORED!...

  …at least in relation to the majority of the leaseholders on the claim, as they were made to pay the *full amount* of the 15 July 2002 'service charge' demand. (In my case, I kept a 7 June 2001 letter from MRJ stating that the contingency fund *would* be used as contribution towards the costs – and argued this at the time of SS' 21 October 2003 *"offer"* – resulting in SS taking it into consideration)

Conclusion: the RICS code is very clearly NOT an effective remedy = of NO USE to residential leaseholders to get justice and redress against crooked managing agents.

See the extent of the RICS 'code of conduct', and, in 'How to complain' "What the RICS cannot do" re. its members

(I am ignoring your reference to the ARHM, as it is not relevant to me)

3. ***"…ability to seek a new manager from a Leasehold Valuation Tribunal…"***

Yes, IF the situation allows (which, as you will have no doubt gathered – considering the requirements - is not the case in relation to my block, Jefferson House).

IF the situation allows it, the evidence demonstrates that successful leaseholders often end-up jumping from the frying pan into the fire – because: (i) managing agents are NOT regulated by the RICS – and, (ii) when the RICS is made aware of issues, it does NOT take action.

This is exemplified by the appointment of Barrie Martin, FRICS, MRJ, by the London LVT for another block of flats where, as was to be expected, MRJ repeated its 'winning formula' – LVT case LON/00AQ/LSC/2005/0258 (point #8 at **http://www.leasehold-outrage.com/pg_works/ics.htm**)

Of note – (in addition to the fact that the LVT *already* knew about MRJ's method of operating – Jefferson House case LVT/SC/007/120/02 referred to earlier): the LON/00AQ/LSC/2005/0258 report states: (1) that the London LVT hearing followed an "*application* [made] *on 14 September 2005";* (2) Point 2 of the report's 'Background' section states that the LVT had

"appointed Mr B Martin of Russell Jones as manager…"

By September 2005, I had been battling with the RICS for seven months in relation to my (legitimate and highly documented complaint) against Barrie Martin and Joan Hathaway. (The final 'Get lost!' from the RICS is dated 4 November 2005, stating, among others: *"I am of the opinion that there is an insufficient weight of evidence to place this matter before an RICS disciplinary committee currently"*)(Also on my website, on the above page, under point #5)

4. ***"…or take control of the management from the landlord by exercising the right to manage…"***

Ditto in terms of 'IF the situation allows'.

I suspect that some leaseholders have also had bad experiences with this – not least because of the total lack of regulation of managing agents by the RICS.

5. ***"Other rights include the ability to challenge the reasonableness of the service charge, and to be consulted about major works…"***

My website is a very damning testimony of what happens to leaseholders who 'dare' to demand their so-called 'rights' – especially when the landlord is protected by 'the system'.

(My experience with:

(1) the London LVT (2002-03) - and its President (2003);
(2) West London County Court (2002-04; 2007-08);
(3) Wandsworth County Court (2004);
(4) the Supreme Court Costs Office (30 January 2009);
(5) Court Service Complaints department (2004, 2007-08);
(6) Legal Services Ombudsman (three times);
(7) Kensington & Chelsea police (2002, 2003, 2007, 2009-10, including October 2010);
(8) the Metropolitan Police Authority (2002);
(9) the Police Complaints Authority (2002), and then,
(10) its successor, the so-called 'Independent' Police Complaints Commission (2010);
(11) the Met Commissioner (2009-10);
(12) Kensington & Chelsea Housing (2004);
(13) the Local Government Ombudsman (2004-05);
(14) my MP (2002; 2009);
(15) Parliamentary Ombudsman (2009-10),

All events are contained in my 2 Jan 10 Subject Access Request to the Ministry of (In)Justice – see page Lawyers, Courts and Legal Services Ombudsman
They all collude with each other, including other institutions e.g. Memorandum of Understanding between the Law Society and the police

etc.).

As Barry Gardiner, Labour MP, said during the 26 June 2009 House of Commons debate on leasehold 'reform': *"To have a right and no means of implementing that right is to have no right at all"*

I make the same comment to you as that made by Jacqui Lait, Conservative MP to Rosie Winterton, Housing, during the same debate *"The minister really needs to consider what is happening in the real world, as opposed to what is happening in the legislative world. Many leaseholders experience a total disregard for any of the rights that she is reading out; she must bear in mind that what she is reading out is not what happens to leaseholders"*

As overwhelmingly demonstrated by my very extensive first-hand experience (and that of tens of thousands of other leaseholders): these so-called 'rights' are essentially just window dressing.

(But I WILL continue with my fight, and thereby continue to accumulate more damning evidence, in the hope that, maybe, one day, we, the public, will get honest individuals in Government and other relevant public sector departments i.e. individuals who do the job we, taxpayers and hence their employers, are paying them to do: act in our interests - instead of their own interests and, in this instance, interests of the criminal residential leasehold fraternity).

6. ***"Free initial advice and information on these rights can be obtained from LEASE…"***

   As I know from my first-hand experience, LEASE does *not* offer advice - *only* information.

   And, as I also know only too well from my life-destroying experience from naïvely believing what I was told by the State, it is the Government's mouthpiece: it does not tell you about the reality behind the window dressing, hoping that the leaseholder will eventually give up his/her fight – and knowing that, if s/he does not, there are many in the State sector and other institutions who will conspire to crush him/her for 'daring' to persist on demanding his/her so-called 'rights'.

7. ***"The Government recognises the need to strike the right balance of rights and responsibilities between landlords and tenants"***

   Like previous Governments: you very clearly do *not*.

   It is clear from my experience and that of tens of thousands of other leaseholders that, overall, landlords have carte blanche from the State (tribunals, courts, police, housing departments, ombudsmen, etc) and from other institutions (lawyers, surveyors, their 'regulators', etc.) to do exactly as they please – and thereby ignore not only leaseholders' legislative rights, but also their legislative *"responsibilities"*.

8. ***"However it believes that the current legislative framework can deliver that balance, if matched by an increasingly proactive and positive approach by the professionals in the sector"***

   WHO is going to ensure *"an increasingly proactive and positive approach by the professionals in the sector"*?

   And why only *"increasingly"*? Would you like to e.g. be operated on by a surgeon who has been asked to take *"an increasingly proactive and positive approach"* to his work?

   Regulation **cannot** be a halfway house.

9. **"[the Government]*…is keen to avoid imposing further burdens on landlords and managers such as provisions for regular statements of account which would, in turn, increase costs for service charge payers"***

   This refers to the PS. in my 16 December 2010 letter: *"8 years since the Commonhold and Leasehold Reform Act 2002 was introduced. Yet, to this day, s.152 of the Act, "Statements of account" has yet to come into force. WHY?"*

   My translation:

   - 'Like previous Governments, this Government is keen to not interfere with the fraudulent activities of landlords in the private and public sector, as well as their aides'. '60 years on: long live the more than ever State-supported Rachmanism!' (Oxford dictionary definition: 'the exploitation and intimidation of tenants by unscrupulous landlords')

   - 'Another one of our 'great' window dressing exercise that fools leaseholders and other parties such as e.g. the media who do not know how, or do not have the time to study the legislation we

are endlessly churning out'.

10. ***"…whilst there are no immediate plans to introduce regulation for managing agents the Government will keep the matter under consideration"***

    Thank you for admitting the obvious: that managing agents are NOT regulated.

    When will you *actually do* something? When there are leaseholders hanging from every protrusion on the Palace of Westminster... because that would 'not look good' to the outside world, would it?

    Who is pulling your strings Minister?

Yours sincerely

N Rawé
www.leasehold-outrage.com

PS. At least 'Dear Mr Ladsky' must be pleased with your letter.

cc. Julian Knight, Independent
Royal Institution of Chartered Surveyors (RICS)
C.A.R.L. (Campaign for the Abolition of Residential Leasehold)