



SCRUTINY FORUM EXECUTIVE

Report of the

AD HOC SCRUTINY PANEL

into

**SALE OF FREEHOLD
REVERSIONARY INTERESTS**

23 October 2000

AD HOC SCRUTINY PANEL

MEMBERS: Councillor John Green (**Chair**)
Councillor Maggie Blanshard

LEAD OFFICER: Mr Richard Brooker

COMMITTEE ADMINISTRATOR: John Quarmby
(Tel. 01484 221703)

The Panel was established by the Scrutiny Forum Executive following a request by a Member who had received complaints from lessees following sale of the Council's Freehold Reversionary Interests in the Ramsden Estate, Huddersfield.

Evidence presented by (former) Officers of Estates and Property Services:-

- (i) That the land in question formed part of the "Ramsden Estate" that sometime between 1890 and 1910 Sir John Ramsden (known as the father of Huddersfield) allowed builders the right to go onto land in his ownership and build houses, mills etc. The builders were given 60 year leases with tenants of the properties paying ground rent.
- (ii) That sometime later the 60 year leases were converted to 999 year leases.
- (iii) That in 1920 Huddersfield Corporation bought the estate (around one third of Huddersfield) which included approximately 12,500 buildings/properties with 999 year leases.
- (iv) That the Leaseholder Reform Act 1967 allowed occupiers to purchase the freehold interest and during the period 1976 to the late 1990's approximately 100 owners had bought the freehold interest.
- (v) That the leases included a clause to the effect that the occupier should have "the quiet enjoyment of the property". As a result any problems which an occupier had with the owner of an adjoining property referred these matters to the Estates and Property Services to determine. This took up a lot of Officer time and rather than getting involved as a mediation service Estate and Property would give general advice to the complainant.
- (vi) By the 1990's the sum of ground rents collected and the administrative work involved in dealing with enquiries/complaints did not cover the Service's costs of administering the process.
- (vii) The former Chief Estates officer decided to explore opportunities to dispose of the Council's Freehold Reversionary Interests and discussed this proposal with the two Officers. At that time neither Officers were in favour of the sale. At a later time they did however conclude that the sale of the Freehold Reversionary Interests was probably the right decision. It was likely that the Chief Estates Officer also discussed his proposal with the then Chair and Deputy Chair of the Policy (Land and Property) Sub-Committee.

- (viii) On 6 August 1992 the Land and Property Sub-Committee considered a report of the Chief Estates Officer which sought approval to extend the delegation scheme to include the disposal of Freehold Reversionary Interests within Huddersfield town centre where the terms reflected a significant proportion of the differences in the investment values of long-leasehold and freehold properties. the sub-Committee deferred this matter for a report on the legal implications of the disposal.
- (ix) The Sub-Committee at a meeting held on 1 October 1992 considered a report on the legal implications and the enforceability of covenants if the Council were to dispose of its Freehold Reversionary Interests in Huddersfield town centre. The Sub-Committee agreed that subject to confirmation by the Policy and Resources Committee the existing delegation to the Chief Estates Officer be extended to include the disposal of Freehold Reversionary Interests within the town centre where the terms reflect a significant proportion of the difference in the investment values of long-leasehold and freehold properties. (This delegation was approved by Policy and Resources Committee on 18 November 1992). Following the above the Chief Estates Officer wrote to a number of companies who advertised in the "Estate Gazette" asking if they would be interested in acquiring the interests.
- (x) As a result of the above the Chief Estates Officer received enquiries from two property companies who had expressed a "genuine" interest in acquiring the interests. At that time the Council had 12,500 properties on its books, 10,000 or so who paid a ground rent of £5 per annum or less.
- (xi) The Policy (Resources) Sub-Committee at a meeting held on 5 July 1993 authorised the Chief Estates Officer to dispose of the Council's Freehold Reversionary Interests in 10,000 999 year leases (on the terms outlined in the report considered by the Sub-Committee) to City and Metropolitan Trust Limited, London. (The sale was completed in 2 phases -residual ground rents under £5 in 1994 and ground rents over £5 in 1995 - both to the same group of companies) Estates and Property wrote to the Ground Lessees advising them of the disposal.
- (xii) City and Metropolitan appointed "Owners Provident Ltd" as their agents. It was suggested that Owners Provident are a subsidiary company of City and Metropolitan.
- (xiii) Both companies are part of a larger company called "Rotche".
- (xiv) The disposal to City and Metropolitan was concluded in 1994. The witnesses suggested that the company gave (or sold) the addresses of the properties concerned to various insurance companies, mortgage brokers etc. who then posted out details of insurance/mortgage schemes to the occupiers of those properties. Any householders taking advantage of the insurance/mortgage schemes offered would result in a "kick-back" to City and Metropolitan from the insurance/mortgage companies.
- (xv) The Panel noted that any alterations to the properties and certainly those which involved planning permission required the consent of the freeholder who made a charge for their consent. Such consents could be backdated if the freeholder became aware that alterations had been made without the prior consent of the Council when acting as freeholder.
- (xvi) Annual ground rents had to be paid within 30 days of issue of the invoice by the company. Any not paid within the 30 day period subsequently received a demand for £25 for the non-payment and administrative costs.

- (xvii) Following disposal the Estates and Property Services received approximately 200 complaints a year about the procedures adopted by the company but these had tailed off by April 1997. In November 1996 an Officer wrote to City and Metropolitan drawing their attention to the complaints and unsolicited mail received by the lessees. A reply was received from "Fair Hold" a subsidiary of Owners Providential which drew attention to a help-line which the company had provided for lessees wishing to make an enquiry, that the company incurred costs when chasing payment of the ground rents and sought to recover these costs and that the company had to be consulted about any changes to a building and that a fee was charged for their consent. The mail received apparently related to mortgage/insurance offers and the respondent suggested that the rates advertised by the companies were "beneficial".
- (xviii) That in 1996 City and Metropolitan had sold on the Freehold Reversionary Interests to another company (Fair Hold - a subsidiary of City and Metropolitan). Fair Hold had appointed Estate and Property Management (Huddersfield) as their agents.
- (xix) Both Officers indicated that whilst initially they had not been in favour of the disposal of the Freehold Reversionary Interests they were now of the opinion that it was probably right to have done so at that time as the income did not meet expenditure; that at the time of disposal there was little activity in the property market and there was little benefit from the Council's point of view in continuing to hold the Freehold Reversionary Interests. Their only concern was along the lines of whether or not the service provided by the company met the requirements of the lessees.

Evidence presented by a Member:-

The Panel interviewed an Elected Member who had received complaints from lessees about the approach adopted by the freeholder.

These complaints related generally to the following issues:-

Allegations

- (1) That initial bills for the ground rent had not been issued by the freeholder with the lessees being issued with a bill for non-payment which included an amount for "administration costs"

(The member, on behalf of certain lessees, had challenged the inclusion of 'administration costs' and the freeholder had agreed to drop these charges)
- (2) Allegations that the freeholder had introduced restrictions e.g. could not keep pets; could not erect garden sheds.
- (3) Allegations that the 'help line' established by the freeholders was permanently engaged thus preventing lessees from getting advice other than by a personal visit to the Huddersfield Office.
- (4) Allegations that the 'logo' on letterheads used by the freeholders could confuse ground lessees into believing that they had been issued by a legal firm.
- (5) Allegations that correspondence issued by the freeholders to the lessees stating that they could purchase the freehold interest (on a 'easy payment' scheme) were misleading, in that no information was given that a ground lessee could engage their own Solicitors for this work.

The Panel noted that no facility existed to pay the ground rent by Standing Order or Direct Debit.

The Panel considered a number of letters of complaint which individual lessees had written to the freeholders together with a report by the Solicitor to the Council setting out his legal understanding of the situation and a report on a meeting between himself, members of Huddersfield Incorporated Law Society and a representative of the Leaseholders.

CONCLUSIONS

From the evidence presented the Panel concluded as follows:-

- (a) The Panel accepted that the decision to dispose of the Council's Freehold Reversionary Interests was based on financial grounds. However it was apparent that no account was taken of the effects which the disposal would have on the ground lessees, neither were the ground lessees consulted on the proposed disposal. The Panel concluded that both issues should have been addressed and that consultations should have taken place with Rotch Property Group and its subsidiaries on how they intended to manage the portfolio.
- (b) That Estates and Property Services had, on a number of occasions prior to disposal, issued general letters to the ground lessees pointing out that they could purchase the freehold. The Panel considered that the ground lessees should have been notified of the Council's intentions to dispose of the Freehold Reversionary Interests and reminded of this facility prior to, rather than after disposal.
- (c) That there was no evidence to indicate that the freeholders had acted illegally in their dealing with the ground lessees.
- (d) That pressure on the freeholders brought about by Estates and Property Services, the Solicitor to the Council and Huddersfield Incorporated Law Society and individuals had caused the Freeholders to review their method of working practices with assurances being given that future correspondence to ground lessees would not be misleading, that the possibility of payment by Standing Order would be investigated and a tightening up of the issuing of 'reminders' only where an original invoice had been issued and that assurances were also given that the freeholders would continue to advise ground lessees of the benefits of purchasing the freehold.