

# CBW RETENDER



## **Welcome to the May addition of CBW Newsletter, where we would like to discuss retender process.**

A misapprehension has recently circulated claiming that the re-tender process is not being acted upon in good faith due to an underlying agenda to stand in the way of a change to the existing management arrangement with R&R. This was based on the assertion that, contrary to the information provided by the RA committee, there is, in fact, no obstacle to pursuing the Right to Manage (RTM) option. This assertion was partly founded on a meeting arranged late last year by Mike O'Driscoll with Roger Southam to explore RTM. The erroneous assertion has been maintained despite the committee explaining on multiple occasions that the legal situation had changed subsequent to Mike's meeting with Roger Southam.

Yesterday, Roger Southam sent the committee Chair a letter, posted below, that outlines his position. Roger was contracted to advise and act on behalf of the committee in moving forward the re-tender process with an ideal interim goal of achieving a self-management option.

Please see the link here

[https://mcusercontent.com/d23f5b76f8ccafd1365af04f9/files/9f5824dd-b584-4b97-5eef-c3369851476b/Roger\\_Southam\\_Letter\\_for\\_circulation\\_21\\_5\\_22.pdf](https://mcusercontent.com/d23f5b76f8ccafd1365af04f9/files/9f5824dd-b584-4b97-5eef-c3369851476b/Roger_Southam_Letter_for_circulation_21_5_22.pdf)

Please note that the ultimate goal would be for leaseholders to purchase the freehold. Were the majority of CBW leaseholders to purchase the freehold then "the board of directors" referenced in Roger's letter (see extract below) would consist of the freeholders only.

However, please also note: although the 12 Jan 2022 Supreme Court decision in First Port v Settlers Court RTM Ltd (see link below) means that leaseholders in large estates are unable to sever ties with the former management company by utilising the right to manage scheme, CBW leaseholders can get to broadly the same place in terms of control of maintenance and budget via the retender "self-managed option", also see below. In short, the RA performs the role of managing agent for maintenance and budget purposes rather than the management company who would be retained only for back office functions (hence the removal of the referenced "layer of fees":-

"In conjunction with Fairhold there has been a re tender of management services which we are now looking to bring Berkeley on board with. Ideally, this will result in a solution whereby a layer of fees is removed and the on site team working with a Board of Directors made up of leaseholders, Berkeley, Fairhold, L&Q and Notting Hill would control the running of CBW. This self-management option is what is being worked for and each step would be designed towards that outcome."

In order to be able to purchase the freehold we are waiting on the second part of Leasehold Reform (Ground Rent) to enter into force, due

in the third session of the current parliament (ie 2024). See <https://commonslibrary.parliament.uk/leasehold-reform-in-england-and-wales/> "timing of future legislation" which will:-

- Reform the process of enfranchisement valuation used to calculate the cost of extending a lease or buying the freehold.
  - Abolish marriage value.
  - Cap the treatment of ground rents at 0.1% of the freehold value and prescribe rates for the calculations at market value. An online calculator will simplify and standardise the process of enfranchisement.
  - Keep existing discounts for improvements made by leaseholders and security of tenure.
  - Introduce a separate valuation method for low-value properties.
  - Give leaseholders of flats and houses the same right to extend their lease agreements "as often as they wish, at zero ground rent, for a term of 990 years".
  - Allow for redevelopment breaks during the last 12 months of the original lease, or the last five years of each period of 90 years of the extension to continue, "subject to existing safeguards and compensation".
- Enable leaseholders, where they already have a long lease, to buy out the ground rent without having to extend the lease term.

Thank you for your attention.

Link to First Port vs. Settlers Court RTM ruling:

<https://www.taylorwessing.com/en/insights-and-events/insights/2022/04/red-supreme-court-ruling-on-right-to-manage-and-communal-areas>

No more sharing: Supreme Court ruling on right to manage and communal areas

<https://www.taylorwessing.com/en/insights-and-events/insights/2022/04/red-supreme-court-ruling-on-right-to-manage-and-communal-areas>

