

Residential Services
London Borough of Hillingdon
3 North Civic Centre
High Street
Uxbridge
Middlesex
UB8 1UW

Our Ref: FZK/INQ1.142

Via email only: planning@hillingdon.gov.uk

26 October 2020

Dear Sir / Madam,

1-18 (inclusive) Fulmer House, London, Hillingdon, UB8 1GN (the "Property")

We act for Inquilab Housing Association Limited (the "Association"), the registered freehold proprietor of the Property.

The Property is subject to a Section 106 Agreement dated 21 December 2006 made between (1) Persimmon Homes Limited and (2) The London Borough of Hillingdon which contains affordable housing obligations but contains an inadequate mortgagee exclusion clause. We would therefore be grateful if you could please advise whether the Council would be willing to enter into a Deed of Variation so that the mortgagee exclusion clause can be updated. We enclose a copy of the Section 106 Agreement for your information.

In its current form, paragraph 4 of Schedule 1 of the Agreement does not refer to chargees or successors in title, and does not make specific reference to administrative receivers or housing administrators.

The modification which we are seeking does not have an adverse impact on the Council or any interested parties. The modification simply clarifies the intention of the parties already detailed in paragraph 4 of Schedule 1 of the above mentioned Agreement. The effect of the modification for the Association is that it shall provide the Association with a wider selection of lenders which they can approach for funding and subsequently this will ensure that when they are in a position whereby they need to charge the Property, these will be given an open market value by an independent firm of valuers whereas at present the Property is being restricted to Existing Use Value for Social Housing (EUV-SH) which has a significant impact on the values that can be derived from the units.

The purpose of the variations are to bring the mortgagee exclusion clause in line with the current requirements of lenders and funders when such properties are used as security for refinancing purposes. Without the required variations, the value of the applicable properties will be restricted to EUV-SH which can be up to 70% less than the market value of the

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applicable properties. The provisions are onerous and unreasonable as the effect is that it places the Association at a disadvantage and hinders their financial standing as well as their ability to provide new homes.

The wording that we would propose to replace paragraph 4 of Schedule 1 will be the following:

“the provisions in this Agreement shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Housing Land or any persons or bodies deriving title through such mortgagee or chargee or Receiver”.

In addition, the Property is subject to a Nomination Agreement as referred to within the Section 106 Agreement, which expresses an obligation on the Association to allow 100% of the initial lets of the rented units, and 75% of all voids to be let on a tenancy to a nominee of the Council. The Nomination Agreement does not contain a mortgagee exclusion clause. We would therefore propose that a mortgagee exclusion clause, in the same wording as above, is also added to the Nominations Agreement, for the same reasons as set out above.

We look forward to hearing from you as soon as possible.

Please could you mark all correspondence for the attention of Ms. Fortesa Kastrati – Ref: INQ1/142.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Fortesa Kastrati', with a stylized flourish extending from the end.

Fortesa Kastrati
Solicitor
Devonshires Solicitors LLP

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