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The Rt Hon Michael Gove MP
Secretary of State for Levelling Up, Housing and
Communities
Minister for Intergovernmental Relations
Department for Levelling Up, Housing and
Communities
4th Floor, Fry Building
2 Marsham Street
London
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01 July 2022

Dear Secretary of State,

Thank you for your letter, addressed jointly to The Property Institute (TPI) and to the British Property Federation, of 27 June 2022, regarding the ongoing building safety crisis and the vital protection of leaseholders throughout the process of buildings being made safe.

The Association of Residential Managing Agents (ARMA) and the Institute of Residential Property Managers (IRPM) – the predecessor organisations to TPI - have been engaging with the Government, and with parliamentarians across both houses, since the tragedy of the Grenfell Tower fire. Both organisations also engaged proactively and consistently throughout the legislative process of the all-important Building Safety Bill. TPI are continuing to proactively engage with Government until buildings are made safe for the people who live in them. Since the Grenfell tragedy, ARMA, IRPM and now TPI have been consistently clear, and remain as such, that leaseholders who brought their homes in good faith should not have to pay for fixing homes that are unsafe. We also have a great sense of urgency that buildings must be fixed as quickly as possible.

TPI was pleased to see the Building Safety Bill receive Royal Assent earlier this year. The Act is a clear call for those in the sector - including property managers, developers and landlords - to identify, mitigate and manage risks to residents alongside Government support. I am therefore pleased to see the Government continue to focus, and apply pressure across the piece, to ensure unsafe and dangerous buildings are fixed in an efficient but diligent manner.

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The Property Institute agrees with the Government that leaseholders should not be sent invoices for building safety works covered under the Building Safety Act, with undue invoices having no place at the door of leaseholders. Building managers are, of course, human beings like everyone else and none would ever want to send leaseholders invoices unduly. In most circumstances in the recent past, where leaseholders have been sent invoices, this has been because the law, the system and the situation left no other route or solution open to keep residents as safe as possible in their buildings, either through moving building safety works (preparatory or otherwise) forward or installing fire alarms and waking watches in buildings. We also agree that those of utmost importance and at the centre of this ongoing crisis, are leaseholders, who must remain as protected as possible from undue costs.

There are, however, remaining legitimate and necessary reasons for invoicing leaseholders on some building safety expenditure. For example, leaseholders who are 'non-qualifying' according to the Building Safety Act will still need to be invoiced, and the waterfall structure within the Act means that certain leaseholders will need to contribute up to the defined caps for non-cladding historic building safety defects. Agents are already finding that the message, as heard, that no leaseholder will pay anything at all for building safety has created confusion and anger among leaseholders who, for example, are refusing to pay for insurance where this has increased as a result of building safety issues.

Agents are also finding that leaseholders are coming to them asking for reimbursements of waking watch costs. As you know, the Government's fund for waking watch costs was not retrospective so any expenditure already made by leaseholders could not be claimed back through the fund. We hope that these costs, and others that leaseholders have already made, will be covered by developers who have signed the Government's pledge. We also suggest it would be extremely helpful for the Department to specify the types of costs you expect developers to cover so that the industry is clear, and leaseholders are further protected. The result of the current lack of clarity on this is that remediation projects are stalling.

A further issue is one of the multiple standards set by PAS 9880 and the Building Safety Act. We urge you to ensure the contracts with developers require them to remediate to the standard that the Building Safety Regulator will require, to prevent a second round of failures, claims and disputes as the building enters the regulatory regime in around 18 months' time.

Meanwhile, the incomplete waterfall process and the awaited regulations thereto has caused further confusion for leaseholders and a lack of clarity for managing agents.

As a result, some remediation projects are already stalling, with others to follow due to a lack of clarity on which funding sources are available to be utilised by building owners to progress building safety works. Simply, it is not possible to commit to a multi-million pound construction contract without certainty of funding.

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For several years now, we have been calling for a collaborative approach to building safety where the whole industry is brought together by Government to develop solutions. Managing agents, RMC directors and leasehold groups, developers, freeholders, landlords and public bodies including the Health and Safety Executive need to be able to feed back challenges when and where they present themselves and find ways to resolve them. ARMA, IRPM and now TPI have been calling for some time for a Fire Safety Delivery Group comprised of the aforementioned parties, including Government officials, to do exactly that. We believe this could be critical to moving the building safety crisis forward and getting unsafe buildings fixed in an efficient, diligent and collaborative manner.

It is clear that until we have the clarity and detail that will be contained in the Act's secondary legislation, for example on how the funding 'waterfall' should work in practice, there will be setbacks on the ground to getting remediation completed. We will be sending a more detailed letter to Building Safety Minister, Lord Greenhalgh, outlining the critical issues where guidance and clarity is needed. We will ensure you receive a copy of this letter. We hope this clarity and detail will come forward imminently. We will continue to work collaboratively, both with Government, with the sector and leaseholders, to ensure the Act continues to be the tough safety net which the industry has been striving for following the Grenfell tragedy.

TPI are keen to meet with your Recovery Strategy Unit to discuss the challenges currently facing the building safety crisis, alongside solutions to move the crisis forward at the earliest opportunity. TPI are also keen to help convene a roundtable between your Department and the managing agent sector – do let me know if this is something you would like our assistance with.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Andrew Bulmer", written in a cursive style.

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