



Sir Peter Bottomley MP,
House of Commons,
London SW1A 0AA

21st June 2016

Dear Peter

I know that you have taken a keen interest over a long period of time in the activities of Peverel Retirement (now FirstPort Retirement Property Services – FRPS) in the retirement homes sector and, indeed, that you have raised your concerns in Parliament.

You may also recall that I serve as the chairman of the ARMA independent Regulatory Panel which oversees the voluntary regulatory regime established by ARMA three years ago. It is in that capacity that I wanted to sight you on the results of the Panel's recent hearing concerning complaints against Peverel Retirement/FRPS. The day-long hearing was held in response to FRPS's wish to apply for ARMA-Q accreditation and ARMA membership. In summary, the Regulatory Panel upheld two complaints against FRPS in relation to the proposed sale of a house manager's flat at Mere Court, Knutsford, in 2013 and a failure to deposit transfer fees at Hillside Court, Ormskirk. However, the Panel decided that the company was free to apply for ARMA-Q accreditation. The Panel has addressed a letter of admonishment to FRPS. The Panel's decision is posted on the ARMA website.

In total the Regulatory Panel investigated three complaints concerning FRPS and its predecessor Peverel Retirement (PR). These complaints dealt with the sale of house managers' flats in retirement homes managed by FRPS/PR, the Office of Fair Trading (OFT) Decision on collusive trading in relation to works carried out on Peverel Group retirement properties, and a failure to deposit transfer fees into the reserve fund at Hillside Court, Ormskirk.

In respect of the complaint about the sale of house managers' flats the Regulatory Panel found FRPS to have been in breach of ARMA Byelaw 2.7.10 in the case of Mere Court in 2013 in relation to a failure to disclose an interest in the ownership of the flat and in payments made to individuals associated with the proposed transaction. The Panel noted that FRPS had made significant improvements in the information now provided to leaseholders. However, the Panel went on to recommend that full disclosure of financial interests should be made in future and also any possible resulting reapportionment of leaseholders'.

In respect of the OFT Decision of 6 December 2013 on collusive tendering the Panel took the view that there was insufficient evidence from which it could conclude that FRPS was involved in the prohibited practices identified by the OFT and that the complaint was, therefore, not made out. The Panel was reassured that the matter had been thoroughly investigated by FRPS and that the tendering process had been altered and now involved an independent surveyor in the procurement process.

In respect of the complaint concerning the failure to deposit transfer fees the Panel found the company to have been in breach of ARMA Byelaw 2.2.2 in the case of Hillside Court, Ormskirk, in relation to

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compliance with the terms of the lease. The Panel noted that full restitution with interest had taken place although it remained concerned at the speed with which the complaint had been addressed. The Panel was reassured by the measures now in place to prevent, to the greatest extent possible, a repeat of such an error.

The hearing was conducted by three members of the Regulatory Panel – myself, Alun Jones, a specialist in regulatory and disciplinary law, and Alan Walker, a leaseholder and RMC chair. Attending on behalf of FRPS were Chief Executive Nigel Howell, Managing Director Keith Shields, and Russell Tillison, Head of Legal and Compliance.

For the first time at an ARMA Regulatory Panel hearing complainants were invited to attend in person as witnesses. Mrs Alex Ellison (whose mother is a leaseholder at Mere Court) and Mr Geoff Johnston (who is a leaseholder at Ash Court, Knutsford) had the opportunity to make statements and question the FRPS representatives.

This was the lengthiest and most comprehensive hearing conducted by the Regulatory Panel. In the course of its deliberations the Panel examined more than 30 documents submitted by complainants as well as the more than 250-page OFT Decision. Over several months of preparatory exchanges with FRPS the Panel received 59 written answers to specific questions put to FRPS and read over 50 documents submitted by the company. Following the opening session with the witnesses the Panel went on to question the FRPS representatives for several hours.

No appeal has been received against the Regulatory Panel determination. The Panel has now written to the complainants with a summary of its decision and caused its findings to be posted on the ARMA website.

I should emphasise that an application for ARMA-Q accreditation and ARMA membership are matters solely for FRPS and ARMA.

I hope this rather full account of our proceedings is helpful. I would, of course, be happy to discuss this matter with you if you so wished.

Meanwhile, with best wishes, I remain

*Yours ever,
Keith.*

The Right Honourable Keith Hill
Chair ARMA Regulatory Panel

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