OAK INVESTMENT MANAGEMENT GROUP

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Enfranchisement and UK Real Estate

Residential real estate is an emotive issue. Residential real estate in the UK, where ownership is exceptionally high, is especially so. People feel strongly about the issues involved, the media transmits these strong feelings and correspondingly politicians legislate for them as they see fit. Nonetheless, real estate and the agreements that surround real estate is a contract and participants or non-participants deviate from the principal of a contract at their own peril.

A clear example of this is enfranchisement. Originally brought in specially on a political basis against landlords who had granted miners homes in South Wales some 99 years before on a similar length lease this has been steadily expanded by both Conservative and Labour governments as a clear vote winner. The original enfranchisement rights come from 1967 law (relating to free standing houses) and the subsequent ones from a 1993, 1996 and 2002 laws (relating to flats). These have been substantially added to by the supplementary legislation and the interpretations of the courts. These rights only apply to residential (and not to commercial) property; though sometimes a change of use into residential without the necessary safeguards being taken by the landlord can trip the legislation again.

Though nationwide this legislation is now firmly and primarily concerned with London. And not general London but prime central London. Rightly or wrongly this is a real threat to the coherence of the historic estates in London: The Grosvenor Estate, The Cadogan Estate, The Howard de Walden Estate, The Portman Estate, and even The City of London, the Crown Estate themselves. The laws are firmly in favour of occupiers in London at the expense of historic landlords or of freeholders for property. These occupiers can usually buy in the freehold cheaply and easily. Many of the larger estate agencies have divisions that do this mechanically and there are plenty of smaller surveyors who specialise in this area of work.

There is no doubt that the filing away of the distinction between leasehold and freehold has made the market less flexible, and value (in a zero sum game) is passed from landlords to tenants. It has, therefore, also decrease the attraction of putting money to work in building up stock or enjoying a passive return from this investment. Though freeholds are still absolutely protected with the full force of the law – the value has been sucked out of them by the ability of a tenant effectively to extend beyond a period of economic significance.

This matter may be considered a small idiosyncrasy of the market – as its effects are swept underneath many other factors driving the central London housing market. However, this legislative interference in private contract is not a good thing for the market. It destroys a natural balancing as well as interferes with the supply / demand dynamics, or even affordability of somewhere to live in the capital. Unfortunately, legislation is hardly ever rescinded.

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