

WHO KILLED BAMBI? – THE EMB CRISIS



In the early nineteen nineties the residents of Lancaster West Estate voted to use powers available through right-to-manage legislation to set up a local estate management board. This decision once taken by the local community the Council were obliged to concur and a management agreement was duly signed in 1993 which empowered the EMB to manage this estate on behalf of the Council, who retained ownership of the properties and remained as landlords. This was, and remains, a legally binding agreement approved by and underwritten by the Secretary of State. Under the terms of the agreement the Council would retain it's responsibility to manage the estate during the first year, while the new EMB bedded in, and was trained and familiarised with the powers and responsibilities it was about to assume. After that year the EMB was to assume full responsibility for repairs and maintenance, negotiate year on year with the Council for the capital funding needed for the necessary capital projects, and have control of the budgets it needed to discharge its' responsibilities for the general management, maintenance and upkeep of the estate.

The handover of power never happened. Instead the Council began planning, from 1994 onwards, to create a monolithic Tenant Management Organisation (TMO) responsible for all social housing in the borough. The TMO Management Agreement was duly signed in 1996, and the Council delegated all management functions to the new body, along with the whole system of repairs and maintenance contracts that currently existed, and the property management staff and staffing structure that had formerly administered the system directly from the Town Hall. The EMB Management Agreement still existed, and the Council had no power to dissolve it, but they chose regardless to delegate all

management functions to the TMO in defiance of the EMB agreement. The Lancaster West community refused to capitulate, even though the EMB had been left totally powerless and totally dependent on the TMO for all the services the EMB should have been empowered to provide.

For a number of years, right through into the early noughties, the EMB continued to resist despite being constantly undermined, marginalised, and disempowered by both RBKC and TMO. They continued holding monthly board meetings and annual elections and AGM's. They were determined to hold the TMO accountable, in any way they could, for the quality of the services the TMO were delivering, but inevitably the morale of individual board members was gradually eroded, as well as the morale of the Lancaster West community.

The 2005 Review and the 2006 Modular Management Agreement

In 2005 the EMB entered into a year long review with the Council of the 1993 Agreement. Towards the end of this process the Council suddenly and unexpectedly re-introduced a document that the EMB had previously rejected – a so-called Modular Management Agreement the format of which was favoured by the Office of the Deputy Prime Minister, the inimitable John Prescott MP. The MMA was a far weightier and more complex document than the original agreement and there was no time to study or properly review it. The EMB delegation were, however pressured into signing it on a promise that their existing rights would not be compromised and the MMA would itself be reviewed at the earliest opportunity. This review never happened.

It was only later that EMB members realised that a crucial clause had been inserted in the MMA that contradicted and fundamentally compromised the rights guaranteed by the original Agreement. Chapter 1 Clause 6.3 in the MMA stated that:

“Either party may, with the consent of the other, appoint another person to carry out management functions which are their responsibility under the Agreement and the parties have agreed to appoint the TMO to carry out the majority of the EMB's functions”

This was a direct contradiction of the 1993 agreement which stated that:

“The LWMA shall not delegate or assign any of the responsibilities or rights granted by this Agreement to any other organisation.”

The contradictory clause was completely illegal and moreover the MMA did, in fact, contain a guarantee that existing rights and responsibilities would remain unaffected under the new Agreement and would not be compromised. Notwithstanding this the Council and TMO were determined to fully implement Clause 6.3 and so the last vestiges of any power or influence were soon stripped from the EMB, leaving it completely eviscerated.

Over the next couple of years, as the more competent and experienced board members stepped down to move on with their lives, they were invariably replaced by inexperienced, untrained and less competent new members. Inevitably the board became demoralised and fractious and started to disintegrate

The Arvinda Gohil Scandal

In the spring of 2009 after the EMB had effectively imploded and had not met for several months, board members were summoned to a crisis meeting with senior RBKC officers. The solution demanded by Council officers was to impose a temporary chair (a professional management consultant) to sort out the mess and supposedly oversee the reform of the EMB by means of a recruitment drive to strengthen the Management Association, new board elections to strengthen the Board, and a well attended AGM to cap it all off.

Arvinda Gohil of HQN was appointed as interim Chair of the EMB, and remained in post for the next year. What board members didn't realise at the time, and were never told, was that Gohil was being paid about £2000 for a four-day month. This was strictly forbidden by the EMB constitution under which board members are allowed to claim expenses, but may not be paid, and so a convoluted system of payments was devised by RBKC and TMO officers working in secret. All invoices were addressed to Pam Sedgwick, the Housing Clientside Manager at RBKC. They were then passed to Tony O'Hara, the TMO appointed manager at Lancaster West, who approved the payments before passing the invoices to TMO accountants who made the payments from EMB budgets – and all without the knowledge or consent of the EMB board.

A number of criminal offences were involved in this leger-de-main. Sedgwick, to whom the invoices were addressed, denied all knowledge of the payments – this was an offence under the Freedom of Information Act. Gohil, who clearly had a conflict of interest as she was Chair of the EMB but was invoicing RBKC for payment, never once declared her conflict of interest – every failure to declare was an offence under the Companies Act. O'Hara authorised the payments from EMB budgets without seeking the consent of the Board – every such authorisation was another offence under the Companies Act, as he was effectively chief executive of the board but was authorising large payments without the Board's consent. Incidentally Council officers also lied about the source of the payments, claiming they were paid from TMO budgets, when in fact they were paid from EMB budgets over which TMO accountants had full control.

You couldn't make this stuff up, but it's all true I promise you. Our readers should note that we never publish contentious allegations on this blog unless we have good evidence to support them.

By now you are probably wondering, if the Council and the TMO wanted rid of the EMB why didn't they just dissolve it once they had evidence of its' incompetence? The answer to this is deceptively simple. To dissolve the EMB without its' consent the Council would have to prove the EMB's incompetence in managing the estate and delivering services. However, the EMB had never been allowed to manage

anything, or to deliver any of the services in question, so incompetence could not be proved in any meaningful way. On top of this the Council had also failed to provide the essential training and support the EMB needed and which they were required to provide under the management agreement.

This brings us back to Ms Gohil and her £2000 a month conflict of interest. On paper she was tasked with rescuing and reforming the EMB and whipping it back into shape. In practice she did nothing of the sort. Instead in April 2010 she convened a Special General Meeting at which she recommended to the Lancaster West Management Association that they voluntarily dissolve the EMB and invite the TMO to take full control of Lancaster West. The assembled Association members rejected Gohil and her recommendation in no uncertain terms.

The End Game

It took a few more months for the surviving rump of the EMB to unseat Gohil (and her conflict of interest). They held an AGM with board member elections in June 2010, but the 'Peasants Revolt' at the SGM was really the last hurrah of the Lancaster West Management Association, after which the EMB became increasingly secretive, paranoid, isolated, authoritarian and corrupt, refusing to answer to the Management Association for its actions.

So why, you might ask, would the Director of Housing and other senior officers at RBKC continue to prop up this thoroughly corrupt and incompetent rabble? The answer would seem to be that yet another review of both the TMO and EMB management agreements has been underway over the last couple of years. Swingeing cuts to the government subsidy that supports the Housing Revenue Account on which both organisations depend, and the recent introduction of a new self-financing regime for local authority housing has further complicated matters and caused the MMA reviews to drag on and on for much longer than was initially anticipated.

We have no reason to suspect that the TMO review has been improperly conducted, but the EMB review has been quite another story. During the two years in which the review has been underway there have been only two review meetings held, and the only representative of the EMB to attend these meetings was the corrupt and thoroughly discredited Bob Bryans. Furthermore the minutes of the meetings reveal that there was no discussion of the notorious Clause 6.3 referenced above. We have no doubt, therefore, that the Council's intention is to consolidate and legitimate the illegal transfer of powers that was the main feature of the 2006 EMB Agreement, and thereby complete the final dissolution of the EMB. We strongly suspect that the only reason why they continue to prop up the failed EMB in the meantime is because they want Bryans' signature on a new Agreement and believe they can get it without much resistance from other EMB members, who know little about the so-called 'review' that has been undertaken, and understand even less.

To Be Or Not To Be

The allegations of conspiracy in this follow up piece, are of course more speculative than the allegations made in our lead piece (Something Rotten) of just a few days ago. This is because we have no direct evidence that Council officers have repeatedly conspired with TMO officers to undermine and disempower the EMB. Nonetheless the circumstantial case against them is very strong, and we have direct evidence showing that on occasions they have behaved criminally in pursuit of their ulterior motives. The refusal of the Council over many years, to honour the Management Agreement with the LWMA is the essence of the case against them – the rest is just icing on the cake showing the unprincipled and opportunistic depths to which they will stoop whenever it suits them.

The residents of Lancaster West have never loved the TMO and have refused and resisted TMO management here for many years. However, it may now be too late to save the EMB, and the only way to find out for sure is for the Lancaster West Community to come together and fight hard for the right to self management that has been illegally denied us for so long.

For this fight to have any chance of success we must be disciplined, committed and patient. It won't be enough to just all show up at some public meeting and make a lot of noise. Initially, of course, the making of noise will be absolutely necessary, and the bigger the noise, and the bigger the stink, we can make the better. But we have to also convince the Council that we have the discipline and intelligence to reform the EMB as a competent and disciplined organisation, capable of managing these properties on the Council's behalf, and truly representative of the resident community. This means we have to find enough resident volunteers (somewhere between 10 and 15) with the willingness and the wherewithal to do this job. Ideally we need people with experience in business, housing management, the building trade or building maintenance, or in public sector organisations. Someone with a bit of legal expertise could also be a great asset. Most of all we need willing volunteers, with intelligence and self-discipline, to replace the incompetent and corrupt EMB that we are currently stuck with.

Rumour has it that the EMB is about to announce arrangements for this years' AGM. This will be our last and only chance to return control of this estate to its' residents. Let's not waste that chance. In our view what we must do now is:

1 – Attend the AGM in significant numbers

2 – Vote no confidence in the discredited current board

3 – Appeal to the Director of Housing, the Cabinet Member for Housing and Property, and if necessary the entire Council, to allow us the time, and give us the training and support we need, to enable the creation of a new, competent and representative Board to manage Lancaster West.