

Buying the Freehold and Extending a Lease

The Law

The Leasehold Reform, Housing & Urban Development Act 1993 as amended by the Commonhold & Leasehold Reform Act 2002.

The Rights

1. The right for a group of tenants to buy their freehold (%Collective Enfranchisement+).
2. The right for a tenant to extend their lease.
3. The right for a group of tenant to take over the management of their block.

Qualification

To buy the Freehold

1. The property must be a self-contained building or part of a self-contained building.
2. The property must contain 2 or more flats held by qualifying tenants.
3. The total number of flats held by qualifying tenants must not be less than 2/3rds of the total number of flats in the building.
4. The tenant must hold the property on a %long lease+ which is a lease of over 21 years as originally granted.
5. The notice must be given by at least one half of the total number of flats contained in the property.

To extend your lease

1. The tenant must hold the flat on a %long lease+(see above).
2. The tenant must have owned the flat for at least 2 years.

What do you get?

A new lease of the property extended by 90 years (i.e. what you have left plus 90 years) at a peppercorn ground rent. The terms of the lease are to be the same as the original lease.

Valuation

The valuation process is an extremely complicated one and best left to expert surveyors. There is no easy way of giving a client an indication of the cost and the premium can vary between a few thousand pounds and a few million depending on the value of the property and the lengths of the leases.

Basically the value is made up as follows: -

1. The income received from ground rents (%Term+) which is deferred at a % rate for the duration of the term.
2. The loss in value to the landlord of either granting the extended term or selling the freehold (%Reversion+)
3. The Marriage Value . where a lease has less than 80 years left to run %Marriage Value+ is payable. This is basically the increase in value attributable to the longer lease or ownership of a share of the freehold. The Law states that this is split 50/50 between landlord and tenant.

On top of the premium the tenant must also pay the landlords reasonable legal and valuation costs.

Top Tips

1. Where a lease is shortly going to fall below 80 years it is worth alerting the buyer or seller to this, as they may wish to serve a Notice of Claim before it falls below 80. The cost will be much less as no marriage value will be payable.
2. In relation to lease extensions there is a two year ownership rule. If the lease is already short or will soon fall below 80 years the seller and buyer can come to an agreement that the seller serves a notice of claim before completion and on completion assigns the benefit to the buyer. The buyer then takes the benefit of the period of ownership of the seller and does not have to wait another two years to serve notice.

For any further advice or assistance on this issue or any other property related enquiry please contact Guy Osborn on 020 7485 8811 or guyosborn@osbornes.net