

Understanding Leasehold Enfranchisement Information for Flat owners

In England and Wales, the legal title of most residential flats or apartments is Leasehold. The time left to run on the Lease can vary depending on the term granted in the original Lease. The shorter the time, the less valuable the property. Under legislation (the Leasehold Reform Housing and Urban Development Act 1993), it is sometimes possible to extend the lease.

How it works

The Act gives the Lessee the right to surrender the existing Lease and take a new one. The new Lease will extend the Lease by a further 90 years in addition to the time left on the original Lease. The new Lease will be at a peppercorn ground rent which means there will be no ground rent payable, and will generally be on the same terms as the existing Lease.

So, for example, if there is 65 years remaining on the Lease, then under the new Lease the term would be for 155 years (65 years on the Lease plus 90 years extension). If the ground rent was £120 a year, this would no longer be payable.

Who qualifies?

The applicant must have been the registered owner of the flat at the Land Registry for at least 2 years and the time remaining on the Lease must be in excess of 21 years.

There are a number of exclusions which means not everyone can exercise this right, such as if the Landlord is a charitable housing trust.

Premium (compensation payable to Landlord)

There is a premium payable to the Landlord in return for granting the extension. This compensates the Landlord for the loss of ground rent and also for waiting a further 90 years before being able to take possession of the property. There is a formula which is set out in the Act.

The premium is made up of the following:

- The amount by which the open market value of the Landlord's interest is reduced by granting the extension.
- The marriage value – this is the increase in value of the property following the grant of the extension. This is only payable where the unexpired term is for 80 years or less.

A Surveyor would be able to provide a valuation.

Why extend the Lease?

As the length of the Lease decreases, so does the value of the property. If a Lease has an unexpired term of less than 80 years, it is unlikely that a potential buyer will be able to get a mortgage therefore greatly reducing the sale value of the property. It is therefore, advisable to begin the process before this point and ideally with 85 years left to run.

The cost

In addition to the premium payable to the Landlord in return for granting the extension, the Landlord can also request a 10% deposit of the premium or £250.00, on top of their reasonable costs in relation to investigating eligibility, valuing the flat and negotiating and granting the new Lease. These costs are in addition to the Lessee's own professional costs, such as legal and surveyor fees.

If there is a dispute, the matter must be referred to the First Tier Tribunal which will also increase the costs.

What if the Landlord is missing?

If all reasonable efforts have been made to locate the Landlord without success, an application to the Court can be made for a "Vesting Order".

If the Court is satisfied that the Landlord is missing and the Lessee is eligible for the extension, they will grant the Order.

How long will it take?

The average time it takes from initiation to completion of the extension is 6 to 9 months. If the extension is disputed, it can take over 12 months.

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