

STORRARCOWDRY
solicitors

Leasehold Enfranchisement

*“Liberty, freedom and enfranchisement”
Julius Caesar Act 3 Scene 1*

We doubt that Shakespeare had the 1993 Leasehold Reform Housing & Urban Development Act in mind when he penned Julius Caesar but the following line would appear to be most pertinent for today's lessees who are often scared by the process.

“People and Senators don't be afraid, don't run away”

Storror Cowdry's enfranchisement team can help you to make sense of the enfranchisement process, taking all of the hard work out of it, as well as recommending other professionals whom you may need to advise you throughout the process.

Lease Extensions

Many leases are granted for a term of 99 years, which means that less than 19 years into the term the lessee needs to consider extending their lease. For a 99 year lease granted in 2000 it is time to start thinking about the process now.

The first step is to ascertain exactly how long your lease has left by checking that document. If it is coming close to 80 years then you need to move quickly because after a lease drops below the 80 year threshold it becomes substantially more expensive to extend.

You then need to obtain a valuation from a qualified valuer; we can give you details of valuers who work in your area, or you can do a search on the ALEP Website. Once you have that valuation then we can start to prepare the notice, which will need to be served on your landlord.

Under the statutory regime a lessee is entitled to 90 years in addition to the existing term, at a peppercorn ground rent, subject to payment of a premium, as well as the freeholder's reasonable legal and valuation fees.

The most frequent question we are asked is – ***“how much will I have to pay?”***

The premium is based on a formula, your valuer will prepare the calculation and it is then negotiated by the valuers for you and the freeholder.

If you are considering buying a property that has a short lease do not be put off by the fact that you will not meet the two year ownership criteria; provided the seller qualifies for a lease extension they can sign the notice and assign the benefit of it to you.

Sometimes you might want to negotiate the lease extension informally with your landlord. This might save you some fees, but you should proceed with caution. A landlord might want to grant you a shorter term, or rent, other than that to which you are entitled under the statutory regime and there is no fall-back position if they refuse to grant the new lease.

There are special rules which apply if the landlord is absent or deceased and we can advise you about how to go about extending your lease or buying the freehold if that is the case. If the lessee has passed away then the Personal Representatives have an opportunity to extend the lease, which can be useful where the property is being sold.

First Tier Tribunal

This is the body which decides disputes between landlords and tenants and they can determine the premium and costs as well as the terms of the new lease. It is very common to make an application to the First Tier Tribunal because of the strict time limits involved in the process. However, the majority of cases do not proceed any further largely because each party has to pay their own costs of doing so and the difference in premium can be far outweighed by the solicitor's or valuer's charges for representation at the Tribunal. The Tribunal can also decide the premium, costs and transfer terms for a collective purchase or purchase of a leasehold house.

Collective Enfranchisement

Groups of lessees might want to join together and purchase the freehold of their block, either because they want to oust their freeholder, or more commonly because they want to remove the managing agent and try to reduce costs.

The process usually takes some months to get going because you have to have a certain number of participants to proceed, but once you have then it is a case of following procedure; there are similar time limits to the lease extension process.

If there are more than three of you we recommend setting up a company which will own the freehold. If there are three or fewer we can advise you on entering into a deed so that each party transfers their freehold share to the new owner upon the sale of their leasehold flat.

You will need to decide between you how you are going to split the costs and the premium and how any non-participants' shares will be paid for. It might be sensible to enter into a Participation Agreement documenting what has been agreed and setting down what each lessee will pay.

It is rare to agree an informal collective purchase but it is not unknown. However the majority of cases require the service of a Statutory Notice and so you will need a solicitor to advise you on the process from the start.

Purchase Leasehold Houses

The leasehold Reform Act 1967 allows lessees of houses to purchase the freehold for a premium. This is a statutory process with similar deadlines for service of notices and responses, as lease extensions and collective enfranchisement.

Rights of First Refusal

Sometimes a landlord wants to sell the building or part of a building and is obliged to serve notice on the lessees giving them the opportunity to join together and to purchase it. You need to move relatively swiftly as there is a deadline for you to join together and respond to the notice served. Sometimes it is not possible to agree and the property will be sold to a third party. If you can get together in time then the landlord must be informed and the statutory procedure followed.

Right to Manage

This is usually a cheaper option for those who wish to take over the day to day management of the building but who might not be able to find the required capital to purchase the freehold. The requisite number of lessees are still required to join together as a group but the costs are lower for this process as there are no valuation fees. Lessees are still required to pay their own solicitors costs as well as the landlord's solicitors and professional fees. We do recommend that you engage a lawyer to advise you on the rights and obligations of the RTM company once it is managing the building and to help you prepare for taking over the day to day management. We can prepare the formal notices as it is a statutory process with requisite time limits and easy to get wrong.

ALEP

Storrar Cowdry is a member of the Association of Leasehold Enfranchisement Practitioners (ALEP) the professional body for practitioners experienced in the residential leasehold sector.

Membership of this professional association provides assurance to leaseholders and freeholders that they will receive a consistently high level of service, integrity and professionalism.

Leasehold enfranchisement includes the processes of lease extension, freehold acquisition and correction of management problems within leasehold properties. ALEP exists to ensure that practitioners involved in this sector adhere to an agreed level of conduct and service.

Contact us

For further information on how we can help you with your enfranchisement queries please contact:

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