



BRIEFING

Winckworth Sherwood

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The Right to Manage: The Right, Selling, Timing and Key Issues

The Right

Owners of residential flats and houses have the statutory ability, subject to meeting certain criteria, to force their landlord to grant them an extended lease.

The qualification criteria includes a requirement that the tenant has held the flat for at least two years and that the original term of the lease of the property exceeded 21 years.

Flat owners are entitled to receive a new lease on improved terms including an increase in the length of the term by 90 years and have the ground rent reduced to nil effectively.

In the case of a house the original lease term would be extended by 50 years.

Selling during the process

It is possible to assign the benefit of the process to a buyer for them to complete after their purchase of the existing leasehold interest. The parties would need to agree who is to bear the costs associated with the procedure and the premium payable for the new lease.

In a buoyant market, buyers are often happy to take on the process and to meet all the costs and premiums without any contribution from the seller. In a flat or falling market, buyers may be more cautious, perhaps requiring the procedure to be completed before they will acquire the flat or that a pot of money to be set aside from the sale

proceeds to fund either the entire cost and premium or a contribution towards it.

Timing for the Application

Whether you are thinking of selling or maintaining the value of your investment, you may be trying to work out when it is the right time to start the statutory procedure to extend your lease. A few points to consider are:

1. Value - obtaining an extended lease should enhance the value of your interest. A specialist valuer would undertake this calculation for you.
2. Interest - you are likely to increase the pool of possible buyers, particularly if you have concluded the lease extension procedure prior to marketing your property (as opposed to commencing the statutory process and leaving it to the buyer to deal with after the completion).
3. Other options - if there are management issues which might reduce interest, you may want to consider pursuing one of the collective rights of freehold enfranchisement or the right to manage. A collective acquisition of the freehold could be completed within a similar time timescale as extending your lease in most cases. The right to manage is likely to be quicker.
4. Obtaining finance - lenders may tighten their criteria in respect of the remaining lease term

or may attach more onerous conditions such as requiring a higher deposit.

5. Valuation date - starting the statutory procedure fixes the valuation date by reference to which the premium payable for the new lease is calculated. You will need to balance the upward effect of your term reducing against the possible downward effect of a fall in the market value of your property on the premium payable. A specialist valuer will advise how certain market value fluctuations might affect the premium payable.
6. Marriage Value - once the remaining term of the lease falls below 80 years then an additional element of premium called "Marriage Value" becomes payable. This element of the premium will increase as the remaining term reduces. If you are close to the 80 year mark then it is important to start the process now.
7. Deferment Rate - this is used in the calculation of the premium. It has previously decreased causing a corresponding increase in the premium payable and it may do so again. It is currently fixed at the rate of 4.75% for houses and 5% for flats.

Key Issues

- Have you (or your seller) owned the property for at least two years?
- Is the remaining term of the lease already below 80 years?
- Was the original lease granted for a term exceeding 21 years?
- Have you considered whether the right to collectively acquire the freehold or the right to manage will achieve your aims?
- Will your ground rent level put off buyers; if so extending your lease will solve this albeit it at a price.

For further information, please contact:



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