

Missing Landlords: Buying the Freehold

As leaseholders of flats will know, many of them have a statutory right to get together with their fellow leaseholders and purchase the freehold of their building. This is known as leasehold enfranchisement. But what if the existing freehold owner cannot be found? Perhaps surprisingly, this is not entirely uncommon. A special procedure exists to make an application to court and this article aims to lead you through the process. A similar procedure exists for leaseholders of houses, which is outside the scope of this article.

The decision to buy the freehold should not be taken lightly because management of blocks of flats – particularly large ones – can be a daunting task. It can also put you into conflict with your neighbours. For most buildings it is usually advisable to employ managing agents to carry out the day to day management. If you have decided to buy the freehold, your first step will be to contact your fellow leaseholders and find out who wishes to join you. Ordinarily you would need at least 50% of the long leaseholders in the building (or both leaseholders where there are only two) to participate. However, where the landlord is missing you will need at least two thirds to join in. There are other criteria for the right to be exercised but they are not set out here.

There is a price for buying the freehold. One factor to consider, is how long is left on your leases. If there is less than 80 years unexpired at the valuation date, 'marriage value' will have to be paid. This will, in most cases, increase the premium to be paid considerably. If there is just over 80 years unexpired, you may have to act very quickly.

The next step is to obtain a professional valuation from a suitably qualified surveyor. This will give you an indication of what you are likely to have to pay for the freehold. Normally a notice initiating the process is served on the landlord. If you still want to proceed, but you cannot locate your landlord to serve a notice, this need not prevent you buying the freehold. You should try to find the freeholder. Obtain his contact details from the Land Registry and attempt to make contact with him. If you have no luck, this might be an appropriate time to contact a solicitor who will handle the procedure from here. Your solicitor can instruct enquiry agents to locate the freeholder. If the freeholder is located, negotiations can take place with the freeholder, as normal, and a notice served if need be. If he is not located, the enquiry agent's evidence can be used to prove that the landlord is missing.

Your solicitor will then make an application to the court for an order vesting the freehold in your name. The court may require further steps to find the freeholder, such as placing an advertisement in the local press.

Once a vesting order is obtained, the case will be transferred to the Leasehold Valuation Tribunal (LVT) to decide the price to be paid. The LVT will consider the valuation evidence of your surveyor and may wish to visit the property before calculating the price to be paid,

which may include any ground rent that is lawfully due to the freeholder. Once the price has been determined, the money will have to be paid into court, before a judge authorises the transfer of the freehold into your name.

The money will remain in court and will only be paid out upon the application of somebody who can prove that they are entitled to the money.

The final step is to register the transfer at the Land Registry and, if required, draw up an agreement to govern how the property will be managed. This might include for example, the proportions in which the flat owners will pay for works carried out to the building and what is to happen in the event of disagreement.

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