



City & Angel Legal Expert Column
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My neighbour and I own both flats in our building and would like to buy the freehold. What should we do?

Generally, there are two options available to you and your neighbour:

Negotiation

One option is to explore if whether or not the freeholder is willing to enter negotiations with you to sell the freehold of the building. The freeholder is not under any obligation to entertain the negotiations but there is no harm in making an informal approach to the freeholder to see if whether or not he would be willing to negotiate with you.

Enfranchisement

Another option is that subject to meeting certain criteria, you and your neighbour may have legal rights to forcefully acquire the freehold interest of your building under the Leasehold Reform, Housing & Urban Development Act 1993. Exercising such legal rights is known as collective enfranchisement. The legislation sets out a detailed process and strict timescales that must be followed in order to successfully acquire the freehold of your building. Owing to the fact that there are only two flats in the building, then both you and your neighbour will need to participate in an action such as this.

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Author: Hema Anand

I am a landlord and need to undertake urgent works to the building. Is it necessary to serve Section 20 Notices and consult with the leaseholders?

The Section 20 procedure requires a landlord to consult leaseholders for certain works that will cost over £250 per leaseholder. It is a process that can take several months and involves a three stage process.

In order to carry out very urgent works without the need to go through the Section 20 procedure, you will need to make an application to the Leasehold Valuation Tribunal., the Tribunal has the authority, if it is satisfied that it is reasonable to dispense with the requirements of the Section 20 procedure to dispense with the consultation requirements.

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Author: Hema Anand

I want to sell my flat which has 70 years left to run. The selling agents have explained that in order to sell my flat I need to extend my lease. The landlord is refusing to extend my lease. What should I do?

Yours is not an unusual situation. Given that your Landlord is unwilling to negotiate with you, an alternative is to force the landlord to extend your lease. Subject to meeting relevant criteria pursuant to the Leasehold Reform, Urban Housing & Development Act 1993 which gives leaseholders the rights to acquire a lease term extension, you can force a landlord to extend your lease by a further 90 years and reduce your ground rent to a peppercorn.

You could commence a claim for a lease term extension and once your lease has been extended, place the property on the market. Or, you can begin the process to acquire a lease term extension, serve notice upon the landlord and then assign the benefit of that notice to the incoming purchaser so that the purchaser continues with the action after completion. This has several benefits to both parties. Firstly, you can sell your property without having to pay a premium for the lease term extension or being liable for costs because both shall become the responsibility of the purchaser. Secondly, the purchaser will not have to wait to two years before owning the flat before being in a position to force the landlord to grant them a lease term extension.

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Author: Hema Anand

Why should I extend the lease of my flat? It has 75 years left; is that not long enough?

There are several reasons why you should extend. You shall see from the below the possible impact that that the length of your lease has on the ability to sell, re-mortgage or simply on the value of your flat:

Value

An immediate and significant reason for extending a short lease is the impact it can have on the value of your property. This is best illustrated by the following example:-

A two bedroom flat which has 80 years left to run is worth £300,000.00 on the open market and with 75 years left to run is recalculated to be worth £272,000.00 on the open market.

Mortgage/Remortgage

Another point to consider is if you should wish to re-mortgage then the value of the property is an important factor and a lender may lend less where the property is worth less. Many lenders will also not lend or re-mortgage where a lease is below a

certain number of years, which also has a negative impact on the marketability of the property should you wish to sell.

Premium

You may find that the longer you leave it to extend your lease, the more you may have to pay to the landlord. Leases that have less than 80 years left to run may cost more to extend. This is because the landlord is by law entitled to charge more to extend it. By way of example, please consider the following scenario.

A lease in 2009 with 80 years left to run was calculated to cost £2,000.00 in order to extend it. The same lease in 2011, two years on, is now calculated to cost £8,000.00.

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Author: Hema Anand

We are a group of leaseholders considering a Right to Manage. Can you please let us know the advantages of progressing a Right to Manage action?

The Right to Manage is a powerful tool which subject to meeting the relevant criteria, can enable you to address poor management or unreasonable service charges or major works. There are many advantages. For example, leaseholders are not required to pay a premium to take over the management of the building in which their flats are located and the leaseholders do not have to prove or establish mismanagement by the landlord or its managing agents. The other main advantages of taking over the management of the building is that on many important issues the leaseholders effectively take over the duties that the landlord is obliged to undertake under the terms of the lease. These would include arranging buildings insurance, repair and maintenance to the structure of the building and common parts and undertaking major works.

I am a landlord of a building which contains 10 flats. I have been approached by the leaseholder of one of the flats to undertake some works to his flat and which includes structural alterations. Do I need to agree to these?

The lease of the flat will set out if whether or not the leaseholder is permitted to undertake the works that he is proposing. The lease will also set out if whether or not your consent is required. Generally, leases will place a prohibition on the leaseholder's ability to make structural alterations or that structural alterations can be undertaken with the landlord's consent is required. Usually such consent cannot be unreasonably withheld or delayed. The lease will also set out if your costs to obtain advice in respect of the proposed works can be met.

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Author: Hema Anand

I live in a block of flats, which contains 5 flats. The other 4 flat owners have decided to buy the freehold of the block and have served a Notice on the landlord to buy the freehold but at no stage have they asked me, whether or not I would like to participate. Can they do this?

You do not say in your question what Notice it is that the owners of the other flats have served upon the landlord. I assume that the other owners have decided to enfranchise, that is force the landlord to sell the freehold interest of the block of flats to them. Provided they meet the criteria set by the law leaseholders can progress a claim to enfranchise often without consulting all of the leaseholders and owners in the building. As a result, many actions are progressed and unfairly exclude some of the leaseholders.

Going forward, it is entirely at the discretion of the leaseholders who are participating in the action, if to decide whether or not they are happy for you to come on board, and if so, on what terms. This situation is something that needs to be addressed but unfortunately the law that requires leaseholders to be given the opportunity to come on board in an enfranchisement action is not yet in force and it is not clear at this stage as to whether it ever will be.

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Author: Hema Anand

I wish to extend the lease of my flat and have obtained a valuation. I have written to my landlord several times to extend my lease but have not received a response. What I should do next?

I assume that you have the correct address for the Landlord? By law, a Landlord is obliged to let you have details of his/her address and this is usually contained in your ground rent and service charge demand.

If so, I would advise that you consider exercising your rights to force the Landlord to grant you a lease term extension. Your rights are contained in legislation known as the Leasehold Reform, Housing and Urban Development Act 1993. Subject to meeting criteria, you can serve a document known as a Notice of Claim which sets out your proposals for acquiring a lease term extension, including the price you are prepared to offer the Landlord. The Landlord is obliged to respond to the Notice of Claim by a date that your solicitor will refer to in the Notice of Claim. If the Landlord does not respond, then you may be able to apply to Court for a declaration that the

terms upon which the Landlord should grant you a lease term extension is as per your Notice of Claim. You shall see that it is in the Landlord's interests to make sure he responds to the Notice of Claim. Hopefully, this will bring to an end the impasse that you have reached.

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Author: Hema Anand

What am I entitled to when I extend my lease?

A leaseholder has a right to extend his or her lease under the Leasehold Reform, Housing & Urban Development Act 1993. Before you can extend your lease, you must meet certain criteria. Once such criteria have been met, a leaseholder is entitled to 90 years plus what is left on your existing lease. If, for example you have a 70 year lease then the new lease will be granted for 160 years. Whatever ground rent is payable under the terms of your existing lease, shall be reduced to a nil ground rent under the terms of the new lease. The terms of the new lease should generally be the same as the existing lease, although certain minor modifications are permitted and defects within the lease can be remedied. The landlord is also entitled to certain provisions to appear in the lease. Aside to the above, the landlord and leaseholder may be able to negotiate and agree upon other terms.

I have owned a flat for 5 years and the lease has 81 years left to run. Should I extend my lease?

The right to acquire a lease term extension is contained within the Leasehold Reform, Housing & Urban Development Act 1993. The Act sets out that when a lease fall below 80 years, the premium payable to extend the lease shall increase. This is because "marriage value" is payable. Marriage value is based upon calculating how much your flat has increased in value as a result of the grant of the new extended lease. A surveyor who specialises in carrying out valuations under the 1993 Act is best placed to advise on issues surrounding "marriage value" and the premium payable for a lease term extension generally.

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Author: Hema Anand