

## **Frequently Asked Questions on Leasehold Enfranchisement, answered by Margarita Madjirska-Mossop**

### **Q1.**

**I own a flat in a block of twelve. There has been no contact from the landlord who seems to have disappeared. Can we buy the freehold and manage the building ourselves?**

Answer:

You can purchase the freehold for your block even if you are not able to trace the landlord, provided, of course, that the premises as a whole meet the enfranchisement criteria. Not less than half the number of flats in the premises would need to serve what is commonly known as a section 13 notice. The notice should nominate a purchaser, which is usually a company set up by the interested leaseholders. You should then ensure that the notice is served at every known address for the landlord. It is also a good idea to place an advertisement in a public newspaper in addition. If the date for service of a counter-notice has passed and you did not receive a counter-notice from the landlord – the nominee purchaser can apply to the county court for a vesting order. This will ensure that the freehold title is registered and vested in the nominated purchaser.

### **Q2.**

**I was invited to join a group of leaseholders to buy the freehold for our block. I am facing a possible redundancy and worry that I may not be able to pay my share of the costs later. What is my position?**

Answer:

It is common and prudent that the leaseholders wishing to enfranchise their block should sign a Participation Agreement. The agreement should provide what would happen if someone wanted to sell his or her flat, or wished to withdraw after service of the section 13 notice, also known as an enfranchisement notice. As the relationship between the individual leaseholders is not governed by the legislation, you should look to the terms of the Participation Agreement, if there is one, to find out your position.

### **Q3.**

**We have been told to order a valuation from a chartered surveyor valuer before we serve a notice to enfranchise. Is that really necessary?**

Answer:

There is no legal requirement for you to obtain professional valuation advice before you start the enfranchisement procedure. However, without such advice it may be difficult to prove that your offer was a realistic one and this may invalidate your claim. It is worth obtaining a professional valuation on that account and to help you budget for the costs of the enfranchisement.

### **Q4.**

**I am looking to buy a flat and recently saw one that I liked but it has a very short lease. Is it wise to proceed or should I look for another property with a longer**

**lease?**

Answer:

This is a common question. Very often buyers are unaware that the seller may be able to assign his or hers statutory right to extend the short lease. This is easy to do and need not delay the sale. The initial cost may be split between the seller and the buyer by agreement.

**Q5.**

**I have been told that if I do not extend my lease soon it may cost me more to do so in a few years. Is this true?**

Answer:

For most of us our homes represent the biggest capital investment in our life. By extending the lease for your flat or apartment you will be protecting that investment. As a general rule only, the shorter the lease the more expensive it is to extend it. There are other factors that can affect the valuation, too, such as the property market. You will avoid paying 'marriage value' if you extend your lease when there are more than 80 years left to run and this may mean paying the landlord less for your lease extension.

**Q6.**

**I own a property company with an extensive property portfolio. Can I appoint a solicitor to deal with my lease extension from start to finish as I travel abroad frequently and may not be available to sign any documents required personally?**

Answer:

Although your solicitor will be able to take care of most aspects of the work, there are special rules regarding the signature of both section 13 and section 42 notice (the enfranchisement notices) and a solicitor will not be able to sign these on your behalf, irrespective of whether you act as an individual or as a company officer. The signing of these documents will have to be carefully planned to avoid rendering them null and void.