



What is 'Enfranchisement' and is now a good time to enfranchise? Summer 2009

With the majority of Londoners owning their property on a leasehold basis it is important that leaseholders (flat owners) are well aware of their enfranchisement rights.

Owning the leasehold of a property gives the flat owner the right to live at that property for a specified period of time. Most leases are granted for a period of 99 years whilst others run for 999 years. It is important that flat owners are aware of how many years are left on their lease. Most banks and building societies are happy to lend where there are at least 75 years left on the lease. A lease is a wasting asset. The value of a leasehold flat will diminish (relative to its value had it been a freehold) as the lease runs down. The rate of decline is modest where the lease is long (for example where it has more than 100 years remaining), but accelerates as it gets shorter. Correspondingly, as the lease length gets shorter the cost of extending it increases. The longer one leaves it, the more expensive it gets. Broadly speaking.

Enfranchisement is the process by which a group of flat owners, subject to certain requirements and conditions, buy the freehold of the building they live in irrespective of whether or not their freeholder wishes to sell it to them. On an individual basis, a flat owner, again subject to certain requirements and conditions, may extend their lease by an additional 90 years. One of the main qualifying criteria in respect of the collective purchase of the freehold by a group of flat owners is that at least 50% of the flat owners must participate in the purchase. This is often the determining factor in whether or not a block of flats can enfranchise or 'buy the freehold'. If such a majority cannot be reached then flat owners alternatively may consider extending the term of their lease on an individual basis, thereby preserving their leasehold asset.

Of course, enfranchising costs the flat owner. The amount the flat owner pays for their share of the freehold or their 90 year lease extension is negotiated between the landlord and the flat owner. If

the parties cannot reach agreement then either party may apply to the Leasehold Valuation Tribunal for determination of the price.

Enfranchisement is a significant right given to flat owners. It is particularly notable in today's economic climate and must not be overlooked. Just as property values have fallen over the past year or so, correspondingly so, so have the costs of enfranchising. For the first time in the past few years it is now cheaper to purchase the freehold of a building or extend a flat lease than it would have been the previous year. It therefore follows that all flat owners should be carefully considering the length of their lease and the possibility of enfranchising. When one purchases their freehold or extends their lease they are effectively acquiring their landlord's equity in their flat. The flat owner is therefore a buyer and we are currently in a buyer's market. Enfranchising could be comparatively cheap by recent historical standards. No one knows when the property market will be at its lowest however many professionals consider that now is good time to serve the initial notice on the landlord requesting to buy the freehold or extend the lease and thereby fix the valuation date as at today's price.



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Note:

This article is for general guidance only and specific legal advice should be obtained in each case.