

Leasehold Enfranchisement

1:: Overview

The statutory right of enfranchisement is contained in the Leasehold Reform Housing and Urban Development Act 1993 (as amended) ("the Act"). It is the right for qualifying leaseholders to acquire the freehold of their building and areas you have the right to use, even if the freeholder or landlord does not want to sell. Where there is an intervening interest, for example, a headlease, this will generally be acquired also as part of the purchase by the leaseholders.

2:: Who is eligible?

The building must qualify for enfranchisement. On receipt of a notice we will check whether the right exists to the building and to qualify:

- It must be a self-contained building or part of a building;
- Contain two or more flats held by qualifying tenants (see below);
- At least two thirds of the flats must be held by qualifying tenants;
- No more than 25% of the building can be non-residential;
- Qualifying tenants of at least 50% of the flats must participate.

A qualifying tenant is a long leaseholder (that is, has a lease with a term of 21 years or more when granted or, if a shared ownership lease, must own 100% of the lease), and does not own more than two flats in the building.

3:: The application process

3.1: You must make a formal application to us. The application to purchase the freehold interest of the building must nominate a "nominee purchaser". In most cases, the nominee purchaser will be either a leaseholder or a new company formed by the group of leaseholders in order to acquire the freehold. If you decide to set up a new company you should seek advice from a solicitor to assist in setting up a company dealing with memorandum and articles of association and to deal with issues concerning cost.

3.2:: Cost considerations

At an early stage we would recommend you agree how you intend to fund the acquisition. You will need to ensure you have funds to cover legal costs (your own and ours); valuation fees (your own and ours) and fees for matters such as setting up the company if being used as a nominee purchaser and Land Registry fees in addition to the purchase price of the freehold.

3.3:: Initial notice and counter notice procedure

The initial notice to us must contain certain information in accordance with section13(3) of the Act and be served on our registered address which is Weston Gateway Business Park, Weston super Mare, Avon BS24 7JP.

Following receipt of the initial notice, Knightstone will consider the notice received and will call for evidence that the participating leaseholders own their flats. We can request this information 21 days from receipt of the initial notice. Knightstone also has the right to carry out an inspection of the properties (including the flats).

Knightstone will respond to the initial notice within two months of the service of the initial notice and in any event by the date stated in the initial notice as the date for service of counternotice. Our notice is the "counter notice" as under the Act and will set out whether we agree to your right to acquire the freehold (or we will propose alternative terms; and the purchase price Knightstone will agree to and any alternative terms required).

We would recommend that you take independent legal advice from a solicitor prudent in dealing with such matters to advise you on the process and ensure that all timescales are met.

Please be aware that under the statutory process you are liable to pay our reasonable legal and valuation fees in addition to the sum payable for the freehold and in addition to your own legal and valuation fees.

Please also be aware that if we can't reach agreement on the sum payable for the freehold or terms on which the freehold is to be acquired then either party is able to apply to the First-Tier Tribunal, Property Chamber for them to determine the terms of the acquisition.

4:: If you do not wish to follow the formal statutory process but would still like to acquire your freehold then please contact us in writing with your letter addressed to the Homeownership Manager and your request will be considered. The nature of the property being acquired, whether there are any tenants or shared ownership lessees in the building and other factors will be considered and if Knightstone are of the view they can proceed on a voluntary basis they will require £500 in respect of a valuation fee and administration fee up front and once the sum payable has been agreed our solicitors will write to your solicitors to request an undertaking for legal costs. These costs will depend on the complexity of the matter but an estimate will be provided to you at the outset of the matter.