

CLAIMS TO BUY THE FREEHOLD OF HOUSES

Most houses which are not divided into flats are freeholds. Leasehold houses are rarer than leasehold flats but they can be found in London and some other towns in the UK. They are more common on landed estates where the houses were sold on leaseholds in order to retain a measure of control over the estate.

The Leasehold Reform Act 1967 gave tenants of houses the right to buy the freehold. The original legislation has been amended many times since to expand the ambit of the legislation. Unfortunately the rules (particularly in relation to valuation of the sum due to the landlord) differ in relation to different properties. In some cases tenants also have an alternative right to extend the lease.

QUALIFICATION

The house must be designed or adapted for living in and reasonably be described as a “house”. It must also be divided vertically from any adjoining building. Following the House of Lords decision in *Boss Holdings* in January 2008 the definition has become wider. This means that it must be adapted for living in or at some point in its past must have been designed for living in. A more recent case called *Grosvenor v Prospect Holdings Ltd* suggests that predominately commercial buildings will not qualify but it is sensible to obtain advice on this issue. We always recommend that an inspection is carried out to assess whether a building qualifies.

WHO CAN APPLY?

The tenant must hold a long lease i.e. one granted for more than 21 years or with a right to renewal. The applicant must have been the leaseholder for two years prior to making the application. There is no requirement that the applicant resides in the property. If the lease is a business lease there are further restrictions which effectively mean that the lease has

to be for a term greater than 35 years. The leaseholder also has to satisfy a residence test.

PROCEDURE

To start the claim it is necessary to serve the landlord with a statutory notice. There is no time limit on the landlord’s counter notice. If terms cannot be agreed the claim will be referred to the Leasehold Valuation Tribunal who will make a determination.

PREMIUM

The premium is essentially the sum of the loss of the ground rent, the loss of the reversion and 50% of the share of the marriage value which is the uplift in value of the house once the freehold and leasehold have been “married” together. The type of statutory valuation that applies does vary and we strongly recommend that specialist valuation advice is obtained. We have a number of specialist enfranchisement valuers who we work closely with and who we can recommend.

For further information, please contact:
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This briefing offers general guidance only. It reflects the law as at March 2009. The circumstances of each case vary and this note should not be relied upon in place of specific legal advice.