

Is Your Lease Long Enough?

Your estate agent will have told you if he thinks you should be considering extending your lease to facilitate a sale of your property.

Not only the value, but also the marketability, of your property could be increased if you read this note.

WHAT ARE MY OPTIONS?

Legislation provides the opportunity (a) to extend the term of your lease by 90 years or (b) for owners of at least half of the flats in a building to purchase (“enfranchise”) the freehold together.

HOW DO I QUALIFY?

To extend your lease:

You may be able to compel the freeholder to extend the lease of your flat by another 90 years, without any ground rent, if you have owned it for more than two years and the lease was originally for more than 21 years.

To enfranchise the freehold

You may be able to compel your

freeholder to sell the freehold to you and at least some of your neighbours (minimum of 50% of the flat owners) if the leases were originally for more than 21 years. You may qualify even if you have never lived at the property, provided that you do not own more than two flats in the block.

SHOULD I BUY THE FREEHOLD OR EXTEND THE LEASE?

You may be able to buy a lease extension even if you cannot require the freeholder to sell the freehold to you. It may be better to buy a lease extension:

- If you cannot motivate sufficient other qualifying flat owners in the building to join you in a joint purchase of the freehold;
- As it may be quicker than buying the freehold and yield much the same result in the sale of your property.

WHY SHOULD I CONSIDER EXTENDING MY LEASE NOW?

- Generally any buyer will find it very difficult to borrow money for the purchase of your property, if

your lease is too short. In many localities, almost all buyers will be advised to look for leases with more than 83 years left to run.

- If your lease has less than 81 years left to run, you should take urgent legal advice as the cost of buying a lease extension increases disproportionately when the remaining length of the lease drops to 80 years.
- If your lease has less than 85 years to run it would be advisable to extend the lease even if you decide not to sell your property at the present time.
- In the present market, you may take advantage of the current fall in property values which could result in a lower price for the lease extension than 12 months ago.
- Sometimes a freeholder will offer or agree to accept a sensible price without even the need to serve a formal notice on him, but do not rely on this, as even the most “friendly” freeholders can turn, where money is concerned! Your valuer will help with this part of the process.

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- Once the notice for the lease extension has been served, you may sell your property with the benefit of the extension notice and the buyer would then pay the cost of the lease extension. The buyer might pay more for your property because he will not have to wait two years to qualify to buy a lease extension. More important, in the present climate, this might tip the balance and make your property more saleable.
- If you and your freeholder cannot agree on a price for the lease extension, the Leasehold Valuation Tribunal will set the price. Solnick LLP and your valuer will give you pragmatic advice about whether it is better to negotiate with the freeholder a price for the lease extension that leaves you and the freeholder better off as neither of you will incur the time delay and legal expense of going through all of the statutory procedures.

HOW WILL IT PROGRESS?

You may find that the freeholder will prefer to accept a lower price for the lease extension in return for a higher ground rent (sometimes known as a

'modern ground rent'). Your valuer will help with this part of the process too. Often higher ground rents will not affect the price of the property.

Your buyer may agree to buy your property once the terms of the lease extension have been fixed but before the lease extension has been granted and the price paid.

If your property does not sell now, then you may be advised to complete the purchase of the lease extension so that you can then sell your property with a lease that is long enough to satisfy a buyer and his mortgage provider.

Solnick LLP will be pleased to advise you on an efficient but reasonably priced basis. It is important that all the formalities are properly dealt with.

WHAT DO I DO NOW?

- Check with Solnick LLP that you have the right to extend your Lease.
- Then arrange for a specialist firm of valuers to assess the likely price that you will have to pay for the

lease extension and to negotiate on your behalf with the freeholder's valuers. Solnick LLP can help you find a suitable valuer.

- Solnick LLP will check the terms of your present lease to see if any of its terms need to be altered or updated at the same time.

If you wish to have a free preliminary discussion with Solnick LLP about what you should do next, (or if you wish to discuss any other legal issue relating to your proposed sale) please ring us on 020 8995 9286 and ask for Alison Miller or Susan Goddard. If you want to know more about Solnick LLP please go to www.solnick.com

Note: This is a brief note about a very complicated issue. It is not a substitute for personalised advice. Please do not rely on the content of this note. Solnick LLP accepts no responsibility if you rely on this note and do not take bespoke advice from Solnick LLP.