

## Attention Owners of Leasehold Flats and Houses

- Did you know that qualifying leaseholders\* of many **leasehold flats** have an individual right to extend their lease and a collective right, in conjunction with other qualifying leaseholders of flats in their building, to buy the freehold from their Landlords.
- Similarly, qualifying leaseholders of many **leasehold houses** have the right to extend their lease or to buy the freehold from their Landlords.
- The value of your leasehold flat or house reduces as your lease comes closer to the end of the term – it is a 'wasting asset'. This is important to consider if you want to sell your property in the future because mortgage lenders are unlikely to lend money to your potential buyer if the lease over your property has fewer than 70 years left, or they will lend but only on very unappealing terms. In the UK property market of today where financial institutions and consumers are exercising more caution than in previous times, allowing the value of your property to 'waste away' risks rendering your leasehold property unsaleable and ultimately worthless.
- Fortunately, as a qualifying leaseholder you have the legal right to reverse this situation and, by taking action now, you will (1) increase the value of your leasehold property; (2) preserve the attraction it holds for potential buyers; and (3) put yourself in control of what is likely to be your most valuable asset. Leaving the decision to enfranchise until later may increase the costs involved in exercising your legal rights and could mean it is too late.

\* To see if you qualify, please see below.

## How To Qualify If You Own A Flat

### (1) COLLECTIVE ENFRANCHISEMENT – The right to buy YOUR Freehold

Under the Leasehold Reform, Housing and Urban Development Act 1993 (as amended by the Commonhold and Leasehold Reform Act 2002), as the leasehold owners of the flats in your block, you can join together and buy the freehold from your Landlord.

#### The Benefits

As freeholders, you will be able to:

- extend your own leases as often as required at no cost to yourselves.
- vary the terms of your leases to suit your specific needs and requirements now and in the future
- vary the amount of ground rent payable
- manage the property yourselves or through chosen managing agents; controlling the extent of the services and the specific charges payable
- control the timing, cost and extent of any repairs to your block
- manage insurance costs
- grant consent to alterations to yourselves or grant new rights over the block/individual flats e.g. a loft conversion or basement extension.

All the above benefits put you in control of your own property and makes your individual flat more attractive to potential buyers and mortgage lenders.

#### Qualification

Generally, you will collectively qualify under the Act if:-

- a. at least of the flats in the block are let to **qualifying leaseholders**; and
- b. not more than 25% of the internal floor area of the block (excluding the common part) is for non-residential purposes; and
- c. at least 50% of the qualifying leaseholders in the block participate in the purchase (unless there are only two flats in the block whereupon both qualifying leaseholders must participate.)\*\*

A **qualifying leaseholder** is an owner of a flat whose lease has been granted for longer than 21 years and who is not a business tenant. But if one leaseholder owns more than 3 flats in the block, those flats will not be treated as though they are owned by qualifying leaseholders.

As the requirement for a leaseholder to be resident in their flat has now been abolished, owners who do not actually occupy their flats (i.e. investors) and companies can now participate in the right to buy the freehold.

(\*\*Please note that there are certain specific exceptions to the above statements. For more details, please contact us.)

Often, if there are many qualifying leaseholders proceeding with the purchase, to

assist in the administration and decision making, it is advisable to set up a company to buy the freehold in which all those participating are shareholders (“the Nominee Purchaser”). To comply with the laws governing private companies, there must be at least two Directors and one Company Secretary. At Huggins we can advise upon and incorporate a limited company on your behalf for this purpose.

### **Cost**

You will have to buy the freehold from your Landlord and the premium payable is based upon a complex valuation based on factors including the income received from the ground rents, the potential value to the Landlord of granting lease extensions to tenants in the future (“hope value”), the value of the freehold once all the leases have expired (“the reversion”) and, where leases have fewer than 80 years left on the term, 50% of the increase in value of the block which occurs when the leasehold and the freehold interests become owned by the same people (“marriage value”).

As a realistic price must be put forward to the Landlord by those of you participating in the purchase we would advise that a professional valuation is obtained by a reputable Surveyor. Here at Huggins we have a good working relationship with several firms experienced in the requirements of enfranchisement valuations and their charges normally range from £450 - £800 plus VAT depending on the size and complexity of the block. You will also have to pay the Landlord’s reasonable legal and valuation costs incurred in the transaction together with any Stamp Duty Land Tax and Land Registry fees.

Our costs are dependant upon several factors but will be based on advising you of your rights and carrying out the legal formalities involved in exercising your rights including the conveyancing, the complexity of which varies in relation to the size of the block. There will be an additional charge if we incorporate your limited company. If we can, we will approach your Landlord in the early stages with a view to negotiating the purchase on an informal basis, saving you both time and expense. If this is not possible however, either because the Landlord wishes to use the more formal statutory process, or because parties are unable to agree on the price for the freehold, we will be required to proceed with serving notices under the Act according to a strict timetable. If the Landlord refuses to participate in the process or agreement cannot be reached, we may have to enforce your rights at Court or make a claim at the Leasehold Valuation Tribunal. If you would like Huggins to act on your behalf in the exercise of your right to collective enfranchisement, we will be able to discuss more specific costs with you.

At Huggins we can advise and guide you through the complex and technical statutory process of exercising your right to buy the freehold interest in your block and we look forward to discussing this opportunity with you. Please contact us on 020 3535 5844.

### **(2) LEASE EXTENSION**

Under the Leasehold Reform, Housing and Urban Development Act 1993 (as amended by the Commonhold and Leasehold Reform Act 2002), as the leasehold owner of a flat in a block, you have the right to extend your existing lease by 90 years at a “peppercorn rent”. In effect this means that you will obtain a new lease for the remainder of your existing lease plus an additional 90 years with no ground rent to

pay. The terms of the new lease (save for the term and the rent) will be the same as your existing lease.

As mentioned previously, the value of your leasehold flat reduces as your lease comes closer to the end of the term – it is a ‘wasting asset’. This is important to consider if you want to sell your property in the future because mortgage lenders will not lend money to your potential buyer if the lease over your property has fewer than 70 years left, or they will lend but only on very unappealing terms. If you do not wish to or cannot qualify for collective enfranchisement, extending your lease as early as possible is a worthwhile investment. Equally, if your ground rent has substantially increased in accordance with a clause in your lease, extending your lease under the act would eliminate this extra expense.

### **Qualification**

Generally, you will collectively qualify under the Act if:-

- a. your lease is a “long lease” i.e. the term is longer than 21 years (please note that there are different rules for business tenants and some specific shorter leases also qualify); and
- b. you have owned your flat for at least 2 years.\*\*

As the requirement for a leaseholder to be resident in their flat has now been abolished, owners who do not actually occupy their flats (i.e. investors) and companies can also now extend their leases.

As you have a legal right, your Landlord may object to extending your lease only on very specific grounds. Your landlord can refuse to grant you the extension only if he can prove to a court that he intends to demolish and redevelop the building in which your flat is situate. This only applies however where the unexpired term of your lease is less than five years from the date when the notice was served.

(\*\*Please note that there are certain specific exceptions to the above statements. For more details, please contact us.)

### **Cost**

You will have to pay your Landlord for the right to extend your lease and the premium payable is based upon a complex valuation based on factors including the income received from the ground rent, the unexpired term remaining on your existing lease and, if your lease has fewer than 80years left on the term, 50% of the increase in value of the property which occurs when the leasehold and the freehold interests become owned by the same person (“marriage value”).

As you must propose a realistic price for the extension, we would advise that you obtain a professional valuation by a reputable Surveyor. Here at Huggins we have a good working relationship with several firms experienced in the requirements of enfranchisement valuations and their charges normally range from £450 - £600 plus VAT depending on the circumstances. You will also have to pay the Landlord’s reasonable legal and valuation costs incurred in the transaction together with any Stamp Duty Land Taxes payable and Land Registry fees.

Our costs are dependant upon several factors but will be based on advising you of your rights and carrying out the legal formalities involved in exercising your right, including the conveyancing. If we can, we will approach your Landlord in the early stages with a view to negotiating the extension on an informal basis, saving you both time and expense. If this is not possible however, either because the Landlord wishes to use the more formal statutory process, or because parties are unable to agree on the price for the extension, we will be required to proceed with serving notices under the Act according to a strict timetable. If the Landlord refuses to participate in the process or agreement cannot be reached, we may have to enforce your rights at Court or make a claim at the Leasehold Valuation Tribunal. If you would like Huggins to act on your behalf in the exercise of your right to extend your lease, we will be able to discuss more specific costs with you.

At Huggins we can advise and guide you through the complex and technical statutory process of exercising your right to extend your lease and we look forward to discussing this opportunity with you. Please contact us on 020 3535 5844.

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## **How to Qualify If You Own A House**

### **(1) THE RIGHT TO PURCHASE YOUR FREEHOLD**

Under the Leasehold Reform Act 1967 (as amended by the Leasehold Reform Housing & Urban Development Act 1993 and the Commonhold and Leasehold Reform Act 2002), as the leasehold owner of your house, you have the right to buy the freehold from your Landlord.

#### **Qualification**

Generally, you will collectively qualify under the Act if:-

- a. the building is a “house” as a matter of law
- b. your lease is a “long lease” i.e. the term is longer than 21 years (please note that there are different rules for business tenants and some specific shorter leases also qualify); and
- c. you have owned your house for at least 2 years.\*\*

As the requirements for low rent and for a leaseholder to be resident in their house has now been abolished, owners who do not actually occupy their houses (i.e. investors) and companies can also now purchase their freeholds.

As you have a legal right, your Landlord may object to you purchasing the freehold only on one very specific ground. Your landlord can refuse to sell it to you only if he can prove to a court that he purchased the freehold prior to 15th February 1966, that he wants the house back as his only or main residence or for that of members of his family, and he makes an application for possession. If the Landlord succeeds, you will be entitled to compensation.

(\*\*Please note that there are certain specific exceptions to the above statements. For more details, please contact us.)

#### **Cost**

You will have to pay your Landlord for the right to buy the freehold and the premium payable is based upon a complex valuation. There are various valuation methods and the correct one will depend upon whether you qualify for the right to buy the freehold under the old 1967 Act or whether you qualify under the amendments made by the 1993 and 2002 Acts.

The 1967 Act valuation is lower as it does not include “marriage value” (the increase in the value of the property which occurs when the leasehold and the freehold interests become owned by the same person). If your lease has fewer than 80 years left on the term and you only qualify under the new 1993 or 2002 Acts, the valuation will include 50% of any marriage value payable.

As you must propose a realistic price for the extension, we would advise that you obtain a professional valuation by a reputable Surveyor. Here at Huggins we have a good working relationship with several firms experienced in the requirements of enfranchisement valuations and their charges normally range from £450 - £600 plus

VAT depending on the circumstances. You will also have to pay the Landlord's reasonable legal and valuation costs incurred in the transaction together with any taxes payable and Land Registry fees.

Our costs are dependant upon several factors but will be based on advising you of your rights and carrying out the legal formalities involved in exercising your right, including the conveyancing. If we can, we will approach your Landlord in the early stages with a view to negotiating the purchase on an informal basis, saving you both time and expense. If this is not possible however, either because the Landlord wishes to use the more formal statutory process, or because parties are unable to agree on the price for the freehold, we will be required to proceed with serving notices under the Act according to a strict timetable. If the Landlord refuses to participate in the process or agreement cannot be reached, we may have to enforce your rights at Court or make a claim at the Leasehold Valuation Tribunal. If you would like Huggins to act on your behalf in the exercise of your right to purchase the freehold, we will be able to discuss more specific costs with you.

At Huggins we can advise and guide you through the complex and technical statutory process of exercising your right to purchase the freehold and we look forward to discussing this opportunity with you. Please contact us on 020 3535 5844.

## **(2) LEASE EXTENSION**

Under the Leasehold Reform Act 1967 (as amended by the Leasehold Development Housing and Urban Development Act 1993 and the Commonhold and Leasehold Reform Act 2002), as the leasehold owner of a house, you have the right to extend your existing lease by 50 years at a modern ground rent. In effect this means that you will obtain a new lease for the remainder of your existing lease plus an additional 50 years with the new ground rent only becoming payable once the existing term has expired. The terms of the new lease (save for the term and the rent) will be the same as your existing lease.

As mentioned previously, the value of your leasehold house reduces as your lease comes closer to the end of the term – it is a 'wasting asset'. This is important to consider if you want to sell your property in the future because mortgage lenders will not lend money to your potential buyer if the lease over your property has fewer than 70 years left, or they will lend but only on very unappealing terms. If you do not wish to or do not qualify for purchasing the freehold, extending your lease as early as possible is a worthwhile investment.

### **Qualification**

Generally, you will qualify under the Act if:-

- a. your lease is a "long lease" i.e. the term is longer than 21 years (please note that there are different rules for business tenants and some specific shorter leases also qualify); and
- b. you have owned your flat for at least 2 years (please note that there are different rules for business and some other types of tenants).\*\*

As the requirement for a leaseholder to be resident in their house has now been abolished, owners who do not actually occupy their flats (i.e. investors) and companies can also now extend their leases.

As you have a legal right, your Landlord may object to extending your lease only on very specific grounds. Your landlord can refuse to grant you the extension only if he can prove to a court that he (1) intends to demolish and redevelop the whole or a substantial part of your house (this only applies however where the unexpired term of your lease is less than five years from the date when the notice was served): or (2) that he purchased the freehold prior to 15th February 1966, that he wants the house back as his only or main residence or for that of members of his family, and he makes an application for possession. If the Landlord succeeds, you will be entitled to compensation.

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### **Cost**

You will have to pay your Landlord for the extension and the premium payable is based upon a complex valuation. There are various valuation methods and the correct one will depend upon whether you qualify for the right under the old 1967 Act or whether you qualify under the amendments made by the 1993 and 2002 Acts.

The 1967 Act valuation is lower as it does not include “marriage value” (the increase in the value of the property which occurs when the leasehold and the freehold interests become owned by the same person). If your lease has fewer than 80 years left on the term and you only qualify under the new 1993 or 2002 Acts, the valuation will include 50% of any marriage value payable.

As you must propose a realistic price for the extension, we would advise that you obtain a professional valuation by a reputable Surveyor. Here at Huggins we have a good working relationship with several firms experienced in the requirements of enfranchisement valuations and their charges normally range from £450 - £600 plus VAT depending on the circumstances. You will also have to pay the Landlord’s reasonable legal and valuation costs incurred in the transaction together with any Stamp Duty Land Taxes payable and Land Registry fees.

Our costs are dependant upon several factors but will be based on advising you of your rights and carrying out the legal formalities involved in exercising your right, including the conveyancing. If we can, we will approach your Landlord in the early stages with a view to negotiating the extension on an informal basis, saving you both time and expense. If this is not possible however, either because the Landlord wishes to use the more formal statutory process, or because parties are unable to agree on the price for the extension, we will be required to proceed with serving notices under the Act according to a strict timetable. If the Landlord refuses to participate in the process or agreement cannot be reached, we may have to enforce your rights at Court or make a claim at the Leasehold Valuation Tribunal. If you would like Huggins to act on your behalf in the exercise of your right to extend your lease, we will be able to discuss more specific costs with you.

At Huggins we can advise and guide you through the complex and technical statutory process of exercising your right to extend your lease and we look forward to discussing this opportunity with you. Please contact us on 020 3535 5844.

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Another option if you are dissatisfied with the way in which your property is being managed is to exercise your **right to manage**.

### **ARE YOU AN OWNER OF A FLAT IN A BLOCK?**

### **ARE YOU UNHAPPY WITH THE WAY YOUR BLOCK OF FLATS IS BEING MANAGED?**

In 2002, the Commonhold and Leasehold Reform Act 2002 introduced a right for qualifying tenants owning flats in a qualifying block\* to come together and collectively take control of the management of their block without having to purchase the freehold from their Landlord.

Benefits:

- As tenants exercising your collective right to manage you are in control of the management of your block without having to purchase the freehold interest in the building
- You do not need to obtain your Landlord's consent
- You do not need to prove that your Landlord has mismanaged your block
- You do not need to be resident in your flat to participate
- You can each own more than 1 flat in the block and still participate
- You instruct Managing Agents of your choice and set the budget for the Service Charge payable including any reserve and sinking funds, saving money on maintenance and repair. Alternatively, you can manage the block yourselves.
- You instruct the Insurers of your choice and negotiate the Insurance policy and Premium payable.
- There is no price to pay to exercise the right to manage (but you will have to pay your Landlord's reasonable costs).

\* You will collectively qualify for the right to manage if:-

- Together you are the leaseholder owners of flats, not houses
- Your building must be a self-contained block of flats (or at least not part of another building that could be independently redeveloped)
- Your block must contain more than 2 flats
- More than 2/3 of you must own leases granted for a term longer than 21 years (e.g. if there are 10 flats in the block, at least 7 must be held on long leases)
- The minimum number of qualifying tenants represents at least 50% of the flats in the block (e.g. if there are 10 flats in a block owned by tenants on long leases, at least 5 must join in)
- Less than 25% of the total floor area in the block is used as commercial premises

To exercise the right to manage, the process involves the creation of a specific company in which all of you who are participating tenants (and where elected, your Landlord) are shareholders ("RTM Company").

The process then involves the service of Notices and Counter notices, with your

Landlord only being able to object on the basis that (a) your block does not qualify; (b) your RTM Company does not conform with company law requirements; or (c) that the minimum number of qualifying tenants is not satisfied for the exercise of the right to manage. Once the Notices have been served and your right acknowledged, a date will be agreed for the transfer of the management from your Landlord to you.

Your RTM Company will be liable for your Landlord's reasonable costs incurred as a result of you exercising your right to manage.

Our costs are dependant upon several factors but will be based on advising you of your rights and carrying out the legal formalities involved in exercising your right, including the transfer.

At Huggins we can advise and guide you through the complex and technical statutory process of exercising your right to extend your lease and we look forward to discussing this opportunity with you. Please contact us on 020 3535 5844.

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