

# Dealing with your LANDLORD

**ANNA FAVRE** *explodes some popular myths surrounding freehold acquisition*

**THE PROCESS OF BUYING** your freehold is widely thought to be challenging, adversarial and full of potential pitfalls with landlord pitched against the put-upon homeowner. But it doesn't have to be that way.

The right to buy the freehold of a block of flats was introduced in 1993 and with it came a sea change in tenants' rights. At that time, many landlords took the view that the compulsory acquisition of their property was inherently wrong and loudly opposed the legislation – even arguing that the legislation was a breach of human rights. However, almost two decades later, landlords have generally adopted a more pragmatic view to the law.

Many landlords welcome the cash flow generated by freehold acquisition and view it as a windfall. Unlike many other forms of revenue, the proceeds attract tax relief (known as “roll-over relief”) offering the landlord the opportunity to reinvest the money in a tax efficient manner. Landlords may also be pleased to rid themselves of troublesome buildings which may be dilapidated and run down or perhaps the subject of long running service charge disputes with the tenants. As every landlord will acknowledge, maintaining and managing a leasehold building can be a challenging and sometimes unrewarding undertaking.

However, particularly with larger landlords such as the London Estates, selling individual buildings can lead to such estates becoming fragmented and this may reduce their appeal if the incoming freeholders flout their management obligations or neglect their building. For more expensive areas in central London, proper estate management is frequently central to maintaining value. Another issue that rankles with landlords is the compensation paid to them which, many argue, seldom reflects the true market value of the block. In a buoyant property market, an understandable sense of injustice prevails.

## APPROACHING YOUR LANDLORD

So what is the best way to approach your landlord if you wish to buy your freehold?

### Jargon Buster

**WHAT IS MARRIAGE VALUE?** This is the difference between what your flat is worth once you have acquired the freehold less the value of your existing interest plus the value of the freeholder's existing interest. The difference is split 50/50 between the flat owner and the freeholder. As the leases get shorter the cost to buy the freehold can rise and rise, unless property values fall. Marriage value is only payable to the freeholder once a lease goes below 80 years unexpired.

### Jargon Buster

**WHAT IS HOPE VALUE?** This is the loss to the freeholder of potential future marriage value. Hope value is taken to be part of what the marriage value is worth, which is why the premiums can differ between participating flats and non-participating flats.



**Ask any landlord: managing a leasehold building can be a challenge**

You can always ask your landlord if he will deal with you on a voluntary basis, outside of the legislation.

However, there is no certainty with this approach and matters can become drawn out. Beware of the landlord who involves

you in lengthy discussion; set yourself a clear timetable for concluding negotiations. Making a formal claim has the benefit of freezing the valuation date at the date on which notice is given, protecting your purchase from market fluctuations in property price. Also, the legislation provides a framework for negotiations. The landlord has a statutory duty to deal with matters or risk losing his investment on terms dictated by the tenant. However, as with so many transactions, it is a question of communication and agreement between the parties.

## CAN MY LANDLORD REFUSE TO SELL?

Provided the participating flat owners satisfy the statutory tests for acquiring the freehold of their building, the answer is no. In such circumstances, a landlord is obliged to sell at a price and upon terms set out in the legislation.

## AVOIDING LENGTHY NEGOTIATIONS

Communication is key. Ensuring you appoint the right professional advisers to guide you through the process is vital, as is giving clear and swift instructions when required. The

statutory process is full of time limits and if you don't stick to the timetable it can have devastating consequences. Collective claims do take time and require organisation and patience on the part of all parties. Be realistic with your expectations too. Acquiring the freehold may be a liberating experience in some instances but it involves a long-term commitment to your building with significant responsibilities. In all cases, adopting a spirit of compromise and keeping calm will see you through. ●

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### TOP TIPS FOR BUYING YOUR FREEHOLD

- Establish clear organisation and leadership among residents
- Keep everyone informed on what is going on
- Be clear as to why you want to buy the freehold and become your own landlord
- Understand your objectives for the building
- Establish a fighting fund; it shows commitment
- Retain solicitors, valuers and managing agents who have experience of the process
- Be realistic in your expectations and timescale