

# Buying Your Freehold

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## 1. Buying Your Freehold

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Leaseholders wish to buy their freehold for a number of reasons, ranging from wishing to manage the property to simply wanting to extend the term of the lease. Whatever the reason the procedure involved requires professional guidance from solicitors and valuers.

If you wish to acquire your freehold certain requirements must be met:

- The interested leaseholders must form at least 50% of the total leaseholders
- The total number of flats let on a long lease must equate to 2/3 of the total number of flats in the building
- Your leases must generally be long leases e.g more than 21 years

There are also some exceptions to the right to buy which include situations where there is a commercial element to the property which forms more than 25% of the floor space or where there is a resident landlord, however the definition of a resident landlord is quite narrow so if you think you have a resident landlord check with us first.

## 2. The purchase price

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The purchase price may be negotiated with the freeholder but if that is not successful you may need to employ a valuer to prepare a formal valuation and once that is obtained a notice will be prepared and served by us to start “formal” enfranchisement proceedings.

## 3. A formal valuation

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A formal valuation is necessary at this stage because the principal dispute in these proceedings is usually over the purchase price. More often than not the valuers for each side may be able to agree a price but if they cannot then the First Tier Tribunal of the Residential Property Chamber will assess the price to be paid. A valuer will normally represent your interests at the Tribunal. We can recommend a number of valuers to you and obtain quotes on your behalf.

## 4. What else is involved?

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The lessees will normally set up a company to acquire the freehold in which they will each take one share. It is a common misunderstanding that once you purchase the freehold your flat becomes freehold – this is not the case. The flat remains as a leasehold flat and you will normally extend the lease once the purchase is completed. Freehold flats are not manageable and will often not be accepted by Banks and Building Societies for mortgage purposes so they quickly become unsaleable. The lease is advantageous as it sets out the obligations of the parties involved. If your leases are defective then once you have completed the purchase of the freehold they can be amended by agreement at the same time as they are extended.

## 5. What next?

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If you wish to proceed with acquiring the freehold you may wish to contact the freeholder first to see if a price can be agreed, or we can do this on your behalf. If a price can be agreed then you will save a lot of money in legal and valuer's fees and we can simply deal with the transfer in a very straightforward way.

If the price is unacceptable then the next step is to obtain a valuation and serve formal enfranchisement proceedings. We can arrange a meeting with you to explain the process in more detail.

## 6. What costs are involved?

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Initial Valuation: Valuer's fees depend on the size of your property ranging from £750 plus VAT for a straightforward small property to £2,000-3,000 plus VAT for a large block of flats.

Initial notice and receiving freeholder's counternotice. Legal fees similarly depend on the size of the block but range from £1,250 plus VAT for a small block to £3,500 - £4,750 plus VAT for a large block.

Further costs: These depend on the extent of the dispute and whether or not the matter is referred to a Tribunal. Valuer's and Legal fees are assessed on a time basis and will be in the region of £120-200 per hour plus VAT for a valuer and £210-250 per hour for a solicitor. If the matter proceeds to a full tribunal hearing you could incur fees in the region of £4500-4750 plus VAT for legal AND valuer's fees but this does depend on the issues involved and still remains a rare occurrence.

Usually the differences can be resolved and costs incurred can be kept to a minimum. At any stage the freeholder may reach agreement with you on the price to be paid and costs will be saved.

From that point forward you will then have standard conveyancing costs only in the region of £750 plus VAT and disbursements for a small block to £2500 plus VAT for a large block.

We can provide you with a more detailed quote once we know the size of your block and a little more about circumstances.

Freeholder's costs. You are required to pay the freeholder's reasonable costs for all stages of the transaction EXCEPT preparation for and attendance at the tribunal. Those costs may be similar to your own costs but it depends on the freeholder's choice of advisors. There is therefore an incentive on the freeholder to agree a purchase price before the tribunal stage as otherwise they have to incur their own costs at this point.

Time scale. This is very difficult to estimate but on a straightforward matter the whole transaction could be concluded within 6 months or it may take a year. There are opportunities for both parties to appeal and this would lengthen the time scale involved.

Once you have purchased:

- You can extend your leases and modernise them, making them instantly more saleable.
- You can appoint your own managing agents or manage the property yourselves.
- We can advise you on the legal requirements involved in management.
- You can offer lease extensions to non-participating lessees.

If you have any questions, would like further advice on any aspect of this leaflet, or wish to set up a meeting with us then please contact:

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Each are specialist Landlord & Tenant Solicitors at Dean Wilson LLP.

