

LEASEHOLD PURCHASE NOTES

The following is a brief general guide to our clients as buyers of leasehold flats and should be read in addition to our Purchase information guidance notes and our property report.

Whilst the main procedure for purchasing a leasehold flat is the same as a freehold purchase, it is likely to be more complicated and take around two to three times longer, resulting in transactions on average of around 8 to 12 weeks even where there is no chain of transactions.

Each lease is different and needs to be read carefully by us. We may be required to enter into additional documents to comply with the terms of the lease and will be expected to investigate its terms as well as information from third parties such as managing agents. The reason for this is that the seller is not usually also in control of the management of the building or its common parts. We will want to see at least three years' service charge accounts and other documents from these third parties which we will review for you. We will give you an idea of the likely costs of rent and service charges and whether, for instance, any major works are planned and whether any sinking fund exists to offset against them. You should appreciate that the parties from whom such information is sought will not have the same interest or motivation to assist in progressing your matter as we have and their requirements will not be known to us from the outset. Once the transaction completes, there will often be documents to send to these third parties before they will confirm that ownership has been transferred to you although for legal purposes the executed transfer deed achieves this.

Our further general comments on leases follow:

1. Leases are long term contracts to occupy usually parts of larger buildings on several floors. They are originally granted by the owner of the freehold (ie the land underneath) to the first owner of the flat. The freeholder is usually known as the *landlord* or *lessor* and the flat owner as the *tenant* or *lessee*.
2. Each party may sell their interest but the lease document stays the same. The freeholder may sell to the residents of the building, who buy the freehold through a residents' company. Usually each resident then owns a share in the company. This does not end the lease or make the flat a freehold.
3. The lease is for a term of years from a date subject to a rent. The management of the common parts including the repair, maintenance and insurance of the main structure of the building and grounds is usually covered by a service charge, payable at regular intervals.
4. At the end of the term the ownership of the flat reverts to the owner of the freehold. It may be possible to buy additional years and residents who own their own freehold can grant themselves longer leases. Lenders have differing requirements as to the minimum number of years required to be left on a lease term but it is usually best to have not less than 82 years left.

5. The structure of lease documents is usually as follows, although not necessarily in this order
 - a. Names and addresses of the original parties
 - b. A brief explanation of the creation of the leases
 - c. Definitions and phrases used in the lease
 - d. The letting for the term of years and the rent
 - e. Description of the building and the flat
 - f. Rights granted with the flat over the freehold or other flats
 - g. Rights reserved to the freeholder or other flatowners
 - h. Covenants or promises by the tenant to the landlord or management company
 - i. Covenants or promises by the landlord or management company to the tenant
 - j. Services to be provided
 - k. Calculation and payment of service charge
 - l. Specimen documents to signed by a new owner if the lease is sold

6. Usually the tenant's covenants include a duty
 - a. To pay the rent and service charge
 - b. to keep the flat in repair
 - c. not sublet without consent
 - d. sometimes not sell without landlord's consent or without passing the share in residents' company to buyer
 - e. to observe house rules or restrictions
 - f. to pay landlord's expenses for matters the tenant may request, consents to sell, alter or register documents.

7. If the tenant breaks the terms of the lease or the covenants, the landlord has the right to take legal proceedings against the tenant to correct the breach. If the tenant fails to do so, the landlord can ask a court to end the lease and obtain possession from the tenant. **This is extremely serious as the tenant would then lose the flat and its value.** It is therefore most important to read the lease and be sure that you can observe its terms. Remember that the landlord can and will enforce matters which a freeholder might not want to do or to delay, e.g. repairs and maintenance.

8. The law relating to leasehold properties is detailed and complex. Each lease is usually written according to the landlord's requirements and the circumstances of the building, and particular terms will differ from property to property. The purpose of this note is to give sufficient general information so that our clients can understand the how a lease operates and to be able to ask relevant questions. It should be read in conjunction with our Property Report.

9. When buying a flat, you should look at the whole building and the standard of its repair and management. A survey is advisable, including comment on the flat and the building. Remember that repairs to the building will be included in the service charge, even if they do not immediately benefit the flat.

10. There are laws which benefit and protect tenants from unreasonable service charges or poor or no management. They give tenants the right to information

or control or to buy the freehold in certain cases. If you expect to take advantage of these rights, please tell us at the earliest opportunity as further enquiries will be needed.

11. The purchase of a flat will involve more work and time than a freehold for all the reasons referred to above. It is not possible to know exactly what is required until the appropriate documents have been received and further enquiries may well be needed. Lenders often have additional requirements before lending on flats.
12. If you have any such questions, or need further information, or if you intend specific uses for the flat, eg subletting, please contact us.
13. You will expect us to bring these matters to your attention. While they may seem complicated, they must be weighed against the responsibilities and benefits of living in large communal buildings.