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## Buying the Freehold to Blocks of Flats

(Collective Enfranchisement)



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### Collective Enfranchisement

This is where owners of residential flats are able to compel their freeholder to sell the freehold to them. However, there are a number of qualifying requirements:

- the flats must be in a building that is self contained;
- no more than 25% of the building can be commercial space;
- the leases must originally have been granted for terms longer than 21 years (a qualifying tenancy);
- at least 2/3<sup>rds</sup> of all the flats must be qualifying tenancies (see above); and
- at least 50% of the leaseholders must participate.

### Why should you?

The most common reasons are:

- to secure your long term investment in your property;
- to enable you to take over the management of your building (but please ask us about the right to manage);

- to deal with absent effective management structure;
- it is often beneficial to own a share of the freehold.

What is less commonly understood is that the valuation provisions in the current legislation are in the leaseholders favour making the acquisition of the freehold a wise long-term investment. This is even more the case where the leases have more than 80 years unexpired.

### What do you need?

- A valuation, though not a strict requirement it is unwise to proceed without one. The process is complicated and we can help you in choosing a specialist valuer.
- A company, which will be limited by guarantee. However, changes to come soon will require the use of a Right to Enfranchise Company (which has a specified structure and constitution).
- A participation agreement. Again not a strict requirement but they are highly recommended. They bind all the leaseholders to each other and the process.
- A solicitor. This is where our expert team will help you. It is most important to engage professional assistance at the start and advise you throughout the complex process.

### How long?

The set up, obtaining detailed legal advice, a valuation, reporting back and organising all the leaseholders will probably take up to three months.

From there the time scale could be between a few months (if the freeholder accepts the claim and the negotiations are swift) to a year to 18 months (if the freeholder disputes the claim or the price

cannot be agreed). If this is the case, then the matter will need to be referred to the Leasehold Valuation Tribunal.

Once all matters are agreed there will be a period to deal with the conveyancing and then to register the company as the new owner of the freehold.

### We can: -

- help you from the very start with expert legal advice and support;
- assist you with your choice of surveyor as well as managing agents;
- form your company for you and
- prepare the Participation Agreement and all necessary statutory notices and deal with the final conveyancing.

For more information or an informal consultation to discuss your proposals and an indication on all costs please contact **Oliver Maxwell-Jones** ([oliver.maxwell-jones@wbdllp.com](mailto:oliver.maxwell-jones@wbdllp.com)) at our Brighton Office on 01273 323231.

**Please note that this is a complex area of law and there are various exclusions and special provisions.**

**A collective enfranchisement can be made unsuccessful or more difficult by factors such as a resident landlord or where three or more flats are owned by one individual. This leaflet is only designed to be a general guide and you should only act after, or refrain from acting until, you have received our specialist advice on your particular circumstances.**