

# Buying the freehold – Understanding enfranchisement

## Property Dispute

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### What is 'enfranchisement'?

The term 'enfranchisement' is the legal term which simply means the statutory right given to residential tenants to acquire the freehold of their house or the building containing their flats. Where there are several flats in a building, you need to have a majority of flat owners participating in the process. Once the freehold has been acquired, each flat owner will own a share of the freehold.

### What are the advantages for the flat owner(s)?

The key advantage is that you or your tenants group become responsible for the building, so you become masters of your own destiny. The building becomes your responsibility so you decide what the management and investment priorities are, not the landlord. The other advantage for the flat owner(s) is that flats where the freehold is owned often command a higher price on the property market, so the value of your investment is likely to increase.

### What does it mean for the flat owner?

Once completed, legal ownership of the freehold passes to the tenants. Typically this is held by a purpose built company which is set up and the tenants become members and directors. This means that the landlord's obligations also pass to the tenants, and the original freeholder/landlord is released from any further obligations.

### How do I know if it's an option for me/us?

There are specific criteria that must be met for Enfranchisement to take place and each case is different and needs to be assessed on its merits. However, as general guidance the criteria involve:

- in the case of a house, you must have owned it for at least 2 years.

In the case of flats:

- these must be in a single building with the flats generally speaking arranged one above the other
- at least half the tenants need to join in
- the leases must have been at least 21 years long when granted
- there can be no more than 25% of the total floor area used for non residential purposes (not including communal space). Any more non residential use will mean the building does not qualify.

### What can the landlord do?

If the criteria are met, there is little the landlord can do to resist the claim. The process enables the landlord to be compensated by being paid a fair price for the asset. This includes a process for the value of the landlord's interest to be decided by an independent panel known as the Leasehold Valuation Tribunal (LVT) if it cannot be agreed. The landlord is also entitled to recover some of his costs from the tenants.

The term Enfranchisement is often used as an umbrella term to include the separate statutory rights of flat owners to extend their leases by 90 years, and also the Right to Manage which gives flat owners the right to take over management of the building. Although these other statutory rights have a number of similarities with the Enfranchisement process, they are separate and distinct rights.