

EXTENDING YOUR LEASE (Individual Enfranchisement)

Provided you have owned your flat for at least 2 years you are entitled to ask your landlord for a new lease for an extended term (*but see **Note** below*).

The procedure is governed by the Leasehold Reform Housing and Urban Development Act 1993 which, upon payment of an agreed price, automatically entitles you to a new term of a further 90 years to be added to the remaining term of your current lease. In addition, the whole of the new term will be at what is known as a peppercorn ground rent, i.e. you will not have to pay any further ground rent at all.

- ❑ If you have not already done so, your first step should be to obtain a professional valuation from a surveyor specialising in enfranchisement matters. You will then know how much you are likely to have to pay to your landlord for the new lease. If you require assistance in choosing a suitable surveyor then we would be pleased to advise you.
- ❑ Once you know the likely price you will have to pay, the next step is for us to prepare and serve on your landlord a Section 42 Notice specifying the price you are prepared to pay (known as a premium). Your landlord then has a period of up to 2 months to respond by serving a Counter-Notice which will include the price he is willing to accept. Generally the landlord admits your right to a new lease, but requests a higher premium than the one you have offered.
- ❑ You should be aware that in addition to the premium for the new lease, you will also have to pay your landlord's surveyor's fees and certain of his solicitor's costs as well. Experience has taught us these generally amount to £1500 to £2000 or so plus VAT.
- ❑ Up to and including receipt of the landlord's Counter-Notice the work carried out by Gregsons will include:
 - Receiving initial instructions, obtaining copy title documents and considering the same, checking up-to-date details of your landlord (and carrying out a company search, if the landlord is a company).
 - Liaising with your surveyor with regard to valuing the flat, receiving and considering the valuation report and advising you on it.
 - Preparing the Section 42 Notice, obtaining your signature and serving the same on your landlord and/or any agents or appointed solicitors. Thereafter diarising the Counter-Notice date and notifying you and your surveyor.
 - Making an application to the Land Registry to register the Section 42 Notice against the landlord's title in order to protect your interest.
 - Receiving and advising you fully on the Counter-Notice.

- ❑ Gregsons' charges for this work are £650 plus VAT and disbursements. The disbursements will be the cost of obtaining copy title documents from the Land Registry and registering the Section 42 Notice. These will amount to approximately £80.
- ❑ Once the Counter-Notice has been served the surveyors for both sides then put their heads together to see whether they can reconcile their differences and agree a premium acceptable to everyone. If this is impossible, then an application to the Leasehold Valuation Tribunal (LVT) can be made by either party and the LVT will determine the premium.
- ❑ An application to the LVT must be made in any event within 6 months of the date of the Counter-Notice, otherwise your original Section 42 Notice is deemed to be withdrawn. This means you will be responsible for the landlord's legal and valuation costs incurred to the date of withdrawal.
- ❑ During this period of negotiation and, in the unlikely event that the premium cannot be agreed and it is necessary to make an application to the LVT (which is the exception rather than the rule), our charges will be calculated mainly by reference to the time we have to spend on your matter. We charge a flat rate of £150 plus VAT.
- ❑ Once the premium for the new lease has been agreed or determined by the LVT, there will be additional conveyancing work required in agreeing the other terms of the new lease and completing and registering the same, to include dealing with the necessary Inland Revenue stamping and Land Registry registration requirements. Gregsons' charges for this conveyancing work are £600 plus VAT and disbursements.
- ❑ If you have a mortgage we will liaise with your Mortgage Lender since it will be necessary to enter into what is known as a Deed of Substituted Security, which we will prepare. If the completion monies are to be telegraphically transferred to your landlord's solicitors there will be a further charge of £30 plus VAT.

If you have any queries or would like to discuss the matter further then please do not hesitate to contact either Edmund Middlehurst or Anne Daniels at these offices on 0208 946 1173 or email: eam@gregsons.co.uk (Edmund Middlehurst) or ad@gregsons.co.uk (Anne Daniels)

Note

If you are considering buying a flat which has a short lease, your seller (provided they have owned the flat for at least two years) can serve a Section 42 Notice and then assign the benefit of this Notice to you on completion of the purchase. You will then be able to get a new extended lease even though you have not owned the flat for two years yourself.