

Leasehold Advisory Service Collective Enfranchisement– the Legal Right

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The Right to Enfranchise

- If qualify and invoke procedure, Compel Ld to sell
 - A fair price
 - Determined by LVT
 - Introduced by Leasehold Reform and Urban Development Act 1993, amended by 2002 Act
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Qualifying premises

- A building (or self-contained part of a building) comprising 2 or more flats
 - At least two-thirds of the flats on long leases
 - No more than 25% non-residential
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Qualifying tenants

- Long leaseholder (lease originally granted for more than 21 years)
- Own no more than two flats
- No residence qualification
- Participating tenants must own at least half the flats in the building, if only two flats both must participate

Choice of Enfranchising:

- How this applies to Moormead Estate:

Part of a Building ; i.e. 2,4, 6 etc until end of row.

Or Whole Building

Moormead Estate

Choice of Enfranchising:

- Part of a Building ; i.e. 2,4, 6 etc until end of row.

Or

- Or Whole Building.
 - Each Claim require separate S.13 Notice
 - Cannot Enfranchise more then One building.
(one freehold title of estate irrelevant)
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Fixing the price

- ❑ Valuation – Surveyor v Legal –Solicitor
- ❑ Valuation at Fixed on Service of Legal Notice

Valuation Principles:

- ❑ The term (capitalising the rent)
- ❑ The reversion (the landlord's expectation of possession)
- ❑ The marriage value (the uplift in the value of the flat)

Valuation:

LE

Freehold – part/whole of building.

- Apportion total by no of participants
(MV, take surveyors advice)

Procedure

- The Vehicle

 - A Company (RTE Co not in force yet)

 - Trust (no more than 4), Trust Instrument.

 - Lease still apply.

 - Assign to Purchasers

 - No legal right to insist on participation – join now?

- Participation agreement (?)

- Obtain a valuation

- Serve Initial Notice on landlord(s)

Procedure...

- ❑ Landlord(s) must respond with counter-notice- 2m
 - ❑ Ld reasonable cost payable – solicitor & surveyor
 - ❑ Application to LVT within six months
 - ❑ Not liable to pay Ld's cost re LVT, must bear own cost – solicitors & surveyors. Cost benefit analysis
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Initial Notice (s13)

- ❑ Not prescribed, can be obtained from Oyez, legal stationers
 - ❑ Specify a premium:
 - must be realistic, otherwise may invalidate notice: *Cadogan v Morris* (1999) 1 EGLR 59 CA
 - Mount Cook Land Ltd v Rosen* (2003)1 EGLR 75 CC.
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Initial Notice (s13)

- Must be signed by lessee.
 - power of attorney will not suffice:
St Ermins Property v Tingay (2002)
2 EGLR 53
 - Not invalidated by inaccuracies in particulars
 - State mandatory leasebacks
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Initial Notice (s13)

- Specify date for counter-notice: min 2 months
 - Must state full names and addresses of ALL qualifying tenants
 - Must state particulars of their leases
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Counter-notice (s21)

- Not prescribed
 - Admitting right
 - Denying right
 - Challenging right on grounds of redevelopment (s23)
 - Failure to specify which ground will invalidate the notice: *Burman v Mount Cook Land Ltd (2002) CH 256 CA*
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Landlord's Rights

- ❑ Access for valuation (s17) this right can be exercised within 10 days from the request being made
 - ❑ No limit on number of visits, but if excessive number then court may refuse to enforce
 - ❑ Can enforce obligation by serving default notice, then County Court
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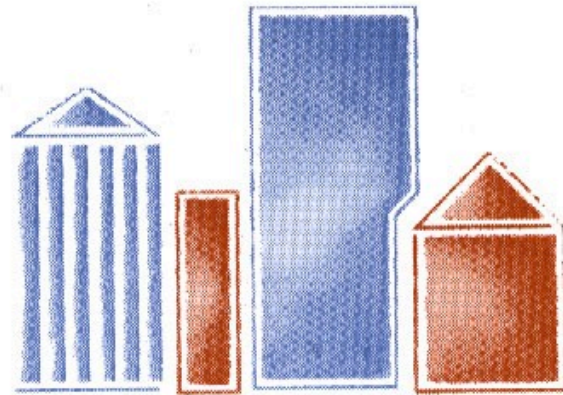
Completing the purchase

- ❑ Statutory deadlines for exchange and completion
 - ❑ Extending the participants' leases – harness momentum – to extend (and possibly vary terms)
 - ❑ Taking on the management!
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Voluntary Negotiations

- ❑ Explore and exhaust before invoking Legal right.
 - ❑ Whole Estate can be negotiated in one transaction

 - ❑ Compare 1993 – price, procedure, cost against Land offer
 - Whether to pay Ld valuation cost?
 - ❑ Set Time Limits for Negotiation
 - No guarantee, equally can mutually convenient re cost, time & stress.
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L E A S E

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