



### Leasehold Flats

#### **Dividing a property into leasehold flats – Newly Built or Newly Converted**

A seller who is proposing to build or convert a property into flats to sell for a capital sum needs to make certain decisions concerning the nature of the Lease which will be acceptable both to a buyer and to the buyer's Lender if appropriate.

Some decisions that need to be made in consultation with your legal advisor:

1. The length of the Lease is generally either 99 years, 125 years or 999 years
2. The extent of each flat, does it comprise any exterior garden area, does it include a parking space
3. Who is responsible for the repair and maintenance of the building and the insurance of the building and provision of other services
4. Whether rent is to be paid and if so how much (for a long term Lease the rent is usually a nominal sum).
5. The obligations to be undertaken by the Landlord and by each Tenant respectively
6. What are the seller's proposals for the disposal of his interest in the freehold when the last flat is sold
7. On a practical front, the division of the building do all flats have separate front doors and services? If not are there are common parts e.g. hallways, porches, communal gardens, paths and parking area

8. The seller will also be expected to provide prospective buyers with full details of the planning permission and building regulation approval and any guarantees
9. The seller will be responsible for the insurance of the property. It is their responsibility to ensure that the insurance is sufficient for the full rebuilding value of each of the flats until such time as the freehold reversion is handed over to the management company

### **Shared Responsibilities**

Those found in a typical flat development are:

1. Redecoration of common parts exterior of building;
2. Repair and maintenance of exterior structure including internal load bearing walls, roof and foundations, communal areas including halls, gardens, parking areas and lifts if any;
3. building and public liability insurance;
4. the employment of any managing agents or other parties for the general maintenance of the development.

### **Service Charge**

Service charges are levied for the provision of the above services. It is common for the service provider or landlord to estimate the cost for each year and the flat owners to make a payment on account. At the end of the year the service provider prepares accounts to show the actual costs incurred. A shortfall may have to be paid at once and any surplus is usually carried forward to be deferred against the following year's service charge payments.

### **Reserve Fund**

It is desirable that a reserve fund is set up to cover the anticipated cost of future major items of expenditure known or unknown. The advantage of this is the burden of major expenditure is spread over a number of years.

### **Leasehold Reversion**

The freehold reversion is the freehold that remains vested in the seller after the last flat has been sold.

- For a large development, e.g. more than four flats then it is usual that the sellers set up a management company the shareholder is the owners of the flat and to

whom on the sale of the last flat the freehold will be transferred. They will then take over the liabilities of the landlord seller.

- Where there are only two flats in the development it may be possible for there to be a cross transfer of freehold.
- Between two and four flats the freehold can be transferred to the flat owners jointly who will all then take over the landlords responsibility under the Lease.

The seller's solicitor will prepare a form of Lease which will be used for the sale of all the flats in the development and will also include the transfer of the freehold reversion in its terms. The Lease will be submitted with the contract papers as part of the contract package to the buyer's solicitors for their approval. It is therefore necessary for the seller to instruct their solicitors as early as possible with regard to the preparation of the Lease documents.

If you require any further assistance please do not hesitate to ask a member of staff who will be happy to help.

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