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The law as stated during this webinar is up to date as of $09\ July\ 2013$

Introduction to Collective Enfranchisement

Dona Awano Leasehold Advisory Service 24 April 2015

Legislation

• England

- · Leasehold Reform, Housing and Urban Development Act 1993
- Commonhold and Leasehold Reform Act 2002
- Leasehold Reform (Collective Enfranchisement and Lease Renewal) Regulations 1993
- The Leasehold Reform (Collective Enfranchisement and Lease Renewal) (Amendment) (England) Regulations 2003
- The Leasehold Reform (Collective Enfranchisement) (Counternotices) (England) Regulations 2002
- The Tribunal Procedure (First-Tier Tribunal) (Property Chamber) Rules 2013
- Leasehold Reform (Amendment) Act 2014

Legislation



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- Wales
- The Leasehold Reform (Collective Enfranchisement and Lease Renewal) (Amendment) (Wales) Regulations 2004
- The Leasehold Reform (Collective Enfranchisement) (Counter-notices) (Wales) Regulations 2003
- The Leasehold Valuation Tribunals (Fees) (Wales) Regulations 2004 (as amended)
- www.legislation.gov.uk

What? Why? How? An absolute right to buy the freehold of buildings containing flats Subject to qualification At a fair price Determined by the First-Tier Tribunal(Property Chamber) LVT in Wales Pros and cons Consider other options Structured process set out in legislation

Qualifying premises

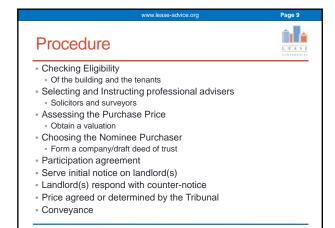
- · Sections 3 and 4
- Self-contained building or part of building
- At least two flats
- · At least two-thirds of the flats let to qualifying tenants Round up
- Not more than 25% non-residential · E.g. shops or offices
- Exemptions
- Resident landlord
- Railway
- · Buildings within a cathedral precinct
- National Trust properties
- Crown properties
 Not obliged but prepared to comply

Qualifying tenant



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- Section 5
- Long leaseholder
- · Lease originally granted for more than 21 years
- Owns no more than two flats
- No residence requirement
- The minimum number of participating tenants must equal half the total number of flats in the building



Getting started • Gathering interest - participating tenants must own at least half the flats in the building, if only two flats both must participate • The right option? • Participation agreement • Exclusion



www.lease-advice.org Page 12 Absent landlord Image: Comparison of the second s

Section 13 Specify a realistic premium

- Separate if intermediate landlord(s)No longer mandatory for all participants to sign
- Leasehold Reform (Amendment) Act 2014
- State mandatory leasebacks
- Nominee purchaser
- RTE provisions never brought into force
- Specify date for counter-notice
 Minimum 2 months



- Full names and addresses of ALL qualifying tenants
- State particulars of their leases

Initial notice continued

- Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd [1997] A.C. 749
- Not invalidated by inaccuracies in particulars
- Viscount Chelsea v Morris [1997] 2 E.G.L.R. 100

WWW.lease-add/ice.org Page 15 Initial notice - service Image: Construct of the serve • Make sure you are ready to serve • No further notice can be served • No further notice can be served • Deemed withdrawal provisions • Who to serve? • Freeholder and copies to other landlord(s) • Method • Consider personal service • Beware of recorded delivery • Registration • Regent Wealth Ltd v Wiggins

Prevents certain disposals Access for valuation etc Section 17 10 days notice No limit on number of visits

- If excessive court may refuse to enforce
 Requirement to deduce title
 - 21 days
 - Deemed withdrawal risk
- Notification of agreements
- Section 42 notices suspended

Counter notice



Section 21

- Mandatory not prescribed
- Admitting right
- Denying right
- Failure to specify which ground will invalidate the notice
- Challenging right on grounds of redevelopmentChallenging the validity of initial notice
- Section 23
- Burman v Mount Cook Land Ltd [2002] Ch. 256 CA
- No requirement for landlord to sign

www.lease-advice.org Page 13 **No counter notice**6 months to apply to court 7erms of acquisition proposed in initial notice Willingdale v Globalgrange Ltd [2000] 2 E.G.L.R. 55

Proceedings where dispute

- Challenge to initial notice
 - 1) Landlord applies for declaration
 - 2) Await application by nominee purchaser
- Serve counter notice without prejudice
- Negative counter-notice
- Nominee purchaser applies for declaration
 2 months
- Security for costs
- Redevelopment

Post-counter notice



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- Changes in participants/nominee purchaser
- Sections 14-16
- Nominee purchaser may require reversioner to deduce title
- 28 days to comply with notice

www.lease-advice.org Page 21 Price and terms • Terms? • Premium • Valuation date is date of initial notice • Agreed or determined • Application to Tribunal • 4 month window

ÎL Withdrawal • Express Section 28 Notice not prescribed Deemed Section 29 • Important to diarise key dates Cost consequences

- Cannot start again for 12 months
- Remove registration

Contract



- Statutory deadlines for exchange and completion
- Contract followed by conveyance
- Reversioner must prepare draft contract within 21 days of agreement/ determination
- Nominee purchaser has 14 days to amend otherwise deemed approval
- · Deposit can be required on exchange • £500 or 10%
- In practice contract stage can be skipped
- If no contract within 2 months application to court

Page 24 ÎLÂ Conveyance Vendors lien • Fee simple absolute Subject only to those incumbrances agreed/determined • Terms of conveyance Schedule 7 1993 Act Leaseback Discharge of mortgages Payments into court

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Costs		
 Section 33 		
 Investigating the d 	claim	
 Deducing title 		
 Making abstracts/ 	copies	
 Valuation 		
 Conveyance 		
Not tribunal cost	S	
 Section 33(5) 		
 Must be reasonab 	le	
 Tribunal can deter 	rmine	

Enforcement of obligations

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- Section 92
- Default procedure
- Notice
- 14 days to comply Application to court

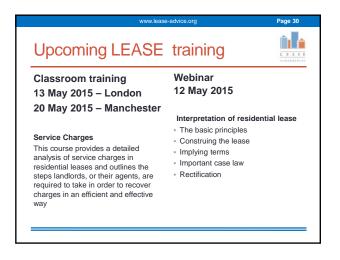
Conclusion

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- More complicated than it first appears
- Lots of pitfalls
- Requires co-operation and commitment
- Detailed knowledge and good organisation are vital

Empowers leaseholders but does not mean the end to all possible disputes





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