



SOLICITORS

Being your own freeholder with a lease – how does it work?

Most flats and apartments for properties in England and Wales are leasehold – this means that you have a lease which allows you to occupy the flat or apartment within a larger building for a period of time (leases are usually for 99 or 999 years).

Whilst your lease means that you are able to occupy and live in the flat or apartment, the structure of the building itself and the ground that it sits on is owned by a freeholder. The freeholder is essentially renting the flat or apartment to you - you get to live in the flat but the freeholder keeps ownership and control of the building as a whole. The freeholder usually insures the building as a whole, looks after any common or shared areas and carries out repairs, maintenance and upkeep as needs be.

In larger developments, the freeholder is sometimes a company or a corporate trustee but it is possible for one individual or a group of individuals to hold the freehold of a group of flats or apartments. Locally, it is quite common for individuals to own the freehold together, particularly where larger houses have been converted into flats or where there are shared areas. In these instances, we often find that the owners of the freehold are, in fact, the leaseholders themselves. Where this is the set-up, the property is described as being leasehold but with a 'share of the freehold'

So, how does that work?

Where this happens, anyone who owns the leasehold title to a property and a share of the

freehold is wearing, if you like, two very different 'hats'. The ownership of the freehold and the leasehold is separate and distinct. The lease does not disappear – it stays in place - but the leaseholder owner is also then able to be involved with wider decisions about the property as one of the freeholders and does have some element of control. This is quite common where there are only a small number of flats or apartments in a building, and so a smaller number of people owning the freehold. Where there are a large number of flats, it is more common for the freeholder either to be:-

- (a) a company that is separate from the leaseholders and runs the freehold and manages the building at 'arms length' or
- (b) a company set up by the leaseholders to own and manage the freehold but where the company members are made up of their number.

Are there any advantages?

If you do own a share of the freehold yourself or become a member of a company that owns the freehold, it does mean that you do have the ability to contribute meaningfully to conversations around maintenance and upkeep, decoration or the gardening scheme for example.

It also means that you are involved in and responsible for substantive decisions around building upkeep and maintenance as part of the obligations on the freeholder to keep and maintain the building and any shared spaces in good condition.

Owning a share in the freehold, however this might be, does not however mean you can avoid the responsibilities that go along with being a freeholder – the need to carry out upkeep works, to insure and to consult for major works do still need to be met.

However, by being in control, it does mean that you will have ‘hands on’ knowledge of the issues at hand and you can shop around for quotes for works or insurance much more easily than a corporate landlord may be able to. You are less likely to feel that you are being over-charged for works or being taken for a ride than when others, perhaps with no link to the property, are in control of the process.

It also means that, if there is an issue with the terms of the Lease, if it needs to be extended or perhaps an escalating ground rent modified - this can be resolved really quickly and easily and at a much more modest cost than might otherwise be the case.

Is it all good?

Nothing is perfect and owning a freehold with others is not always plain sailing. It does come with the responsibility to fulfil the obligations that a freeholder will have under the leases and in relation to the building and wider site. There is always the risk that the freeholders fall out over larger or expensive

decisions to be made, one may die or just simply disengage from dealing with the others. This can lead to deadlock or onward dispute between the freeholder group. This does need to be considered carefully as part of any decision to buy into a property where a share of the freehold forms part of the purchase requirements or where you would need to become a member of the freeholder company.

We are here to help

WBW Solicitors have property experts in all 12 offices across Devon, Cornwall and Somerset. If you would like to speak to someone about anything mentioned above or for any property related query, please get in touch by calling 01626 202404 or email lawyer@wbw.co.uk. You can also visit our website www.wbw.co.uk to find out more about the services we provide and for our latest news and legal blogs.