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Right to Manage with Lease Extensions

When an enfranchisement hits problems leaseholders of larger blocks need not give up if they fall at the first hurdle, explains Brett Swabey

WHAT if half of the long leaseholders wish to participate, but the other half do not? In the case of a block of 90 flats having 45 or even 50 flats ready to participate may not be sufficient, because those participating need to fund the cost of buying the reversions of the non-participating flats, and any development value in the building.

The sums involved may be substantial and this can prove a stumbling block. In the meantime the lease terms get shorter and dissatisfaction with the management continues. This short article provides a couple of case studies showing possible solutions.

MAGNIFICENT SEVEN

The first building, let us call it 70–72 Paddington Terrace, comprises 19 flats with 17 of these on long leases and two retained by the landlord in a converted terrace. There was growing dissatisfaction by the leaseholders as to the management and the lease terms were down to 70 years.

An enfranchisement had been considered but there was insufficient support for this financially, with only half of the flats ready to proceed. So, after further discussions, as a first step it was decided to apply for the right to manage (RTM). This resulted in a bit of a battle with the landlord, reluctant to give up the management and the fees that come with this.

However, the application was eventually successful, much to the relief of the long suffering leaseholders.

Later, as a second step, seven of the leaseholders got together and simultaneously applied for lease extensions. In this way they received longer leases securing the long term investment in their flats; together with the right to manage this makes the flats better to live in and more saleable. In turn the building now has enhanced prospects of success in any future enfranchisement.

WHITE KNIGHT IN SHINING ARMOUR

The second case study concerns another building in West London, let us call it the Brecons. This art-deco block comprises 189 flats and commercial premises below these. Again there was insufficient support for an enfranchisement with just over 50% of the flats ready to participate. However, one of the flat owners had connections with a property company, step in the White Knight.

White Knight Co. (WKC) put up the finance for the non-participating (NP) leaseholders and agreed to take a 999-year headlease, wrapping up the non-participating leases.In this way the enfranchisement was able to proceed with WKC providing approximately half of the purchase price in return for the headlease of the NP flats. The company is now recovering its investment from the premiums paid to it as those leases are extended. In this way the enfranchisement proceeded and the leaseholders have again secured the long term investment in their flats.

Whilst these case studies necessarily omit detail, and as with all such projects there will be difficulties to negotiate, they show us that the leaseholders of larger blocks need not give up at the first hurdle and that successful enfranchisements can be achieved even in the face of difficult circumstances.

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