

ALEP factsheet

The role of a valuer

Whether extending a lease or pursuing collective enfranchisement, ALEP advises that it is logical for anyone seeking to go through the enfranchisement process to appoint a valuer from the outset. It is then sensible to find out how much it will cost to enfranchise before appointing a solicitor. Getting a handle on the likely costs up front is vital as if process likely to be costly, it would be advisable to secure funds to ensure that you are able to proceed, financially. Mortgage providers would, potentially, consider an application to add this to cost of a mortgage, or a loan could be secured.

Schedule 6, Part II of the Leasehold Reform, Housing and Urban Development Act 1993, sets out the formula used to calculate the value to buy a freehold. A leasehold valuation is more complex than an ordinary market valuation and includes certain criteria, set out below, that needs to be taken into consideration:

- Income received from ground rents (the term)
- Reversionary value of the freehold on expiry of the leases (the reversion)
- Marriage value
- Value of other interests, such as commercial property of garages
- Injurious affection (compensation for other losses)

Marriage value

When you extend a lease that has less than 80 years left on it, there is an additional fee to be paid to the landlord called a Marriage Value. When a Lease is extended, it adds value to the property – and sometimes this can be a substantial amount. Therefore, under the 1993 Leasehold Reform Act, the Landlord is entitled to half of the increase of the value of the property when a lease of a property with less than 80 years is extended.

However, when you extend a lease with a remaining term of 80 years or more, no marriage fee is payable. So, from a leaseholder's point of view, it is always advisable to extend a lease before it hits the 80 year mark.

What is a valuer responsible for?

The valuer is responsible for the following elements of the enfranchisement procedure:

- To carry out the valuation in accordance with the legislative guidelines
- To advise on the possible purchase price, based on experience and preparation of "best and worst case" valuations
- To advise on the offer to be made to the freeholder in the Initial Notice
- To advise on the response to the freeholder's Counter-Notice
- To conduct negotiations with the freeholder on behalf of the RTE (right to enfranchise) Company
- To provide expert evidence at the First-tier Tribunal (Property Chamber), if necessary
- To provide technical advice on repair and maintenance and cost implications of future leaseholder management

It is essential that any leaseholder contemplating enfranchisement action takes early advice from a valuation surveyor with expertise in the relevant leasehold legislation and with knowledge of the local property market.

Once the procedures are commenced, with the service of the Initial Section 42 Notice, the participating leaseholders are committed to proceed and to pay the freeholder's reasonable costs; it

is best not to enter this cycle without the fullest professional advice as to the likely cost and outcome.

Please note: Not all surveyors specialise in this kind of work and leaseholders should make careful enquiries relating to the practice's experience of the legislation before proceeding.

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