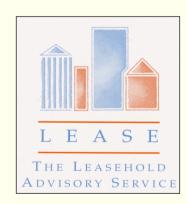
Leasehold Advisory Service

Lease Extension: Statutory rights

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Qualifying for Lease Extension

- Personal representatives of a deceased qualifying tenant
- Exceptions: business leases, Crown Land; National Trust Properties
- □ Flat includes garage, outhouse, garden usually enjoyed with the flat and let to the tenant
- **■** Absolute right (subject to qualification)

What is the Right

- **■** New lease
- ■ For a term of 90 years in addition to years remaining on term of existing lease
- **■** Peppercorn rent
- Substantially the same terms as in the existing lease
- **■** Payment of premium and costs

The Premium

- **■** Compensation for diminution of the landlord's interest i.e. loss of rent and delay in achieving the reversion.
- **■** The marriage value
- **■** Compensation (if any)

The Costs

- **■** Tenant is liable for reasonable costs incurred in pursuing the notice and incidental to:
- **■** Any investigation of tenant's right
- **■** Any valuation for fixing the premium
- **■** The grant of a new lease
- **■** Costs are reasonable if it would have been reasonable to incur them if personably liable.

Procedure

- **#** Obtain a valuation
- **■** Serve Tenants' Notice on landlord
- **Landlord must respond with a counter- notice**
- Application to LVT within 6 months from date of Counter-notice

Serve notice (s42)

- Not prescribed, can be obtained from Oyez, legal stationers
- ■ State the tenant's full name and address of the property which is subject to claim.
- Identify the flat and the lease
- ➡ Specify a realistic premium and any amount to be paid to intermediate landlords. Premium must be realistic, otherwise may invalidate notice:
- Cadogan v Morris (1999) 1 EGLR 59 CA
- **■** Mount Cook Land Ltd v Rosen (2003)1 EGLR 75 CC.

Serve notice (s42)

- State name and address of a person appointed to act on behalf of the tenant
- Must specify date for receipt of counter-notice.. Not less than 2 months.
- Must be signed by tenant personally
- # Must be signed by lessee.
 - -power of attorney will not suffice:
 - St Ermins Property v Tingay (2002)
 - 2 EGLR 53
- ★ Not invalidated by inaccuracies in particulars
- Must specify terms of new lease

Landlord's rights

- **#** Can request a deposit, 1993 Regs
 - the greater of £250 or 10% or premium proposed
- **#** Right of access:
 - to the flat to obtain valuation
 - enforceable, s92

Counter-notice (s45)

- **■** Must either:
 - admit claim/right
 - deny the claim/right
 - challenge on grounds of redevelopment, s47
- □ Failure to specify one of above will invalidate counter-notice: Burman v

 Mount Cook Land Ltd (2002) Ch256CA

Right to Redevelop

- **■** Landlord can make an application to the court to obtain possession on grounds of redevelopment.
- ★ At any time during the period of 12 months ending with the term date of the original lease.
- At any time during the period of 5 years ending with the term date of the new lease.

Tenant Can Extend Again

■ The new lease is capable of extension under 1993 Act (s.59(1)). However, statutory provisions for security of tenure do not apply to the new lease (s.59(2)).