

QUESTION

I hold the lease on a ground floor and basement flat. The basement is currently a cellar. I have a license to develop the basement as habitable space but this requires the excavation of light wells, on land within the 'common parts'. The freeholder has asked for £15,000 for two square meters of his land. This seems excessive. Can he charge this amount (which makes the project uneconomic)? Is there a formula or percentage to calculate such a charge?

Ruth Marks

ANSWER

As you appear to have no legal or statutory right to acquire the land to excavate the lightwell, there is no statutory formula or percentage to work to in order to calculate the premium (i.e. the purchase price). The

price will come down to a negotiation between you both (speak to a valuer).

Both you and the freeholder ought to consider the implication of the rights of first refusal under Section 5 of the Landlord and Tenant Act 1987 given the proposed disposal of part of his interest.

Failure to comply with these strict obligations could lead to your fellow leasehold flat owners obtaining the land themselves at the price you paid.

It may be possible to create a lightwell without taking ownership of the land concerned - but you will need the freeholder's agreement to all of this and he is likely to exact a price!

If your freeholder proves difficult, you could leave the redevelopment in abeyance and consider joining with your fellow flat owners to acquire the freehold of your building especially if they will agree with what you want to achieve. You will have to pay a premium to enfranchise but you may find this better value.

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