

Property

PART 2 BUSINESS OCCUPIERS: FREEHOLD PROPERTY IN THE UK

Property ownership in the UK is distinguished by two main types of legal interest in land (also referred to as 'legal tenure'), which are known as freehold and leasehold. The difference determines whether you are buying or leasing property. In this newsletter, we will be looking at the meaning of freehold interest in land and what it means to buy a freehold property.

Freehold Interest

In legal terms, the full name given to a freehold interest in property is "fee simple absolute in possession" which means an estate in land which is free from restriction and to the exclusion of all others. A simpler meaning is land/property which is "free from hold" of any entity or person other than the owner itself. If you are seeking to buy a property with absolute ownership, then you will be buying the freehold interest in land. Ownership will be attained over the land, any buildings/structures on the land, the subsoil beneath the land, the airspace above and any immovable structures attached to the land.

The interest is not limited by time and the ownership will continue in "perpetuity", i.e. there is no fixed period of time determining how long you can own the land. Along with the right to occupy indefinitely, you have the right to sell or mortgage the property, rent the property by granting a lease or tenancy agreement in order to generate rental income or gift the property in a will or during your lifetime so that you pass on ownership of the property to your heir(s) or donee(s).

Generally a freehold owner will not be restricted to deal with the land/property however it is important to bear in mind that there may be historic restrictions relating to the use of the land as well as planning restrictions or local authority proposals which could affect an owner's use. 3HR will be able to advise you of any restrictions discovered through legal due diligence.

Depending on economic conditions, the value of a property could increase to give you a return on your investment but it is also important to be aware that in certain circumstances, for example if there is a recession, property prices may decrease in value.

It is also important for you to consider the tax implications of dealing with freehold property and examples of such taxes are stamp duty land tax, value added tax (VAT) and capital gains tax. Tax considerations will also be relevant when considering how to structure the acquisition of the property, i.e. as an individual or using an investment vehicle.

Evidence of ownership of freehold property

The UK has a land registration system which registers ownership of land and property. This is a public register known as the Land Registry and provides details of ownership, mortgages, leases and restrictions affecting the land/property. Majority of freehold property in the UK has been registered however there are still a substantive number of unregistered properties. If you are buying a property in the UK, registration of ownership is likely to be mandatory on completion of the purchase.

In Part 3, we will explain the meaning of leasehold interest and the implications of buying leasehold property.



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