

Ground Rents - Client Guide

What are they? | Ground Rent Traps | Possible solutions

What is a ground rent?

If you buy a house or a flat that is leasehold the lease will require you to pay a small amount every year called the 'ground rent'. This may be a nominal, or 'peppercorn' rent, that you don't actually have to pay to the landlord. However, it might be as much as £100 or £200 pounds every year, which you must pay on time. The landlord's interest in the property is called the 'reversion'.

If you do not pay the ground rent the landlord can sue you for it as a debt. However he could also seek a court order for possession of your house or flat.

What's in it for the landlord?

The reason builders want to sell houses and flats on a leasehold basis is so they can eventually then sell the 'reversions' (meaning the right to collect the rents) for hundreds of properties to investors for a substantial amount of money.

Investors can also make money by selling the freehold of a house to you or selling an extension of your lease.

The lease will also require you to ask for the landlord's consent every time sell, mortgage, or make alterations to the house or flat. The landlord will make money from charging you fees every time you make an application. You will also have to pay the fees of the landlord's surveyor and solicitor. These can be significant amounts, and there is very little control over how much any of these charges are.

Do I have to buy a leasehold?

If you are buying a new-build or existing apartment then, in general terms, this must be leasehold. See our 'Leasehold - Client Guide' to learn more about leaseholds.

If you are buying a new-build house there is rarely and reason for this to be a leasehold, and, if you have a strong bargaining position with the seller, you could insist on buying the freehold.



The problem of escalating Ground Rents

There is nothing wrong with a lease that reserves a small ground rent, say £50 per year, or a 'peppercorn rent'. The problem that has appeared over the last year or so is where, under the terms of the lease, the ground rent increases to an unreasonable amount. For example, the lease may say the ground rent doubles automatically every ten or twenty years. This might sound reasonable at first sight, but over 120 years a ground rent of £250 that doubles every 10 years would become £1,024,000! In contrast if it had increased by the average inflation rate it would only be £8,600 in that time - see below.

Year of Term	Year	Ground Rent	Increase at 3% RPI
0	2017	£250	£250
10	2027	£500	£336
20	2037	£1,000	£452
30	2047	£2,000	£607
40	2057	£4,000	£816
50	2067	£8,000	£1,096
60	2077	£16,000	£1,473
70	2087	£32,000	£1,979
80	2097	£64,000	£2,660
90	2107	£128,000	£3,575
100	2117	£256,000	£4,805
110	2127	£512,000	£6,457
120	2137	£1,024,000	£8,678



In the News....

The Guardian Newspaper campaign against high ground rents on new-build properties gives these examples:

Buyers of a £101,000 flat in Dudley built in 2010 by Taylor Wimpey found that the ground rent was set to spiral to £8,000 a year. The couple are now trapped in an apartment they can no longer sell because the ground rent review clause in the lease is preventing lenders approving a mortgage for their buyers.

Another buyer of a £200,000 new mid-terrace three-bed house in Bolton, built only six years ago, has a ground rent that by 2060 will be £9,440 a year. Potential buyer's solicitors have told their clients not to touch it, making it almost unsaleable.

Others have revealed how houses were sold by developers with the promise that a 999-year lease was "virtually freehold", only to discover that buying out the lease just a few years later was three or four times more expensive than promised.

Government Action - when?

The Government has published a white paper promising a forthcoming consultation on reform to the leasehold system to stop buyers being exploited. However it may be many years before this is implemented, and it might not be retrospective.

Possible Solutions - Renegotiate terms

- If buying a house, insist on the freehold
- Ask the landlord/seller to agree to vary the lease terms to acceptable terms
- Cap any increases of the ground rent at £250 (£1,000 in London)
- Check the maths on any indexation or doubling provisions. Ask the valuer to check it too.
- If the seller won't change the terms - don't buy it
- If an existing lease of an apartment, extend the lease under your statutory rights, which will reduce the ground rent to a peppercorn

Other problems with high or escalating ground rents:

1. The landlord can repossess your property if you don't pay the ground rent

If you don't pay the ground rent, then the landlord can sue you for it, but they can also claim possession of your property, without compensating you at all for the loss of your house. Now normally the risk of this ever happening is low, since all you would have to do is pay the arrears of rent, and the court would exercise its discretion not to give the landlord possession of your property.

However, because of a legal anomaly, if by that time the ground rent is now more than £250 (or £1,000 in Greater London) the lease would be deemed to be an 'Assured Tenancy' (like the usual tenancies given to buy-to-let tenants). This would mean that the court would have no discretion, and the landlord would be entitled to a mandatory possession order. You would lose your home and the landlord would not have to compensate you for its value.

The problem is that although the rent might start off as less than £250, if the lease says the ground rent will increase regularly every few years by a formula or percentage, then the ground rent might eventually be more than this amount. This would mean you would be at risk of losing your property if the rent isn't paid. Lenders will not lend on leases where there is this risk.

2. The cost of extending your lease or buying the freehold

Many tenants of leasehold houses have the right to buy the freehold, and many tenants of leasehold apartments have the right to claim an extension of their lease by 90 years.

The price you pay is set by a statutory formula involving the length of the lease, the value of the ground rent as well as the value of the property. A high or doubling ground rent could mean that the price of extending the lease or buying the freehold may be much higher than you would expect. The official Leasehold Advice Service website www.lease-advice.org contains a calculator to help you assess what this price will be. There are many specialist surveyors who can advise you on what the likely cost would be. Your conveyancer may also be able to help advise you on this.

3. Your property may become worthless or unsaleable

Many lenders have decided not to lend on properties where the ground rent is initially high, or could double or increase to an unreasonable amount. They may also refuse to lend where they consider that the length of the lease is too short, or the charges for consents of notices under the lease could be excessive.

Many owners of leasehold properties with unacceptable ground rent provisions have found their flats or houses are unsaleable, or the value is much less than they paid. Your conveyancer can point out any unreasonable terms and you should ask your valuer for advice on the effect on value. Your conveyancer cannot advise you on matters of valuation.

