

# A Guide to Buying a Flying Freehold Apartment in Jersey

The "Loi (1991) sur la copropriété des immeubles bâtis", also known as the "Flying Freehold Law" (the "Law"), was enacted to enable units (usually apartments) within buildings to be sold on a freehold basis instead of by share transfer. We will assume for the purpose of this briefing that we are dealing with an apartment.

## 1. Introduction

The Law provides for the division of a property (the "Collective Property") into Private Units and Common Parts.

Ownership of a Private Unit (an owner in this case being known as a "co-owner") grants outright freehold title to an apartment (and, where relevant, of any garden, patio, parking space or store).

A co-owner is also allocated a percentage interest in the Common Parts (i.e. the structure of the building, shared access ways and commonly used facilities) and is required to contribute towards their maintenance and upkeep.

Regulations governing each co-owner's rights and responsibilities are set out in a declaration of co-ownership ("the Declaration") which is registered prior to the first sale. Each co-owner is a member of an Association of co-owners, which is responsible for the management and administration of the Collective Property.

Each co-owner shares responsibility with the other co-owners for structural and external works to the Common Parts. Associations levy a service charge (usually monthly or quarterly) to cover shared expenses such as insurance, cleaning, lighting and repairs.

## 2. Procedure

The purchase procedure is similar to that for a freehold property. A contract of purchase must be passed before the Royal Court on a Friday and stamp duty is payable by the buyer.

## 3. What we do

We carry out the same range of researches on the Collective Property and the apartment as we would for a freehold property. We also review and report upon the Declaration and the Association's records are inspected.

## 4. Insurance

The Collective Property is insured by the Association therefore a co-owner only needs to insure the contents of an apartment, including fittings and appliances, doors and windows, and decorative finishes.

Your insurance should in place at the point of completion so you should make preliminary arrangements at an early stage and confirm them closer to completion.

## 5. Survey and Valuation

Your lender will require a valuation but this is unlikely to address the condition of the apartment in any great depth.

As contracts of purchase provide that a property is bought in its actual condition a professional survey may be considered which, in addition to focusing upon the apartment, would address the general condition of the Collective Property.

*provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.*

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