

Orme Associates

Property Advisers

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RIGHT TO MANAGE

OBTAINING THE RIGHT TO MANAGE YOUR BLOCK UNDER THE COMMONHOLD ACT 2002

• Where more than 50% of flat owners in a block wish to manage the block in place of the landlord this is made possible by the Commonhold Act 2002.

- In order to qualify:-
 - i. at least two-thirds of the flats must be let to 'qualifying tenants' (see below);
 - it can be part-commercial but the commercial part must not exceed 25% of the total floor area.
 - at least 50% of the qualifying tenants must join in and become members of the RTM Company
 - The price payable will principally depend on the length of flat leases still to run, see relativity graph overleaf as a guide (multiply by number of flats accordingly)

• Orme Associates appear on the leasehold practitioners list for the North West by LEASE the leasehold advisory service (www.lease-advice.org)

• We are happy to provide a free initial appraisal of the cost of collective enfranchisement and the likely costs. Our contact details are provided below:-

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What We Do

Orme Associates Property Advisers can act for you in exercising your no fault right to manage your block under the Commonhold Act 2002.

Qualifying Criteria

The Commonhold Act 2002 gives leasehold owners of flats the no-fault right to manage their block where the following broad criteria are satisfied:-

- at least two-thirds of the flats must be let to 'qualifying tenants' (see below);
- it can be part-commercial but the commercial part must not exceed 25% of the total floor area.
- at least 50% of the qualifying tenants must join in and become members of the RTM Company

A 'qualifying tenant' is a leaseholder whose lease was originally granted for an original term of more than 21 years.

There is no requirement for any past or present residence in the flats, nor any limit on the number of flats which can be owned by one person.

Procedure

A special type of limited company is established, called a Right to Manage (RTM) company which will comprise as its members, the participating flat owners, who will exercise the right to manage.

The right relates to a building, so, in an estate of separate blocks, each block would need to qualify separately and an individual RTM notice served.

Following the establishment of the RTM company it first must write to all leaseholders inviting participation in the right to manage process,.

The RTM Company is then able to serve on the Landlord

the prescribed notice exercising the right to manage.

The Landlord has 28 days to reply either accepting the notice or refusing the notice, i.e. on grounds that the above criteria is not met or the notice is defective for some other reason (i.e. it contains incorrect information).

Following acceptance or where there is no reply the right to manage will vest in the RTM company three months later.

The Landlord will have a right to become a member of the RTM company (i.e. to hold at least one share) and therefore to receive information on meetings and to vote on resolutions proposed. The landlord has voting rights in respect of each unit he holds. The units may be flats let on periodic tenancies, the caretaker's flat or any non-residential units, i.e. shops.

Any commercial units in the block, or flats which are rented and under control of the Landlord (for leases less than 21 years), will remain under the control of the Landlord following completion of the RTM process.

Where the Landlord is absent and cannot be found the above process can be effected by application to the First Tier Residential Property Tribunal which is a free service.

Applications to the First Tier Tribunal can similarly be made where there are disputes as to the validity of the notice.

Costs

The RTM company will be responsible for the landlords costs incurred for any professional services during the process. This may generally be taken to mean the landlord's

legal expenses in dealing with the notice, any accountancy or audit costs arising from provision of accounts or transfer of monies and the costs of his solicitor or managing agent in the hand-over of management records and functions. The costs are only recoverable by the landlord to the extent that they are 'reasonable' and, where the costs are disputed, either party may apply to the Tribunal for a determination of what shall be considered reasonable.

Costs are still recoverable by the Landlord if the RTM does not proceed, for example, if the claim notice is withdrawn by the company, or deemed to be with-drawn;

Service Charges A/C's and

Sinking Funds

Where the landlord has collected service charges in advance but not yet spent them and is holding the remainder in a trust account, he is under an obligation to hand over all the unspent sums to the RTM company. These will not only include unspent service charges but also any reserve account or sinking fund.

Further Information

For further information and advice on the Right to Manage contact:-

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