

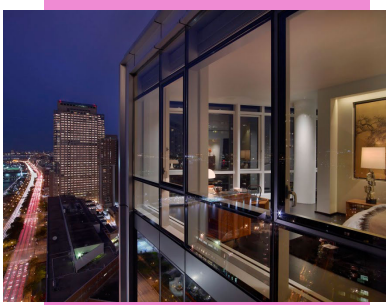
Orme Associates
Property Advisers

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

- Where more that 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:-
- At least two-thirds of the flats must be let on long leases;
- The block can be part-commercial but the commercial part must not exceed 50% of the total floor area.
- At least 50% of the qualifying tenants must join in and become members of the RTM Company
- All flat owners have the right to participate in the process and have a share in the RTM company.
- Once constituted the RTM is able to serve a notice on the Landlord that the Right to Manage will pass to the RTM 3 months from the date of the notice
- We are able to provide free initial advice on any aspect of Right to Manage or Leasehold Reform. Our contact details are provided below:-

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What We Do
Orme Associates Property Advisors 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 50% 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 one month to reply either accepting the notice or refusing it, e.g., 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.

Therefore the RTM Company will take over management of the building four months from the date of the giving of the notice exercising the Right to Manage.

Where there is a dispute the notice of claim an applications to the First-tier Tribunal can be made to ask it to decide the validity of the notice.

Where the Landlord is absent and cannot be found the above process can also be effected by application to the First-tier Residential Property Tribunal.

Costs
The RTM company will be responsible for the landlords costs incurred for any professional services during the process. This generally means 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 the 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 withdrawn;

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.

Bona Vacantia
Where the Landlord no longer exists, e.g., the owner was a company that is now dissolved, an application to the Treasury Solicitor or Duchy of Lancaster is necessary.

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

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