

The Right to Manage – A brief summary

When the Government introduced the Commonhold and Leasehold Reform Act 2002 it provided leaseholders with a right to take control of the management of their building. This process is known as the 'Right to Manage' and is open to all owners of private leasehold flats subject to a few perfectly reasonable criteria. No failure on the part of the existing freeholder or managing agent is required to take up the Right to Manage option.

The Commonhold and Leasehold Reform Act 2002 provides a right for leaseholders to force the transfer of the landlord's management functions to a special company set up by them - the right to manage company. The right was introduced, not just as a means of wresting control from bad landlords, but also to empower leaseholders, who generally hold the majority of value in the property, to take responsibility for the management of their block.

The right is available to all flat-owners, in all blocks, where they fulfil the following criteria:

1. At least 50% of the flat-owners within the physical block of flats must want to go through the process.
2. At least 2/3rds of the flat-owners within the physical block must have long leases (>21 years at the time of issue).
3. No more than 25% of the block may be used for non-residential use (excludes car parks and common areas connected with the flats).

If your block fulfils these criteria then it is highly likely you will be able to go through the Right To Manage process with 100% success. There are a small number of technical legalities which can prevent some blocks going through the right to manage process and so you should discuss with a representative from Common Ground beforehand whether to progress your claim as one right to manage claim or several for your complex.

Procedures and statutory time limits

1. Leaseholders form RTM Company and register at Companies House.
2. RTM company serves S82 Right to Information Notice (discretionary). Landlord must respond within 28 days.
3. RTM company must serve a S78 Notice Inviting Participation on all qualifying leaseholders who are not members of the RTM company. RTM company may not serve S79 Notice of Claim until at least 14 days after service of the Notice Inviting Participation.
4. RTM company serves S79 Notice of Claim, which:
 - a. must allow at least one month from date of service for landlord to serve a counter-notice (the determination date)
 - b. must propose a date of acquisition at least three months after the date proposed for the landlord's counter-notice (the acquisition date).

Continues.....

**Sandford Gate
East Point Business Park
Oxfordshire
OX4 6LB**

Telephone: 01865 910 169
Fax: 01865 910 101
info@commongroundoxford.com
www.commongroundoxford.com



5. TM company, or the landlord, serves the S83 Right of Access Notice, requiring access for inspection (discretionary). Parties must respond within 10 days
6. Landlord may serve a S84 counter-notice, which either:
 - a. accepts the claim; or
 - b. disputes the claim on grounds specified in the counter-notice. Where landlord disputes the claim, RTM company must apply to the Leasehold Valuation Tribunal within two months of the date of the counter-notice. Where the landlord disputes the claim, the grounds for dispute are limited to:
 - i. the building does not qualify; or
 - ii. the RTM company does not comply with the legislative requirements; or
 - iii. the members of the RTM company do not represent half the flats in the building.
 - iv.
 - c. The counter-notice must specify the reason for the alleged non-qualification by reference to the specific requirement of the Act and must state that:
 - i. the RTM company may apply to the Leasehold Valuation Tribunal for a determination of the issue;
 - ii. the RTM company will not acquire the right unless the LVT determines in favour of the company or the landlord subsequently agrees.
7. Landlord must serve S92 Contractor Notices and Contract Notices on the determination date, or 'as soon as is reasonably practical' after that.
8. RTM company serves S93 Duty to Provide Information Notice. Landlord must respond within 28 days of the notice, subject to the proviso that he is not obliged to do so until after the acquisition date. The acquisition date will be:
 - where the landlord served a counter-notice agreeing the claim, or did not serve a counter-notice, the date set in the Notice of Claim;
 - where a disputed claim is confirmed by the Leasehold Valuation Tribunal, three months after the final date of the LVT determination.
 - where a landlord disputes the claim but subsequently agrees, three months after the date of the landlord's agreement.
9. Landlord may take up membership of the RTM company.
10. RTM company to allocate votes to landlord according to his holding in the building. Landlord must transfer all uncommitted service charges on the acquisition date or 'as soon after that date as is reasonably practicable'.
11. RTM company must give landlord notice of an intention to grant an approval under the lease for:
 - assignment, sub-letting, placing a charge, parting with possession, structural alterations or change of use - 30 days;
 - all other approvals - 14 days.

