

## 'Right to Manage' Leaseholders – the New Force



Government figures show that 1.7 million of British households live in leasehold houses, flats and maisonettes. Leasehold is the term given to properties which confer only a right of occupation for a specified period of time. The right derives from a document called the Lease. Historically, upon expiry of the Lease, the asset would revert to the person who held the full title, called the Freeholder.

### **Historical Foreplay**

It is not surprising that this two-tiered ownership structure has often resulted in serious disagreements regarding property management and maintenance charges. Especially given that until recently leaseholders had no control over how their property was managed and the costs involved.

Rachel, 42 of Norbury says "I lived in a leasehold flat about ten years ago. As soon as I discovered how pitiful my rights were when faced with a dispute over service charges, I voted with my feet and moved out".

Legislative changes to leaseholder rights started to take place as early as 1954 although it was not until 2002 that the leaseholder's 'right to manage' was introduced.

### **Updated Rights - Right to Manage (RTM)**

Subject to certain conditions, Leaseholders can join forces to take over management of their property, irrespective of the wishes of the Freehold owner or current Managing Agents. Importantly, in many cases, this can be achieved without recourse to the Leasehold Valuation Tribunal (the court with jurisdiction over leasehold matters) and without accusations of fault or blame.

In order to qualify for this right, the general guidelines are as follows:-

- Two-thirds of the leaseholders in the building must have bought leases of 21 years or more.
- At least half of those who satisfy the above condition must be willing to exercise Right to Manage.
- No more than 25% of the total floor space in the building must be used for non-residential purposes (i.e. shop floor).
- The Freeholder must not be a local authority.
- The property must not be within the precincts of a church or chapel.
- If the Freeholder lives in the building containing four flats or less, and he or she lives there as his 'only or principal home,' Right to Manage cannot be exercised.

Maria (above) qualified for the right and persuaded the other leaseholders to join her in establishing a right to manage company and taking control.

"It seemed like a lot of work to start with", she said "but I got legal assistance which helped a great deal. It went through like a dream".

Some people are not quite as lucky as Maria. There are instances where the Freeholder refuses to accept Right to Manage and if he or she does not withdraw their opposition, an application to the Leasehold Valuation Tribunal may be the only alternative. Fortunately, however, the Tribunal can only prevent Right to Manage on the grounds of (1) ineligibility (2) outstanding service charges or (3) inaccurate procedure followed.

To conclude, Leaseholders should be encouraged to assume control as the grass is undoubtedly greener on the other side even though it might take a brisk walk to get there.

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