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How to Service an RTM Claim Notice and the Benefits of Doing So?

The Right to Manage (RTM) provides an invaluable means for leaseholders in England and Wales to take control of the management of their buildings. Introduced under the Commonhold and Leasehold Reform Act 2002, the RTM allows leaseholders to manage areas such as maintenance, repairs, insurance, and other communal aspects. To exercise this right, leaseholders must serve an RTM claim notice on the landlord.

Here's a guide on how to service this notice and why it's advantageous to do so:

How to Service an RTM Claim Notice:

Determine Eligibility: Before serving an RTM claim notice, ensure that:

- The right applies to leaseholders of a building or part of a building containing at least 2 flats.
- The building may not qualify if there are four or fewer flats and there is a resident landlord.
- At least two-thirds of the flats in the building must be owned by long leaseholders (Leases of more than 21 years when first granted).
- At least half of the flats in the building, held by long leaseholders, must take part.
- The building does not qualify for RTM if the non-residential areas, e.g. shops, make up more than 25% of the whole floor area of the building.
- The building isn't excluded due to commercial space exceeding 25% of the total floor area or for other specific exemptions.

Establish an RTM Company: Before serving the notice, leaseholders must form a Right to Manage company. This is usually a limited-by-guarantee company.

Secure Participation: At least half of the qualifying tenants in the building must become members of the RTM company before the notice is served.

Prepare the RTM Claim Notice: The notice should include:

- Details of the building in question.
- The names and addresses of qualifying tenants.
- Relevant particulars of the RTM company.
- A statement declaring the company's intention to acquire the right to manage.

Service the Notice: Deliver the completed RTM claim notice to:

- The landlord.
- Any intermediate landlords.
- Any other parties to the lease (such as management companies).

Landlord's Response: Once the notice is served, the landlord has a set period (typically a month) to respond, either admitting the right or disputing it.

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Acquiring the Right to Manage: If there's no dispute or the landlord misses the deadline, the RTM company will acquire the right to manage on the date specified in the claim notice, which should be at least four months from the date the notice is served.

Why You Should Service an RTM Claim Notice:

Empowerment: RTM offers leaseholders the chance to take charge of their building's management, freeing them from potential mismanagement or unfair practices by landlords or management companies.

Financial Control: Leaseholders can often manage the building more cost-effectively, ensuring that service charges reflect genuine costs and possibly even reducing them.

Improved Maintenance & Repairs: By taking management into their own hands, leaseholders can ensure that repairs and maintenance are carried out timely and to a satisfactory standard.

Flexibility: An RTM company can choose its contractors and service providers, offering flexibility and the ability to select those who provide the best value and service.

Enhanced Communication: With an RTM in place, leaseholders usually benefit from better communication regarding management issues, as they're handled within the community.

Property Value: Well-managed properties often maintain or even increase in value, as opposed to those that suffer from neglect or mismanagement.

Downfalls of Servicing an RTM Claim:

While the Right to Manage (RTM) provides significant advantages, it's essential to be aware of potential downfalls associated with servicing an RTM claim notice:

Legal Costs: Initiating an RTM claim may involve legal expenses. Leaseholders should be prepared for potential costs related to legal advice, dispute resolution, and any unforeseen complications that may arise during the process.

Disputes and Delays: Serving an RTM claim notice can lead to disputes with the landlord or other parties involved. Disputes may result in delays, legal proceedings, and additional costs. It's crucial to anticipate and manage potential conflicts throughout the process.

Administrative Responsibilities: Managing the property under an RTM company requires a certain level of administrative responsibility. Leaseholders must be prepared to handle tasks such as financial management, communication with contractors, and compliance with legal requirements.

Financial Obligations: While RTM can offer financial control, leaseholders must also be aware of the financial obligations that come with managing the property. This includes budgeting for maintenance, repairs, insurance, and other communal expenses.

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Community Consensus: Achieving a consensus among leaseholders to form an RTM company and actively participate in the management process can be challenging. Lack of unity may hinder the effectiveness of the RTM, impacting decision-making and overall success.

Limited Scope of RTM: RTM only grants control over certain aspects of property management, and there may still be limitations in addressing specific issues. Leaseholders should understand the scope of RTM and its limitations before proceeding.

Lack of expertise in Block Management: Successful RTM requires expertise in block management. If the directors of the RTM company lack qualifications or experience in this field, it is advisable to contract these responsibilities to a reputable block management agency. Professional guidance can enhance the efficiency and effectiveness of property management, ensuring compliance with legal requirements and industry best practices.

It's crucial for leaseholders considering an RTM claim to weigh the potential downfalls against the benefits. Seeking professional advice and fostering open communication among leaseholders can help mitigate challenges and ensure a smoother transition to self-management.

Conclusion:

The RTM claim notice isn't just a procedural step. It's a powerful tool that provides leaseholders with greater control over their living environment, potentially leading to better management, financial savings, and an overall improved quality of life. In summary, while the RTM claim notice presents a powerful tool for leaseholders, careful consideration, preparation, and collaboration are key to navigating potential challenges associated with the process. Before proceeding, it's always advisable to consult with legal professionals experienced in leasehold law to ensure the process is executed correctly.