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## LEGAL ARRANGEMENTS

### SUMMARY OF LEGAL RIGHTS FOR LESSEES.

#### **Protection of Money Paid for Services.**

The Landlord holds service charge monies “on trust”. This means that the Landlord can only spend the monies for the purpose for which it was collected.

#### **Consultation about Expenditure for Services**

A leaseholder must be consulted before a landlord carries out works above a certain value or enters into a long term contract for the provision of services. There is no right to be consulted about all service charge expenditure.

Where a landlord proposes to carry out works or repair or maintenance which would cost an individual leaseholder more than £250, or to enter into a long term contract (one of more than 12 months) which would cost more than £100 a year, he/she must consult with the leaseholders of a scheme.

The consultation process is prescribed in law. If the landlord fails to carry out the prescribed consultation process, then a leaseholder can lawfully refuse to pay any sum in excess of the consultation limits of £250 for works and £100 a year for long term contracts.

#### **Right to Challenge Service Charges.**

A leaseholder has the right to challenge a service charge or any part of it by asking a Leasehold Valuation Tribunal (LVT) to decide if the service charge is reasonable or payable. The LVT has wide ranging powers and can determine whether a service charge (or part of it) is payable, the amount payable, by whom and to whom. It can decide such matters whether the leaseholder has already paid the service charge or whether the costs are yet to be incurred.

#### **Right to Information about Service Charge Expenditure**

A leaseholder has the right to a summary of all service charge income and expenditure for a financial year. The ARHM code requires its members to give you such a statement of account within 6 months of the end of each financial year, so you should not need to exercise this legal right.

#### **Right to Information about Insurance.**

A leaseholder can ask for a summary of the insurance cover held by the landlord for a scheme. The landlord has 21 days to provide it. In addition a leaseholder has the right to inspect the actual policy document and proof of payment of the insurance

premium, or the right to be sent copies of these. Again the landlord has 21 days to comply and a charge may be made for copies.

### **Right to Challenge Administration Charges.**

Administration charges are charges payable by leaseholders under their leases which are neither service charges nor ground rent. Typical examples are charges for permission to alter or adapt a flat, to sublet, and interest or fees for late payments. Any demand for an administration charge must be accompanied by a summary of rights statement; if not the lessee can withhold payment.

A leaseholder has the right to challenge any administration charge at the LVT and ask the LVT to decide if the charge is payable and/or reasonable. A leaseholder can challenge whether he/she has already paid the charge or not. If the administration charge is calculated by a formula in the lease, a leaseholder can ask the LVT for an order to vary the lease.

### **Ground Rent**

Any demand for ground rent must be done using a prescribed form of notice. If not, a leaseholder has the right to withhold payment.

### **Protection against Forfeiture**

Forfeiture is a legal remedy where a landlord seeks to repossess a home because there are arrears of ground rent and / or service charge. In the unlikely event a landlord takes this action, leaseholders have a number of rights. Forfeiture cannot be used for small debts of under £350 or unless a debt has been outstanding for more than 3 years. Possession cannot be taken without an order from a court or LVT.

### **Right to Manage.**

Leaseholders of a scheme collectively have the right to take over the management of that scheme. There is no need to prove fault and no payment of compensation has to be made to the landlord. A detailed procedure has to be followed and advice should be sought.

### **Appointment of Manager**

If one or a group of leaseholders has serious concerns about the management of a scheme, an application can be made to the LVT to remove the present manager and appoint another elected by the LVT. This right does not apply if the landlord is a housing association.

### **There are 2 separate rights for buying the freehold of a block of flats**

#### **The Right of First Refusal.**

If the landlord is proposing to sell the freehold, and more than 50% of leases have been granted, then the landlord must offer to sell it to the leaseholders before making a sale to another party. It represents an opportunity to buy the freehold at its market value.

This right does not apply if the landlord:

- is a housing association
- if the sale of the freehold is made by way of the sale of a company.
- If the landlord has agreed the sale of the freehold before 50% of leases have been granted.

### **The Right of Collective Enfranchisement.**

This is the right for a group of leaseholders to compel the sale of the freehold of a scheme, irrespective of the landlord's intentions. As long as certain qualification criteria are met, the landlord cannot refuse. The leaseholders will have to pay a price valued according to a formula and should seek the advice of a qualified valuer.

### **The Right to Extend a Lease.**

Most leaseholders have the right to compel their landlord to grant a new lease of 90 years at a peppercorn rent, in addition to the present unexpired term. You must have owned your flat for 2 years and the value to be paid is fixed by reference to a formula set in legislation.

### **Appropriate Dispute Resolution.**

Most leaseholders in retirement housing are happy and satisfied with their homes. Sometimes problems can arise and that is why we wish to tell you about your legal rights. However before rushing to use the law, there are other quicker cheaper ways you can resolve things.

- There are two good free independent advice services you can speak to:  
LEASE – 0845 345 1993. S.C.R.C. – [www.scrs-mediation.co.uk](http://www.scrs-mediation.co.uk).
- All ARHM members will have a complaints procedure you can use.
- All ARHM members will offer access to independent dispute resolution if you have made a formal complaint and are not happy with the outcome.
- If there is a breach of the ARHM's Code of Practice, make a complaint to the manager and if not satisfied you can complain to the ARHM.

### **More Information**

The ARHM has assisted in the publication of fuller information about legal rights and you can get these publications for free.

- Leasehold Retirement Housing: Your Rights and Remedies
- The Right to Manage
- Collective Enfranchisement
- Service charges, ground rent and forfeiture
- Lease Extension: Getting Started

All available free of charge from LEASE 0845 345 1993 or by download at [www.lease-advice.org.uk](http://www.lease-advice.org.uk).

The ARHM Code of Practice is also available at £5 plus p&p and contains legal rights and best practice.