

Remus help Slough Residents to kick out OM / Peverel

A residents view of RTM

1st October 2011



As a very dissatisfied group of Resident at a smart development in Slough we got in touch with Remus to see if they could help. The development was being run by OM / Peverel management (they changed their name at some point) for the sole benefit of an unseen freeholder and/or OM themselves. We wanted to change this and ensure it was managed (not run) for the benefit of the Residents.

Remus, who manage a number of other developments in the area, were asked to put forward a proposal to the our group. Remus suggested that the Residents should take over the management of their development by the use of a Right to Manage Claim (RTM).

This is a no fault procedure that allows a properly constituted group of Residents to take over responsibility for the management of the building. It is achieved via the creation of a Right to Manage company. This special type of company then stands in place of the freeholder in respect of all of the developments management obligations (as described in the lease). The Residents, who are all entitled to be members of the company, can then appoint their own managing agent to undertake the day to day management activities in line with their wishes.

Remus introduced the us to a specialist firm of Solicitors, in simple cases solicitors are often not required, but where there are technical legal issues or a large number of flats it will usually make sense. In this case there were both a lot of apartments and a legal issues as to how many RTM claims and RTM companies where required. The development has 5 separate vertically divisible blocks as such it was feared that we might have to create 5 different RTM companies, which would have been both costly and administratively cumbersome. The advice received was distilled down by Remus to “use one RTM

company but serve 5 separate claim notices”. Subsequent to our claim this approach has been confirmed as the right solution by the courts.

Once the RTM company was formed and some brave Residents appointed as directors we could get on with making the claim. The claim requires a certain amount of specific legal information, which in a larger block is best collated directly from the land registry (about leases details and residents names) and the date that you wish to take over the management from. In addition we had to rally more than 50% support in each of the 5 blocks. This involves a fair amount of knocking on doors in the early evening. With probably 20% of apartment owners being non-resident you actually need to get about 65% of all the residents living in the development to support you. We actually managed this without too much trouble, it was not only us that was frustrated with the way the OM managed the property and the costs involved.

With our support we chose our date, in effect this needed to be 4 or more months from the date the notice was served. We chose a convenient date and served the 5 notices stating we would take over the management in 4 months and a few days time.

As part of this process we also demanded details of all contracts currently in place and details of all contractors, this included contracts for building insurance, lift maintenance, entry phone systems, cleaners, gardeners and all the other bits and pieces that apartment living is dependant on.

RTM companies do not need to take on any of these contracts, and in the case of over-priced insurance you may wish to put in place your own insurance from the day one but some other contracts you may wish to continue with, good cleaners and gardeners are hard to find and you don't want to be without a lift maintenance contract or an entry phone contract ever (it is always better if they know your system as well).

Once we had details of all the contractors and the current costs the Directors put together a budget from the handover date for the coming year. Remus went out and tested the existing prices we were paying by competitive tender, they managed to reduce the insurance cost by almost 40% straight off. This saving alone justified the cost of the RTM process. The Directors then decide where they wanted to save money and where they wanted to enhance the service for the Residents, even if it cost a little more. A Budget and Action plan was then agreed.

OM Management and the freeholder accepted the RTM notice without complaint and agreed the date for the handover.

Remus put in place the Action plan, to appoint the necessary contractors and ensure the building was insured from the handover date. They then circulated the Budget and sent out an “on account” billing to the Residents. This bit was very important, without a billing in advance of commencing the management there would have been no cash in the kitty to pay for anything (gardeners, insurance etc.).

The handover came and went very smoothly. Now we just need to get the accounts from OM to the date of handover. Residents debts to OM do not transfer to the RTM company automatically. As such it is OM's job to collect the monies due to them and hand over the cash to us. This should represent the monies still held in Reserve Fund at the date of the handover. They are also allowed to charge certain of their costs in relation to the handover, but they have to be reasonable. This does seem to be a bit of a floor in the process and OM would appear to have no interest in pursuing these debtors, this has to be one for the legislators to think about in the future.

We have now received some cash (on account) from OM but are still awaiting the final reconciliation and appropriate accounts. Though it might take a few more months and a few more arguments we are nearly there and our enforced marriage to OM Peverel, having now got our decree nisi we will soon receive our decree absolute.