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The Irish Property and Facility
Management Association (IPFMA)

Position paper on residential multi-unit development and management

17 June 2008

Prepared by Siobhan O'Dwyer MIPFMA, MIAVI in conjunction
with the IPFMA Residential Sub-Committee

The Irish Property and Facility Management Association (IPFMA)

The Irish Property and Facility Management Association (IPFMA) was formed under the auspices of the Society of Chartered Surveyors (SCS) in October 1989 and has a current membership of over 500.

A new corporate membership category was added to the membership in February 2008; this enables corporate bodies whose core business is property and facilities management to join the Association.

Within this fast-growing profession, property and facility managers have extensive, multi-disciplinary responsibilities for providing, maintaining and developing services – ranging from property strategy, space management and communications infrastructure, to building maintenance, security administration and contracts management.

The IPFMA represents those involved in this young, fast-expanding profession. Its objective is to develop and maintain excellence in terms of skill and professional conduct in all aspects of property and facilities management, through the provision of education, training and professional development of its members.

The majority of IPFMA members work in the corporate sector, managing facilities for commercial companies and corporations, financial institutions, semi-state and state bodies, as well as in dedicated facility management practices. A smaller number of members are employed in residential multi-unit property management.

All members of the IPFMA agree to be bound by the Association's Code of Professional Conduct and Ethical Standards.

In parallel with its mission for promoting excellence in the profession, the Association acts as a portal for the exchange of information (both amongst members and consumers), hosts activities and publishes material relevant to the profession.

In addition, the IPFMA creates and fosters public awareness of the property and facility management profession, in tandem with developing its own industry profile.

It is also there for the protection of consumer interests, and most importantly, for occupiers of managed residential property.

IRISH PROPERTY AND FACILITY MANAGEMENT ASSOCIATION (IPFMA)

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Foreword

Successful residential multi-unit estate management depends in varying degrees on the calibre of the developers; their professional team; the quality of design and construction of the buildings; the management's commitment and professional ability; and the owners' understanding of the different responsibilities of the various parties.

It can be a complicated recipe. All the constituent parts must work well to allow a successful end result. Most complaints tend to arise in the early stages of a development: this is often because of a poorly designed, defective or unfinished development. In these instances, it is difficult for good estate management to be delivered easily. Service charge income is not intended to be spent on defective buildings or on dealing with the building snag list. The high numbers of problems that exist in the marketplace are reflected in the continuous negative media coverage, much of it referring loosely to 'management problems'.

Apartment living now forms a substantial part of new housing. However, there are very serious underlying problems – such as significant failings and flaws in the legal framework and estate-conveyancing documentation; limitations and deficiencies with the current planning legislation and the current system of building control; and planning enforcement and limited recourse or remedy for building defects or failed completions in multi-unit developments.

Since the Auctioneering/Estate Agents Review Group first outlined the problems and need for regulation in its report in July 2005, a whole range of reports have been produced on residential multi-unit development and management, including:

- June 2006 – Dublin City Council's *Successful Apartment Living – A Role for Local Authorities in Private Residential Management Companies*.
- October 2006 – The National Consumer Agency's consumer guidance document, *Property Management Companies and You* and the related report, *Management Fees and Service Charges Levied on Owners of Property in Multi-Unit Dwellings* by DKM Consultants Ltd. in association with Kevin O'Higgins Solicitors.
- November 2006 – The Office of the Director of Corporate Enforcement's (ODCE) draft guidance and consultation report, *Draft ODCE Guidance on the Governance of Apartment Owners' Management Companies*.
- December 2006 – The Law Reform Commission's *Consultation Paper by the Law Reform Commission into Multi-unit Developments*.
- January 2007 – The Law Reform Commission and the Department of Justice, Equality and Law Reform conference, *Conference on Law Reform Options for Multi-Unit Developments*.
- February 2007 – The National Consumer Agency's (NCA) public consultation on the difficulties facing consumers in multi-unit developments via their Consumer Connect website (<http://www.consumerconnect.ie/eng>).
- March 2007 – The Director of the National Consumer Agency's (NCA) stakeholder forum to investigate, agree and implement, on a multi-lateral basis, a programme of voluntary, non-legislative actions addressing

some of the most common and recurrent issues facing stakeholders in the area of multi-unit development administration and management.

- June 2007 – Dublin City Council’s report, *Successful Apartment Living (Part 2) – Survey of Service Charges, Design, Management and Owners’ Attitudes in 193 Private Apartment Schemes in Dublin City*.
- December 2007 – the establishment of a National Property Services Regulatory Authority (NPSRA) to license and regulate residential managing agents and property service providers (although legislative authority is pending).
- May 2008 – The Irish Home Builders Association (IHBA) adoption for its members of a voluntary code of practice for developers of multi-unit developments.

These initiatives indicate a real interest in ensuring that private apartment developments are operated in an appropriate and effective manner.

However, whilst the IPFMA welcomes regulation and licensing of our industry as a means of addressing poor standards and services within our own sector wholeheartedly, this step alone will not ensure quality residential estate management. As this position paper outlines, most of the problems lie elsewhere.

Important issues, which up to now have not been identified clearly for reform, demand greater awareness and attention. Indeed, the lack of reference to – or analysis of – how these serious deficiencies can inhibit quality estate management and prevent consumer satisfaction is the primary driving force in the preparation of this position paper.

Public complaints and adverse media coverage tend to focus exclusively on service charges and the lack of regulation for management agents and management companies. While few people even understand the difference between managing agents and management companies, even fewer are aware of or comprehend the problems highlighted in this paper that have a much greater impact on the long-term sustainability of apartment living. For instance, problems such as defects and failed completions are almost impossible to resolve under the existing legal framework without the voluntary cooperation of developers.

The IPFMA Residential Practice Committee has made presentations and submissions, including recommendations for reform, to several of the organisations and bodies mentioned above on the fundamental issues arising in multi-unit developments and consequently in estate-management processes. However, to date no significant changes have been implemented. Furthermore, no formal legal authority has yet been given to the National Property Services Regulatory Authority.

This position paper is a further initiative to highlight and encourage much needed reform in areas not yet clearly identified and which in our considered opinion need addressing.

We call upon Government, the Law Reform Commission and other interested parties to address the wider issues as detailed in this submission and ask that our recommendations be included in regulations and reforms to ensure a more effective management regime and a higher level of consumer protection to purchasers of multi-unit dwellings in Ireland.

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Executive Summary

'Consumers in Ireland have more protection when buying a €30 kettle, than a €300,000 house or apartment in a multi-unit development.' *Ann Fitzgerald, Executive Chair, National Consumer Association*

In the absence of an appropriate legal framework for multi-unit development, some developers work closely with managing agent firms in promoting good residential estate-management practices. This is best practice. Consultation with the managing agents in the design and construction stages and in the drafting of the overall estate documentation facilitates best practice and contributes significantly to preventing problems later on. Best practice also ensures owners' involvement through a residents committee from the earliest point of occupation; regular and transparent financial reporting; and the appointment of an independent building surveyor to represent the management company in the snagging and completion of the development before the transfer of the common areas.

This approach is dependent on the cooperation of the developer, which is often readily volunteered after he or she has undertaken a number of developments, unintentionally fallen into conflict with purchasers and ended up in a quagmire of dispute. Experience demonstrates the importance and value of an inclusive approach between the developer and purchaser, which ultimately facilitates successful management and handover.

In order to make the right changes to practices and the regulatory environment, it is critical to understand the practical issues and problems that individual owners and their management companies experience as a result of inadequacies in the multi-unit development process.

In this paper we highlight the issues and flaws and make recommendations for remedy and reform under the following headings:

PART 1: Legal documentation and framework issues and recommendations

Part 1 of this position paper outlines the underlying issues of developers', owners' and the management company's rights and obligations within the development process. Each point tracks the flaws in the transfer of these rights and obligations through the critical legal events that occur in the development and sale of multi-owned residential buildings. It identifies significant failings in the legal framework and estate conveyancing documentation, such as the management company's legal status pre-transfer of the common areas, the limitations of the architect's Certificate of Compliance and the absence of any real contractual recourse by the purchaser or the management company to the developer for a satisfactory and completed development.

In particular, Part 1 highlights that the management company currently has no contractual rights that can be enforced against the developer with regard to the construction of the common areas (in particular, the structural parts) prior to the transfer. It underlines how, on the other hand, the management company has an unconditional and onerous obligation and liability to maintain and repair – irrespective of the condition at the point when control passes. It also pinpoints the absence of contractual rights for collective remedy and redress when problems arise.

Furthermore, in relation to the critical event of the 'transfer of the common areas from the developer to the management company' it identifies the lack of enforceability; entitlement for notice; collective representation of the owners; a defined process; and/or an arrangement for the delivery of important estate documentation on handover.

In relation to the financing of the service charges, Part 1 highlights issues concerning the absence of a requirement for the initial service charge to be a professional estimate of all administrative and maintenance costs, the need for a defined method of apportionment that is equitable and in line with good estate management and the need for the annual sinking fund provision to be determined by an independent expert.

Overall, Part 1 refers to the poor quality and scope of information provided to purchasers of multi-unit developments, and the absence of any real appropriate consumer protection within the current overall legal framework.

The recommendations seek urgent reform of the legislative framework and standard conveyancing documentation.

PART 2: Planning, building and construction issues and recommendations

Part 2 of this paper identifies issues within the planning system and the absence of a proper system of building control. It draws attention to the limitations of 'self-certification' without a local authority building control inspection programme, which results in both a lack of quality control in construction and compliance with building regulation standards in the multi-unit building sector.

We highlight the limitations and deficiencies with HomeBond as a Defect Guarantee Scheme. In parallel, we identify the limited provisions of planning enforcement by local authorities and the related difficulties with development completions, defect remedies and redress procedures.

Part 2's recommendations include a process that entails the use of planning conditions as a contractual obligation for multi-unit developments similar to that commonly used to provide protection for satisfactory completion of developments that are taken in charge by local authorities. It also recommends a review of the local authorities' role in monitoring building control and compliance with building regulations in private residential developments to ensure the delivery of protections that are apparently intended but not provided.

In particular, this part of the position paper underlines how fire-safety systems in multi-unit developments can be seriously flawed, the consequences that can result and the attendant lack of safety and welfare for occupiers.

In relation to fire systems an urgent review and mandatory reform are recommended to ensure that works set out in the Developers Approved Certification for Fire Safety Design and Installations are, following completion and prior to any building occupation or handover to the management company, inspected independently and certified as built in compliance. Furthermore, the compellable delivery from the developer to the management company of all fire-safety documentation to ensure effective fire-safety operation and management is sought.

Part 2 expresses grave concerns that many existing fire safety systems may be inadequate and it recommends a review and risk assessment of all apartment buildings, together with a programme of education and awareness to ensure that owners and directors of management companies and all occupiers of multi-unit dwellings are fully aware of their responsibilities and obligations.

PART 3: Multi-unit developments and management company issues and recommendations

The third part of this paper highlights issues relating to the effective operation of the management company by the owners, following the transfer of the common areas.

The issues highlighted relate to governance and community welfare such as the multi-unit purchasers' lack of information and awareness. A national programme of education and awareness is recommended in order to address this.

Part 3 highlights the present onerous legal responsibility and attendant personal risk an individual assumes when assuming a directorship role in a management company and underlines the necessity for reform and consumer protection in this area.

Part 3's recommendations seek the regulation of management companies (as well as managing agents) to ensure such matters are addressed appropriately.

PART 4: Managing agent – issues and recommendations

The fourth section of this paper looks at the managing agent's role. It clarifies the agent's role and responsibilities and outlines the multiple skills required of a professional agent. It focuses on the many practical issues and challenges that the managing agent industry currently faces and highlights some of the problems that obstruct the delivery of successful estate management in Ireland. It reaffirms the view that regulation and licensing is essential in order to achieve better standards within the industry, but emphasises that this step alone will not address the very serious underlying problems in other areas of the development process.

PART 5: Conclusion

We conclude our position paper by acknowledging that some successful residential developments do exist in Ireland – largely thanks to the professional approach of some developers and managing agent members of our association. These developers deliver a first-class product in a manner that facilitates efficient residential estate management by professional agents.

However, as this is not always the case, we believe that an improved legal framework and regulatory system are central to ensuring the sustainability of successful apartment living in Ireland. Accordingly, we recommend a comprehensive review of all fundamental elements of the multi-unit development process, including each critical legal event of the development process. This will ensure quality multi-unit development, which in turn will allow the provision of professional management services and ensure the future of apartment living as a sustainable housing option in Ireland.

It is intended therefore that this position paper should be viewed as a constructive and positive contribution to the Government's efforts at identifying and shaping the reforms needed in this area.

PART 1: Legal documentation and framework issues and recommendations

1.1 Failings in existing multi-unit estate legal documentation and framework

A number of critical legal events occur in the process of a development, during which there is a distribution of legal rights and entitlements: firstly, the initial drafting of the estate documentation and the simultaneous creation of the management company; secondly, the acquisition of property rights by the first and subsequent purchasers; and thirdly, the transfer by the developer of the common areas (i.e. those parts of the development not owned by individual owners) to the management company.

The drafting of the legal documentation is critical to the operational success of any development and its ongoing management. The current documentation used and adapted by solicitors for developers often falls short in addressing the complexities of phased schemes, high density and mixed usage. Some documents fail to define sufficiently a coherent and comprehensive system of management suited to the tenure, diversity and design of the particular development.

The developer has virtually exclusive control over drawing up those documents that can shape the critical legal events in the process of development. This position paper highlights that once the consumer completes the purchase their degree of protection and legal recourse in relation to the completion and/or quality of the completion of the estate and the control of the estate operation is limited.

The developer's solicitor's primary brief is the sale of the units. Accordingly, sufficient regard may not be given to ensure the documentation is appropriate and adequate for all end users. The drafting of the management provisions in the leases for the long-term and collective management of the development by the management company can be influenced by parties who may have a conflict of interest. For example, in phased or diverse developments that consist of commercial, retail and residential apartments, different interests can be weighted inappropriately.

Purchasers often complain of the lack of explanation from their solicitor at the purchasing stage. Some simply do not realise the full legal implications inherent in their purchase of a unit in a multi-unit development and are often unaware of the obligations under covenant that they have signed up to when acquiring their unit. For instance, many purchasers express surprise that their involvement in a management company may be limited to their participation at an AGM, unless they agree to become a director.

Multi-unit developments are generally structured so that the developer acquires the site, builds the development, sells the units (invariably by way of a long lease) and then transfers the common areas to the management company. Certain rights and obligations arise within that structure. These are to a large extent mutual obligations in that the owner of the common areas (initially the developer and ultimately the management company) covenants to provide the necessary services to ensure proper maintenance of the common areas; in return, the individual owners, who are also members of the management company, covenant to comply with the management company's rules and regulations, including paying a contribution by way of a service charge for such maintenance. That is the bargain.

The leases are legal contracts and the quality of drafting will be crucial to the success or failure of the management of the estate. Where leases are found to be defective, there is only limited scope to alter this 'bargain' and correct or create new rights or obligations.

While the management company begins 'life' as the creature of the developer, the intent is that it will ultimately pass to the control of the individual owners in the development and be the 'vehicle' by which those owners hold the common areas and manage their estate collectively.

This model is a combination of property law and company law and allows for considerable freedom in drafting documents – particularly those that regulate the management company. The operation of the management company, as with all corporate entities, is regulated by law through the Companies Acts. However, there are no laws governing important elements, such as the equitable apportionment or adequacy of service charges; the appointment of a professional managing agent; or other matters such as responsibility for maintenance and service standards. These matters are addressed in the scheme estate documentation compiled at the discretion and direction of the developer and his or her legal team. Regrettably, documents are not always drafted appropriately or sufficiently in line with good estate management.

RECOMMENDATION 1.1

We recommend a review of the legal documentation for multi-unit developments to ensure such documents are:

- i. Standardised and make comprehensive and effective provision for the complexities of phased high-density, mixed-use residential schemes.**
- ii. Adequate to prescribe a proper system of management, including equitable apportionment and adequacy of service charges.**
- iii. Adequate to prescribe the requirement and terms of appointment of a professional management agent, and their responsibilities for the provision, maintenance and service standards.**

1.2 The purchasers' lease and the relevance and limitations of the architect's Certificate of Compliance with planning permission and building regulations

The second critical legal event in the development process occurs following the exchange of contracts and on completion of the sale of the first unit. The standard Incorporated Law Society contract requires that the developer provide a standard form of Certificate of Compliance with planning permission and building regulations from any architect who is a member of the Royal Institute of Architects of Ireland (RIAI) or from a qualified engineer in a similar format.

However, because completion of the sale of apartments occurs frequently in phases within an ongoing development, before site works and other works to the common areas are finished, the standard RIAI Certificate of Compliance that the individual apartment complies with planning permission and building regulations contains a 'qualification' such as 'Insofar as it is applicable the estate has been finished at that point in time in accordance with planning' ... and therein lies a problem.

The purchaser seldom appreciates that when any item is referred to as 'qualifications' that it is excluded from the Certificate of Compliance and highlighted as being 'not compliant'. In reality, the qualification could refer to all of the common areas and not only those immediately outside the owner's apartment door.

Indeed, most lease and contract documentation for individual units specifically reserves the right of the developer to alter the estate (even going as far as to eliminate certain amenities) and imposes no obligation to finish out as per marketing/sales brochures or models of the estate. Few purchasers appreciate the possible consequences of this caveat.

Unfortunately, once purchasers exchange unconditional contracts, the degree of protection and legal recourse in relation to the quality and completion of the common areas is limited.

RECOMMENDATION 1.2

We recommend that multi-unit conveyancing documentation, including the Certificate of Compliance, be materially amended so as to address the limitation of the purchasers' rights and remedies available consequent to the usual qualifications in the Certificate of Compliance, which effectively exclude defects or completion issues that might arise outside the four walls of the apartment but within the development. This is important, as presently once the purchaser completes, the degree of protection and his or her legal recourse in relation to the quality and completion of the common areas are limited.

1.3 The management company and the absence of contractual rights to a satisfactory and completed development prior to the conveyance of the common areas

The third critical legal event is the transfer of the common areas from the developer to the management company.

The *Consultation Paper by the Law Reform Commission into Multi-Unit Developments* examined the whole system, related legal issues and the circumstances where final handover of the common areas can be confused with the sale of the last unit. Generally, in the estate documentation, the developer agrees to transfer the common areas following the sale of the last unit. However, if there is no sale of a last unit (perhaps because the developer chooses to retain it), then there may be no 'event' to trigger the transfer of the common areas. The Law Reform Commission provisionally recommends a statutory definition of the term 'completion' so that owners are clear as to when transfer should take place. However, further provisions should be made to protect purchasers of apartments by providing the management company with contractual rights to oblige the developer to deliver a satisfactory and completed development and a transfer of the common areas.

It is not generally understood that the management company, which is supposed to be the vehicle with control and power to own and manage the common areas and generally manage the development following completion, is actually, in practice, devoid of any real contractual rights in dealing with the developer to ensure the satisfactory completion of the development and handover of the common areas. Pending completion of the development, the management company is owned, managed and controlled by the developer. On completion of the sale of each unit, the purchaser becomes a member (and as such has a vote) of the management company. However, the management company is frequently structured (by the developer) so that weighted voting ensures that no matter how many individual votes owners acquire they can never outvote the developer until completion of the sale of the last unit and transfer of the common areas.

In effect, the management company has no enforceable contractual right to oblige the developer to finish the common areas (in particular the structural parts). However, once the common areas are vested in the management company, it has complete responsibility and onerous obligations to maintain and repair those areas and structural parts – including all services – irrespective of their condition at the time of transfer.

In reality, the management company is an ‘empty vessel’ in which the developer places the common areas on completion of the sale of the last unit. The related agreement to transfer (which forms part of the conveyancing documentation) does not necessarily place any contractual obligations on the developer in favour of the management company that require the developer to either complete the development or the common areas to any particular standard before the handover.

The qualifications contained in the Certificate of Compliance (see above, Part 1.2) as provided to the purchaser, coupled with the management company’s lack of contractual rights to compel satisfactory construction and completion of common areas, leave ample room for abuse by some developers.

Furthermore, opportunity for abuse is compounded when coupled with the absence of a requirement to provide an overall Certificate of Completion and Compliance for the estate as a whole or any defined process for the handover of the common areas, matters that are addressed later in this paper.

Consumers rarely understand or know about this issue. It becomes apparent only when problems or completion issues have arisen either in the form of defects or poor finishes.

These are material flaws within the usual conveyancing documentation that inhibit a reasonable standard of consumer protection.

RECOMMENDATION 1.3

We recommend that the legal framework for the management company be amended to provide an enforceable contractual right obliging the developer to satisfactorily complete the development of the overall estate and the common areas, as an integral part of the transfer of the common areas which the management company should have power to compel. This reform is required to address the objection that presently the management company has no enforceable contractual right against the developer for the construction and completion of the common areas (in particular, the structural parts) prior to their transfer. However, once common areas are vested in the management company it has onerous and immediate contractual obligations to maintain and repair those areas and structural parts, including all services, irrespective of their condition at the time of transfer.

1.4 The absence of any contractual requirement for the completion and delivery of a Certificate of Completion and Compliance for the entire estate prior to the conveyance of the common areas to the management company

In private multi-unit estates managed by management companies there is usually no ‘performance bond’ arrangement – for example, with regards to design, approval and milestone inspections of roads and drainage, construction, amenity areas etc. such as exist to protect estates or lands to be taken in charge by the local authority.

Usually, such bonds remain in existence for the benefit of the local authority until completion of the particular development is deemed satisfactory and the estate taken in charge.

In private multi-unit developments there is neither a statutory process for the compellable transfer of the common areas nor any requirement for an overall Certificate of Completion in compliance with the relevant planning permission and building regulations.

Generally, individual purchasers are under the misconception that the management company is legally empowered on their behalf to compel such completion and transfer and as such holds their vested legal rights and interests, but the reality is very different.

The management company has limited such rights (if any) in relation to the construction and/or condition of the common areas transferred to it, but it must assume immediate and onerous obligations to maintain and repair the common areas. This is a fundamental flaw requiring legislative reform.

In addition, as a corporate body, in its service and maintenance delivery the management company is subject to all the statutory obligations and standards as set out in the ODCE guidance document (under Chapter 20) in relation to health and safety, fire safety, public and employer liability and much more.

The poor completion of common areas that require finishing and/or rectification at the owners' expense, sometimes resulting in litigation, is a poor and unacceptable platform from which their management company or its professional agent must manage the estate: this is often the basis of much angst amongst owners.

RECOMMENDATION 1.4

We recommend reform of the legislative framework and amendment of standard conveyancing documentation to ensure that the management company can compel completion of the development overall, and delivery of an architect's certificate of such completion and compliance with all relevant standards and practices prior to the transfer of the common areas to the management company.

1.5 The lack of defined process, including notice, compellability and protection for the completion and conveyance of the common areas to the management company

There is no legal framework for the transfer of the common areas by the developer to the management company and accordingly there are no mandatory conditions for such transfer. The process is dealt with by way of a 'Management Company Agreement' deed. The provisions therein are often inadequate in many respects:

- i. There is no obligation on the developer to give notice of such transfer and therefore no opportunity for the individual owners to gather and agree collective action and/or engage legal or other professional representation to protect their interests. Indeed, without a professional managing agent they may have limited means to even contact one another.
- ii. In the event that there is abject failure or refusal to transfer the common areas, there is no means to compel, save occasionally through technical and costly High Court litigation.
- iii. Where there is an undue delay in the transfer of the common areas and defects are known to exist, such delay may deprive the owners of an efficient legal remedy. If more than six years have elapsed since construction, under the Statute of Limitations any such claim could be 'statute barred'. The owners have, in effect, no legal interest in the common areas until transferred to the management company, so if defects exist the owners are left in 'limbo', a legal quagmire.

- iv. Often owners will collectively engage an independent building surveyor to prepare a professional snag report on the common areas, structural parts and services. However, the attendance to and completion of the snags is completely dependent upon the willingness and integrity of the developer involved.

Generally, these anomalies do not become known to purchasers/members of management companies until problems arise. Reform is required to ensure that at the time of transfer an appropriate level of consumer protection is provided.

RECOMMENDATION 1.5

We recommend reform of the legal framework of multi-unit developments in relation to the transfer of the common areas so as to include:

- i. **A compellable handover date from the developer to the management company.**
- ii. **A requirement for prior notice to the owners of such transfer.**
- iii. **Entitlement for the owners to have legal representation as a collective group.**
- iv. **A requirement on the part of the developer to address any snagging and completion issues and to furnish the owners and the management company with a final Certificate of Completion and Compliance for the entire estate.**
- v. **Suspension of the Statute of Limitations (six-year rule) to facilitate legal action against the developer for non-completion of remedial works to the common areas as presently there is no timeframe or such condition to the transfer.**

1.6 The management company and the absence of contractual rights for collective representation and remedy when problems with common areas occur

Where problems with completion of the common areas occur, the purchaser turns to the management company and the managing agent for collective remedy. However, in terms of recourse the management company, in the absence of any contractual agreement with the developer, is actually a weaker entity than any one single apartment owner, and this is a problem.

The management company has no legal interest prior to the transfer of the common areas and therefore no right to take legal action – still less the ability to do so. Prior to transfer, it remains within the control of the developer who is unlikely (to put it mildly) to consent to it being used as a vehicle to sue it, the developer.

In the event of common-area defects, the management company seldom has any contractual rights on which to rely on behalf of all the owners as a collective body. Therefore, on many occasions the owners may be able to pursue only a case in negligence (as opposed to negligence *and* in contract) and such proceedings can be lengthy, uncertain and costly.

Therefore, if the common areas have not been transferred to the management company and there are known defects, the owners must then agree that one or more of the individual owners take legal action in their individual

names (with the attendant personal risk in relation to costs) on behalf of the owners collectively. This is clearly unacceptable.

RECOMMENDATION 1.6

We recommend reform to the legal framework so that in the event of defects and/or common area completion issues, there is both a right to collective representation and a means of redress through the management company.

1.7 The absence of an agreed remedy for dispute resolution – completion issues and snagging

As finishes and snagging are often the basis of dispute between the owners and the developers, an agreed remedy for dispute resolution is required. Such disputes are often based on qualitative issues and as a result can be difficult to resolve without the appointment of an independent third-party arbitrator/expert. No such process currently exists.

RECOMMENDATION 1.7

We recommend that a process for dispute resolution, including the appointment of an independent third-party arbitrator/expert, be defined and implemented through reform of the legal framework.

1.8 The lack of requirement for the delivery of estate documentation as part of a defined process at the handover

Overall, the provision of estate documentation is a prerequisite to ensuring good estate management: its provision and delivery should standard practice and form part of a formal process to transfer.

Invariably, such documents are not delivered as expected. Furthermore, if delivered there is no means set down to ensure/certify the verification or adequacy of the documents by a third-party professional acting on behalf of the owners collectively.

The estate documentation that should be delivered at the time of the transfer of the common areas to the management company is as follows:

- i. An agreed snag list and practical completion certification.
- ii. Certificate of Completion and Compliance with planning and building regulations for the overall development and estate.
- iii. A set of 'as-built' drawings, operational and maintenance manuals and health and safety manuals (three copies).
- iv. Warranties and other guarantees, including test records for drainage, water and heating pipe work.

- v. Certifications for fire safety, health and safety, including the project safety file.
- vi. A schedule of plant, equipment and infrastructure defining expected useful life, recommended maintenance and details of the relevant suppliers and installation sub-contractors.
- vii. The title documents to the estate.
- viii. The stamped and registered counterpart leases.
- ix. Documentation relating to the management company, including statutory documents such as the Register of Members, the Minute Book and the company seal.
- x. A certified stamped and registered copy of the Deed of Conveyance of the common areas to the management company.

The schedule of plant and equipment (Item 1.8(vi)) constitutes invaluable information in determining maintenance requirements and what might be prudent to provide for in the sinking fund. The counterpart leases are essential in the event of legal action being necessary to recover unpaid service charges.

Possible reasons why this process is hindered are that solicitors for the developer are not always retained to provide a 'wrap-up' service immediately following the completion of the sale of the last remaining unit. In addition, architects are often not retained for the entire development process and/or for the purpose of providing an overall certification of compliance with planning and building regulations of the common areas.

Surveyor reports and planning permissions will apply to all developments relating to listed structures, natural drainage/subsidence issues, community-access routes and any other related regulations that can be obtained by any prospective buyer through the planning office. (It would be advantageous for this documentation to be made available to owners as members of the management company on request to the developer.) However, other issues (some possibly related to those identified by initial surveyor reports) that would have an impact on the long-term life/sustainability of the development come to light only during the building of the development – for example, natural drainage issues. It should be incumbent on the developer to provide a specific report to the apartment owners/buyers on the actions/resolutions to these specific issues as they are identified.

In commercial developments it is common practice to obtain two copies – one for engineering/maintenance use (typically on site in maintenance offices) and the second for retention by the building owner/file. In residential developments, it would be prudent for the janitor to have one on site for reference; another for the retention by the management company (probably in archive) and a third to become part of a building handover file for the managing agent to use. Three copies would be a good standard.

It is not unreasonable to expect that such documentation would be procured by the managing agent on the owners' behalf. However, without any contractual rights to the documentation the managing agent is invariably hindered in securing their delivery.

RECOMMENDATION 1.8

We recommend reform of the legal framework and documentation so that a defined process for the transfer of the common areas to the management company includes a condition for the delivery of a prescribed schedule of estate documentation. Such documentation at a minimum might include the following:

- i. **An agreed snag list and Practical Completion Certification.**
- ii. **Certificate of Completion and Compliance with planning and building regulations for the overall development and estate.**
- iii. **A set of 'as-built' drawings, operational and maintenance manuals and health and safety manuals (three copies).**
- iv. **Warranties and other guarantees, including test records for drainage, water and heating pipe work.**
- v. **Certifications for fire safety, health and safety, including the project safety file.**
- vi. **A schedule of plant, equipment and infrastructure defining expected useful life, recommended maintenance and details of the relevant suppliers and installation sub-contractors.**
- vii. **The title documents to the estate.**
- viii. **The stamped and registered counterpart leases.**
- ix. **Documentation relating to the management company, including the statutory documents such as the Register of Members, the Minute Book and the company seal.**
- x. **A certified stamped and registered copy of the Deed of Conveyance of the common areas to the management company.**

1.9 The management company and its *ultra vires* operational status pre-transfer of the common areas

In light of information and observations made in the *Draft ODCE Guidance on the Governance of Apartment Owners' Management Companies*, the status of the management company prior to transfer of common areas by the developer needs to be examined, clarified and redefined.

The common practice to date in Ireland has been for the management company to commence operation and provide services from the date of the completion of the sale of the first unit in the development. This would seem 'normal' practice since the purchasers pay their first service charge to the management company and not to the developer. A bank account is opened in the management company's name and service charges are credited to it. The management company starts to trade, engages suppliers and arranges for the provision of services. In many cases the developer will pay service charges on unsold units until such time as they are sold. During this period the management company is controlled by the developer and the first 'nominee directors' (often the subscribers to the Memorandum and Articles of Association). A managing agent is usually appointed to undertake the management until the last apartment is sold and the estate completed and transferred to the management company.

The ODCE Guidance Document deals with company law aspects of apartment living; in Paragraph 4.10 it makes the following significant point:

As each owner signs the conveyancing documents which give them title to their apartment, they also become a member of the management company. Accordingly as members, they become entitled to all the rights and obligations of the members of a company, although, in this case, it is a company which has almost nothing of an ongoing operational role. Their membership is of a company which *on the transfer of the common areas*

will become the means through which they can have an input into the management of their complex. However, pending that transfer, the company does not have that role.

The ODCE explains that it is the property law provisions in the Management Company Agreement that give effect to this deferment of the time at which the Apartment Owners Management Company (AOMC) will become responsible for the provision of the common services.

In Paragraph 4.13 the ODCE go on to clarify this in the following terms:

What this means is that in the period prior to the transfer of completion of the Management Company Agreement, the AOMC has no role in the delivery of the Management Services. The services are provided by the Developer and through a firm of Managing Agents retained by or on behalf of the Developer.

In answer to a common query raised by owners about whether they should seek to take control of the company during the period prior to vesting and signing of the management company agreement, the ODCE makes the following points in Paragraph 4.17:

Firstly developers often wish to remain in control of the AOMC up to the period when the common areas are transferred. For that reason they will sometimes create provisions in the AOMC's Articles of Association (company's internal governance rules) limiting the power of the owners to take control of the AOMC prior to the transfer of the common areas.

Secondly in the absence of the AOMC having title to the common areas, there may be little point in the members taking control of the AOMC prior to the transfer of the common areas, as the AOMC is not actually involved in the provision of management services and the setting of management charges. These are the responsibilities and privileges of the developer who has remained in control of the complex. Accordingly there is probably nothing that the owners could do to influence those issues even if they were to take control of the AOMC.

In a recent appeal to the Circuit Court, where a District Court ruling was challenged, the judge found that although the resident was liable for service charges, the management company should not have been the body to demand the charges because the communal areas had not been vested by the developer, i.e. the charges were due to the developer and not the company. The management company's claim for service charges was dismissed on the basis that as the common areas of the development had not been conveyed to the management company it was not entitled to collect the debt.

This ruling reinforces the comments of the ODCE in their report.

Accordingly, today's common arrangement whereby the management company usually operates from the sale of the first unit is legally an invalid practice. In other words, its attempts at regulating the common areas and collecting service charges are *ultra vires*.

This situation has wider implications for the role of a developer and a management company and the rights of its members prior to the common areas being conveyed to the management company.

Company law governing the management company protects owners in that they are entitled to an appropriate level of corporate governance and transparency in relation to the service charge funds and expenses, and in the provision by the management company of services to the estate and its accountability for auditing and statutory reporting. However, it is the developer and not the management company that is entitled to collect the service charges until title in the estate is transferred. What happens if there is a shortfall, and what happens if there is a surplus of funds? The situation is incongruous.

Accordingly, whilst the current arrangements of operating the management company from the sale of the first unit may indeed be *ultra vires*, it does give the members a more inclusive role in that it serves to protect purchasers' interests in a better manner. There is no valid reason why this system should not be put on a proper legal footing, and the practice continued, with even more owner participation and control.

RECOMMENDATION 1.9

We recommend that contrary to the existing provision whereby the management company commences operations post the transfer of the common areas, legal reform of the framework should instead provide that the management company be entitled to operate from the sale of the first unit, notwithstanding the fact that the common areas are not actually transferred.

PART 2: Planning, building and construction issues and recommendations

2.1 Limitations and deficiencies within current planning legislation

In Part 1 of this position paper we highlighted how the legal framework excludes adequate provision and protection for the completion and conveyance of the common areas to the management company. Here we consider how the current planning process fails to provide provisions to protect completion and compliance issues adequately, as it could do.

Section 34(A) of the Planning and Development Act 2000 contains a list of available conditions relating to development which may be attached to a planning permission and include conditions requiring the carrying-out of works which the planning authority consider necessary for the development. These conditions relate to the prevention of noise or vibration; the provision of open spaces, the planting and maintenance of trees and shrubs, the provision of roads, car parks and open spaces, in addition to conditions requiring the provision of security.

The planning authority may also include conditions determining the sequence and the timing in which works are to be carried out, and conditions relating to maintenance and management.

We believe that within the planning process as it stands there is a missed opportunity to address some of the common problems that arise with construction and estate completion.

The opportune time for the planning authority (or An Bord Pleanála on appeal) to set down conditions to protect long-term residential amenities is at the 'grant of permission' stage. It is much more difficult to achieve protection at a later stage in the development process.

In estates that will be taken in charge or part in charge, planning authorities usually require a cash lodgement or performance bond with a financial institution, to act as security for the completion of the common areas. However, where local authorities are not taking private estates and roads in charge they do not routinely insist on security bonds in their planning conditions for such schemes.

It is our view that the long-term residential amenity of private apartment schemes requires an equivalent level of duty of care from the local authority through such performance bonds – even where the management company subsequently takes responsibility for the common areas.

Surely apartment owners, who undertake to pay through a management company to maintain common areas of an estate, are entitled to the same level of protection as private house purchasers who enjoy, at no additional cost, the benefit of having their roads, drains and open spaces taken in charge and maintained by the local authority?

Accordingly, as no undertaking to build or complete the development is given by the developer to the purchaser or the management company, and no requirement exists to provide a Certificate of Completion and Compliance with planning and building regulations covering the common areas of the estate as a whole, it is our considered view that these fundamental weaknesses should be addressed in any legislation proposed, and a bond system for private apartment complexes introduced as a matter of urgency.

Such provisions would address the weaknesses in the process of multi-unit development by providing contractual obligations on the developer's part to complete the estate and transfer in compliance with planning. It would also give the purchaser and the management company grounds for recourse through the courts and through the planning enforcement office, if necessary, to secure the satisfactory completion of the common areas.

RECOMMENDATION 2.1

We recommend that the conditions of planning for multi-unit development should oblige the developer as follows:

- i. To provide a bond at an agreed amount per dwelling to the local authority, to be released upon satisfactory completion of the common areas. In large schemes, the bond could be redeemable in relation to different blocks and defined boundaries before the vesting process, provided that all independent certification processes are completed.**
- ii. To contract – both with the apartment purchasers and with the management company – to provide an architect's Certificate of Compliance with planning permission and building control. This should be provided before the planning authority releases its completion bond.**
- iii. To require that each of the three parties to estate developments (apartment purchasers, the management company and the planning authority) be furnished with an architect's Certificate of Practical Completion, certifying that common areas are fit for possession by the management company. In large developments, such certificates could be issued as a series of certificates of partial practical completion, covering individual phases or areas of the development, so that the large scale of a development does not delay the issue of such a certificate and the recourse it offers.**
- iv. To complete the development's common areas in an expeditious manner, within the duration of the relevant planning permission.**
- v. To vest the common areas in the management company once the development's completion is certified and only after all of the above formalities are completed.**

2.2 Limitations and deficiencies within current building control/building regulations

The lack of reference to or analysis of how the Building Control Act and building regulations are working is a serious deficiency in the Law Reform Commission's consultation paper on multi-unit developments. There are a number of shortcomings that need to be addressed.

History is important for clarifying the issue. Prior to the Building Control Act 1990 and the Building Regulations Act 1991, building by-laws dating from 1878 generally operated whereby developers were required to submit drawings, structural calculations etc. for local authority approval in advance of construction. The developer was then required to issue notices for milestone inspections by the building control authority of, for example, underground drainage before it was covered up. This system still applies in the United Kingdom.

The aim of the passing of the Building Control Act 1990 was to lay down minimum standards for design, construction, workmanship and the use of materials depending upon the intended use of the building. The

Building Regulation Act 1991 was to provide for technological prescription and overall a less bureaucratic and more efficient system of building control.

This meant that the developer was required to submit drawings to the local building control authority for approval in advance of construction *only* in relation to design of fire-safety aspects of the project, and for access for disabled persons. Building work otherwise would be certified to be in compliance by the developer's own professional team, and random local authority building control inspections would police the system.

'Self-certification' was considered suitable as during construction a high level of inspection by the developer's architect or engineer was required in order for them to be certain that the works met the requirements of the Building Control Act and the regulations made under it.

The concept of 'self-certification' came from a former by-law: if the building control authority inspector was unable to attend to carry out such an inspection, and the builder was at risk of delay, the building control authority might agree to accept (in lieu of inspection) a certificate from the developer's architect or chartered engineer that he or she had carried out the inspection and that all was found to be satisfactory.

The method of 'self-certification' was predicated on a clear understanding that local building control authority resources would be deployed in this country on similar lines to the UK national approvals system, i.e. to inspection of selective/random checking of drawings (as the Building Control Act provides for), site inspection and enforcement of the building regulations.

In other words, for 'self-certification' to work as a building control method it had to operate in tandem with the risk of inspection.

However, this does not appear to be how the matter unfolded in practice. We understand that the Department of the Environment, Heritage and Local Government (DEHLG) set down a target for random inspections by local building control authorities under Building Regulations of 10% to 15% of all buildings, but we understand that in practice this target is not being met in most (or perhaps any) local authority areas.

It is possible that the public service recruitment embargo has restricted local building control authorities' resources in this regard.

The effect of 1990 changes in local authority approvals and inspection regime is that Irish apartment purchasers may be better protected now by their local building control authorities in law but not in practice as most local authorities do not exercise their potential function as a building control authority.

In other jurisdictions greater protection is afforded. For example, in the UK, requirements for developers' submissions for building control authority approval extend also to the design of structure; water proofing (but not water pipework); workmanship; sound resistance; ventilation; hygiene and drainage; heating appliances; stairways; ramps and balustrades; and energy conservation.

In South Africa, when a building is finished, and before it is occupied and used, it must be inspected by the local building control authority, which (usually after receiving a variety of certificates and other data supplied by the design and construction teams on the developer's behalf) issues an 'Occupancy Certificate' document which allows the property to be occupied.

Interestingly, in Ireland local building control authorities apply a system of milestone inspections and/or chartered engineer's certificate to sewers and roads which they plan to take in charge. This conflicts greatly with the fact that no such similar inspections for compliance are required for the above-ground drainage of an apartment

block, which has been known to cause serious problems for multi-unit management companies, with knock-on effects to the community as a whole.

As regards building regulations, it is hard to explain to a management company and its members, if forced to pay to renew defective drainage pipework, that they enjoy less protection from the building control authority in 2008 in that regard than they would have before the changes in building control.

In summary, building control/regulations do not protect an apartment purchaser in respect of certain common types of problems, e.g. in respect of water supply pipework; roads; sewers; landscaping; or of the electrical system.

Therefore, a comprehensive and consistent system to protect apartment owners, and the investment which those apartment owners have made in their apartments, and the long-term protection of housing welfare and amenity through their management companies is required.

RECOMMENDATION 2.2

We recommend legislative reform to ensure that a comprehensive and consistent system of inspections of building regulation standards be provided by the local authority to police and ensure the completion of multi-unit development in compliance with building regulations. This is considered necessary as in multi-unit developments there is currently limited and inadequate assurance for completion and compliance with building regulations/building control as provided through the current process of 'self-certification' which operates poorly without milestone monitoring/inspections by the relevant local authority. This reform is essential to protect apartment owners' investment and long-term housing welfare and amenity through the management company.

2.3 Planning enforcement – limited recourse or remedy for building defects or failed completions in multi-unit developments

In relation to any development to which building regulations apply, building control authorities have significant enforcement powers to seek developers to address works to the satisfaction of the authority. However, owners complain of shortcomings with the system. We understand that when they bring their grievances to the attention of the Planning Enforcement Office they are invariably told that the complaint is not within the scope or remit of their authority.

Common problems and complaints made to planning enforcement include general areas of poor workmanship; pipework leaks causing considerable water damage to multiple apartments; insufficient sound insulation causing noise pollution; ventilation deficiencies causing condensation; drainage problems and flooding; incomplete roads; foul sewer odours; landscaping problems; and a poor level of energy management.

The one area where it would appear that enforcement action is taken is in relation to Part M of the building regulations (Access for Disabled People). The high political profile and vigilance of organisations such as the National Disability Authority and the Irish Wheelchair Association are no doubt a contributory factor as is the fact that Access for Disabled People is the only part of the building regulations where compliance can be rigorously checked in the finished building – i.e. without milestone inspections during construction.

Despite the powers of the enforcement office, the resolution of disputes over construction standards and completion issues often fall on the management company. However, the management company does not have

the same legal recourse or sanctions available to as has the local authority with regard to resolving these matters with the developer. The lack of the management company's control and power often means that defects go unattended, resulting in earlier than expected dilapidation of the buildings. If and when problems do get addressed it is usually at the owners' expense through substantial one-off service charge levies.

RECOMMENDATION 2.3

We recommend that legislative reform be enacted to provide that building authority enforcement powers be extended and sufficiently resourced to ensure a prompt and efficient means of addressing construction standards, defects and completion issues in multi-unit developments.

2.4 Limitations of HomeBond as a Defect Guarantee Scheme for multi-unit developments

HomeBond was set up by the Construction Industry Federation in 1977 with the approval of the Department of the Environment to provide a major structural-defects guarantee scheme for builders and their clients nationwide. The HomeBond scheme has become an important element in the marketing of new homes. The scheme was introduced by builders themselves in order to provide a warranty which could, in theory, last longer than any rights at common law.

HomeBond has published technical building journals to promote better building practices, and new housing schemes are covered subject to satisfying these building standards. Milestone inspections are carried out by HomeBond inspectors. The inspections include foundation and main structure inspections.

It is largely accepted that HomeBond provides an efficient means of remedy in the event of poor-quality construction and/or defects in conventional residential housing. Indeed, purchasers gain a considerable level of assurance by buying a house covered by HomeBond.

However, in practice, there is a significant difference in buying an apartment versus a house covered by HomeBond.

The milestone inspections are carried out and applicable to houses only. The scheme operates without such requirements for apartment developments.

In other words, there are no best-practice building prescriptions and no milestone inspections set down for HomeBond registered apartments, as there are for conventional housing units.

Defects in the services of an apartment building can cause significant damage and expense. Defective services or poor workmanship can affect multiple apartments and their common areas, causing significant inconvenience and expense to owners and their management company.

Insurance compensation against such events may be disallowed on account of pre-existent latent defects and/or may be insufficient to cover the management company's and/or owners' losses because the standard excess levels applied generally to water escape in apartment developments. When claims arise (as they frequently do), the adverse impact and subsequent increases in renewal premiums pushes service-charge costs up.

A private conventional house purchased with the HomeBond warranty enjoys a far greater level of protection against defects as the dwelling is subject to compliance inspections by the scheme operators. No such inspections are carried out on multi-unit developments.

In addition, HomeBond does not address disputes over completion or qualitative issues in the common areas of estate.

This guarantee scheme is not developed for apartments to a similar standard applicable to a conventional house. There is no justifiable reason why multi-unit purchasers would not be entitled to a similar standard. Apartment owners should be afforded the same level of consumer protection as a house purchaser within such schemes.

RECOMMENDATION 2.4

We recommend statutory legislation be enacted so that HomeBond, the building guarantee scheme, be developed to a similar standard for multi-unit developments as that provided to conventional housing units and that the scheme be also extended to include building services including plumbing and mechanical and electrical services within the common areas.

2.5 Fire safety issues in multi-unit buildings

All buildings must comply with certain legal requirements regarding fire safety. Fire-safety legislation is based on the Building Control Act 1990, the regulations that followed, and the Fire Services Act 2003.

However, in multi-unit developments under the existing system the implementation of all fire-safety provisions during construction is not assured, and in turn a proper fire-safety policy and programme of management is not always delivered. Moreover, multi-unit owner awareness of and observation to fire-safety requirements are limited. In the interest of consumer protection, these serious matters need to be addressed.

This subject is broken down under the two separate headings:

(A) Issues relating to development and compliance

and

(B) Issues relating to management and the management company.

A. Fire – issues relating to development and compliance

Under the current system, developers of every new multi-unit development building are legally required to obtain a Fire Safety Certificate before commencing construction. This sets out the safety requirements to be *observed* in the design and construction of the building. Developers generally employ a fire-safety consultant for the procurement of a Fire Safety Certificate and local authorities in their function as building control authorities are responsible for sanctioning and issuing them. Certificates are granted when the local authority is satisfied that the proposed description, detail and layout of the planned build meets the requirements of the above regulations and is deemed adequate from a fire-safety point of view.

This process is exclusively carried out *prior* to construction. It is then up to the developer to build in accordance with the application and certificate granted. Once built, self-certification applies.

In practice, with respect to multi-unit developments, the process is limited and does not ensure that what has been built is as was designed and approved in the Fire Safety Certificate. In other words, the proposed and approved requirements are not necessarily or always endorsed as built.

The reason that the legislation relating to fire safety is not operating as it should is because of the following features, some of which are set out in more detail in previous sections of this position paper:

- i. Evidence of Fire Safety Compliance Certification is a matter of standard practice in commercial development prior to occupation but may be only so because financial/lending institutions require such documentary evidence as part of their requisitions. No similar practice occurs with multi-unit residential developments.
- ii. Multi-unit development is unlike other forms of construction. For example, in a building agreement for a house or an office building, it sets out the terms whereby the contractor agrees to execute and carry out agreed building work in accordance with plans, planning etc. and the employer or purchaser agrees to pay the contract price in stage payments, the final being exchanged at the completion date subject to conditions for completion, including the delivery of certification for fire safety. Multi-unit developments are different as units are paid for and occupied prior to completion of the development. Special provisions in relation to fire safety have not been provided for this.
- iii. Whilst the developer must submit details and drawings to the local building control authority for approval in advance of construction in relation to design of fire-safety aspects, the authority does not appear to follow up with inspection of the building afterwards, in advance of occupation, despite the statutory powers local authorities have to do so.
- iv. The Fire Safety Certificate furnished by the developer's solicitors on the closing of the sale of a unit is a certificate which warrants that the building fire-safety design is approved; however, when the qualifications therein are considered the certificate does not provide any inherent warranty that that is what is actually built (see Part 1.2).
- v. The management company has no contractual entitlement with the developer to compel the developer to construct and complete the development in a satisfactory manner and in compliance with building regulations (see Part 1.3).
- vi. The development is transferred by the developer to the management company without any conditions for a defined process, including a compellable delivery of a Certificate of Completion and Compliance with planning and building regulations for the entire estate (see Part 1.4).
- vii. Similarly, the absence of a compellable contract for estate documentation means the fire-safety file and fire register may not be in existence upon occupation or handed over to the management company later at the time of transfer (see Part 1.8).

Because of the above, we believe occupiers of multi-unit developments in Ireland presently may be at risk in the event of a fire as occupiers have limited means to ensure that all fire-safety installations and programmes are certified and fully operational within the building.

In a Dublin City Council paper, *Successful Apartment Living, Part 2*, the Dublin Fire Brigade outlined the key issues and the management company's/owners' onerous legal requirements for the implementation of a fire-safety policy and management in multi-unit developments.

The report outlines clearly that, in relation to legal responsibility under Section 18 (2) of the Fire Services Act, a duty is placed on persons 'in control' of buildings which contain apartments to take all reasonable measures to prevent the occurrence of fires and to ensure the safety of the occupants in the event of fire. However, the report does not reference or clearly identify the critical role and responsibility of the developer.

The key principles of fire safety in multi-unit developments are as follows:

(a) Avoidance of outbreaks of fire; (b) provision of escape routes that are protected from smoke and fire and allow occupants to leave the apartment building safely; (c) early detection of fire and early warning to occupants to facilitate safe evacuation; (d) early suppression of fire where this is feasible; (e) limitation of the development and spread of fire; (f) containment of fire and smoke to the room or apartment where the fire originates; and (g) management of fire safety.

Accordingly, the following are the key issues where management companies must consider and develop appropriate provisions for in relation to fire-safety management:

- i. Evacuation criteria – fire-safety instruction and evacuation plans and drills as necessary.
- ii. Site access – ensuring unrestricted emergency services access.
- iii. Fire detection and alarm system – servicing and repairs.
- iv. Emergency lighting system – servicing and repairs.
- v. Dry risers, wet risers, inlet breechings, and landing valves etc. – inspections and servicing.
- vi. Fire fighting shafts and lifts inspections and servicing.
- vii. First-aid fire-fighting equipment, including hose reels (if provided/required) – inspection and servicing.
- viii. Staircase ventilation – inspection and servicing.
- ix. Sprinklers systems (if provided) – inspection and servicing.
- x. Participation in fire-safety instruction and drills/evacuation procedures and information to occupiers – arrangement and information circulation.
- xi. Maintenance of signposting and way-finding, hydrants and water supplies measures to assist fire fighting – provision and management.
- xii. Fire safety management of waste disposal areas – inspection and maintenance.
- xiii. Control of new works – e.g. extensions, material alterations etc.
- xiv. Special provisions – e.g. ventilation systems/smoke control/clearance systems, AOVs etc. – inspection and servicing.
- xv. Fire-safety register – management records to detail as minimum the premises (address, owner, management company), details of the Fire Safety Certificate, records relating to fire-safety inspections and equipment maintenance dates/results of inspection, etc.
- xvi. Technical details of the fire-fighting equipment (inventory, inspection and maintenance), the emergency lighting system (installation, inspection maintenance, and works carried out), the fire detection and alarm system (zones, detectors, call points, inspections, maintenance and works carried out), fire doors (inventory, inspections, maintenance and works carried out).

The Dublin Fire Brigade report advises strongly that the management company must be prepared to facilitate any request by the fire authority to inspect the fire register, the common areas or individual units for compliance and must carry out any works required if made by order of an enforcement notice. However, in contrast, the report directs no requirement on the construction industry or the local authorities in relation to their responsibilities for the delivery of an adequate and certified working system of fire safety.

Our recommendations suggest the requirement of 'as-built' certification and a compliance report. This is not to be confused with commissioning certificates on the fire systems in their combined operation. For example, the fire alarm system itself is commissioned by the fire alarm installers, which includes the fire alarm panel, the call points and fire detectors, but who takes responsibility to ensure the automatic fire dampers, electro-operated fire exit door releases and smoke extract fans operate on fire alarm activation, effectively commissioning the system as a whole? Every device must be checked for correct operation as part of a simulated fire alarm. Therefore, a compliance report should include a full operation commissioning certification.

B. Fire – issues relating to management and the management company

As fire safety becomes the responsibility of the parties or persons considered 'in control' (namely, the management company and the owners and occupiers including any management agent employed), with or without the delivery of certified fire-safety systems and a fire register from the developer, a legal responsibility on their part ensues.

If operational issues arise, the developer may claim that responsibility for maintenance lies with the management company, irrespective of the fact that the development may not yet have been transferred to the management company.

The owners/occupiers typically are unaware of such matters and equally may not be aware that required equipment such as fire extinguishers are not supplied until they discover the fact and/or that their service charge funds are being used to service, repair and operate installations that have not been certified fully. Managing agents have a responsibility to make them aware of the facts.

Specialist expertise is sometimes required and might have to be outsourced. In practice, there might be insufficient resources of service charges available to pay for necessary upgrades. Apartment owners are sometimes not disposed to increase their service charge costs to provide adequately for same, in spite of their managing agent's recommendation.

Serious practical issues can arise, some examples of which are:

- i. The non-delivery of the fire register, commissioning certificates and an overall Certificate of Completion and Compliance in accordance with the original Fire Safety Certificate. This means that management company resources must be used in procuring copies of fire-safety applications and engaging a consultant expert to check that the building is in compliance with these, and, if not, arranging to seek this retrospectively from the developer or by funding the work themselves.
- ii. Fire escape doors are fitted with inadequate domestic operating fittings, which must be replaced within an unreasonable short period.

- iii. Fire systems are installed by multiple contractors (electricians/engineers and alarm companies), rendering the follow-up of contractor warranties where malfunctions arise difficult and sometimes impossible.
- iv. Locations of dry risers, landing valves etc. are not identified clearly.
- v. Ventilation systems are inoperable.
- vi. Waste-disposal areas are not designed or built in a fire-safe manner.
- vii. Fire-safety panels operated and located in the common areas are housed insufficiently and not designed to withstand vandalism.
- viii. Fire doors are locked as security issues override fire safety.
- ix. The management company is burdened with the cost of policing inadequately protected emergency-service site-access points.
- x. The general unwillingness of occupiers (many of whom are tenants) to attend or partake in fire-safety training or evacuation drills.
- xi. Fire alarm sounders are switched off by occupiers without any building check.
- xii. Some fire systems are integrated into apartments and owners/tenants often resist or delay required access for inspection and repair, with a consequential impact on the operation of the system as a whole.
- xiii. Smoke detectors in apartments are disengaged because of sensitivity to cooking fumes and because they are considered a nuisance.

The IPFMA is concerned that it may take a further tragedy such as the Stardust fire before remedies are provided in legislative form to address this very serious issue.

RECOMMENDATION 2.5

- 1. We recommend urgent legislative reform to provide a process which ensures that works set out in the developers' certification for fire-safety design and installations are *independently inspected and certified as built*.**
- 2. We recommend legislative reform that, prior to any building occupation or handover to the management company, that the developer is compelled to deliver the following:**
 - i. A copy of the approved Fire Safety Certificate application documentation.**
 - ii. The final approved fire-safety technical report which accompanied the application (also known as the 'Compliance Report').**
 - iii. Any supplementary reports or clarifications submitted as part of the application.**
 - iv. Drawings including: site location map, site plan, floor plans, sections, elevations.**
 - v. The certificate as issued including any conditions etc.**

- vi. **Details of any relevant letters accompanying the application or submitted during the course of its assessment, appeals and decisions.**

We recommend a review of all existing apartment buildings through a nationwide risk assessment programme to ensure their safe operations with respect to fire safety.

We recommend a national programme of education and awareness be delivered to ensure that owners and directors of management companies and all occupiers of multi-unit dwellings are aware of the responsibilities and observations required of them to ensure that apartments are a safe place in which to reside.

PART 3: Multi-unit developments and management company issues and recommendations

3.1 The purchaser's lack of understanding and awareness

Many Irish people have bought into apartments as a housing choice without fully understanding the operation and associated costs.

People sometimes compare apartment costs with conventional housing costs. Although some have little if any experience of either, they believe conventional housing costs to be zero, without any regard for the house owner's obligation to pay for house insurance, refuse collection, garden maintenance, painting and decoration and general repair. In reality, the costs largely compare and are equivalent. However, a house owner has choice and independence in the level and timing of their expenditure whereas an apartment owner generally does not.

This lack of understanding is not unusual given the legalistic language used in the owners' Booklet of Title and the general lack of information available on the functions and responsibilities of the management company. It is rare for an owner to be given a copy of the lease which they signed when purchasing. This limited understanding is added to by unbalanced media coverage which is often cost-only orientated and sensationalised.

There is also scant understanding of the requirements and factors determining service charge costs and the huge variances that can exist between one development and another. In addition, there is also little concept of the added value afforded to capital values that can result from a well-funded and professionally managed development.

Few developments are the same and there are several reasons why a service charge is higher in one than in another, for instance, the volume and type of units; the difference in costs attributed by energy-efficient lighting; the presence of an underground car park with 24-hour lighting; the level and type of plant such as pumps, gates, fire systems etc.; the ratio of lifts to apartments; grounds with landscape; an on-site janitor or security system; and, most importantly, the level and adequacy of a sinking fund.

Prospective purchasers should be fully informed through information delivered at the sales and marketing stage and solicitors should be required prior to their clients signing the contract to explain the legal documentation, and give the purchaser a copy of the lease, so that the purchaser has an awareness and understanding of the operations, obligations and rights before contracting to purchase.

Such information might include:

- i. Awareness of the management structure in place, the apportionment methodology for the service charges and the actual cost of same.
- ii. Awareness of the terms of the lease, their rights to the services and their obligations under the rules and covenants.

- iii. Awareness of the role and responsibility of the developer, the management company, the managing agent and the owners.
- iv. Awareness of the separate and distinct role and remit of the management company and the managing agent.
- v. Awareness of the extent and limitations of the services of the management company.
- vi. The requirement for owners' participation and attendance at statutory meetings.
- vii. The requirement for prompt payment of the annual service charge, and interest penalties for late payments.
- viii. The function of and requirement for an adequate sinking-fund provision.
- ix. Awareness, observation and adherence to house rules and other covenants in the lease generally.
- x. Awareness and observation of Fire Safety, Health and Safety and occupiers' liability.

RECOMMENDATION 3.1

We recommend that a national programme of education and awareness be provided aimed at highlighting responsibilities and the long-term benefits of properly managed developments to counteract the unbalanced 'cost-only' orientated media coverage in recent times. Essentially, such a programme needs to explain the roles and responsibilities of the owners, the developers, the management company and the managing agent, the extent and limitation of the services and the factors determining service charge costs and variances.

3.2 The transfer of governance of the management company from the developer to the owners

Following the transfer of the common areas, the handover of control of the management company from the developers to the owners is the final step in the development process.

The *Draft ODCE Guidance on the Governance of Apartment Owners' Management Companies* sets out clearly the legal responsibilities and obligations of members who act as directors of management companies. This can understandably lead in many cases to reluctance on the part of apartment owners to put their name forward for election to the board. After all, they are essentially unpaid 'volunteers'.

Furthermore, many owners who accept appointment as a director do not understand the personal and legal responsibilities they are assuming on their own behalf and on behalf of the estate and all the other owners, collectively.

It is clear from what we have documented already that the management company directors' responsibilities are onerous. This is particularly so where delivery of the appropriate estate certification for completion and compliance is not forthcoming. Without such verification, new owner/directors have no method or means to determine whether the estate – roads, footpaths, drainage, mains-water services, construction and structures

etc. – have been transferred in a satisfactory condition to the management company of which they are now to become directors.

The subsequent challenges that owner/directors can face because of flaws in the development process highlighted in this paper and particularly because of incomplete, defective or poorly finished sites can be significant.

The newly elected owner directors will at best take the decision to fund a levy by raising the cost of service charges to undertake corrective work and at worst will allow continuous dilapidation which is not in the ultimate interest of the owners.

Given the responsibility attached to the role of the elected directors, protective measures to ensure a reasonable level of personal protection against risk and liability must be put in place to ensure willing volunteers are assisted in the provision of good management and corporate compliance.

RECOMMENDATION 3.2

We recommend that owners who accept appointment as directors of a management company be adequately protected from personal and legal liability insofar as they should not be held personally responsible for the state of affairs of the management company prior to their appointment, nor for any building defects existing at the time of the transfer of the common areas to the management company or which have occurred since then.

This can be achieved by ensuring that a regulated process of transfer of the common areas to the management company takes place including certification for completion and compliance with planning and building regulations (including fire) as part of the process.

3.3 Corporate governance and owner participation during the initial period of occupation

In large multi-unit schemes where it is necessary to build in phases, there is no defined process for the involvement of owners in the decision making and direction of the management company. Whilst it is understandable that the developer must remain ultimately responsible for operating the services and retain formal control of the management company for the purpose of joining in certain ongoing legal contracts, owners' immediate participation in the key day-to-day decision-making process would make for greater inclusiveness, owner cooperation, and more effective management.

Currently, owner involvement, if it takes place at all, is very much on an 'ad-hoc' self-appointed basis with no legal standing whatsoever. It is better than no arrangement at all, but it can frequently lead to friction, and sometimes to unnecessary conflict between parties with different agendas. This problem needs to be addressed by effective legislative measures.

During this 'initial' period, a sub-committee of the board appointed by the directors would formally permit owners, working under the directors and with the directors' authority, immediate and active participation in the management of a range of agreed services and in their delivery prior to the formal transfer of the management company to the owners on the sale of the last unit.

This would be much better than the current 'ad-hoc' self-appointed committee arrangement commonly found in many apartment developments. Such sub-committee members would in all but name effectively act in the capacity of directors. Most Articles of Associations already provide for the directors to appoint such sub-committees, but it should ideally be a mandatory process in the initial, pre-common area transfer period.

Under such an arrangement, the directors would still retain ultimate control, but would have to show good cause before vetoing a recommendation of the sub-committee. On matters of substantial issue on which agreement could not be reached between the sub-committee and the directors, the issue should be referred to an expert independent party whose decision would be binding on all parties.

RECOMMENDATION 3.3

We recommend reform of the legal framework to include a defined arrangement for the participation of the owners in the management of multi-unit developments during the period of time prior to and up to the transfer of the estate. This process should provide for an appropriate 'owner-inclusive' system of management along the lines of voluntary best practice currently adopted by some professional developers and their managing agents.

3.4 The initial apportionment methodology and the first budget and service charge determination

In practice, service charge budgets and the method of apportionment are usually determined by developers in consultation with the managing agents appointed by them, and sometimes in consultation with the developer's solicitor and selling agent. While there is no obligation or requirement to adhere to any specific estate-management practice, it is fair to say that most of the time a serious attempt is made to strike a fair and realistic budget and the principles of good estate management prevail.

However, the basis of apportionment of the initial service charge may not be required under the lease to be certified as equitable and fair by a recognised expert in estate management and this leaves the process open to abuse.

The initial budget for the development, which determines the cost of the first year's service charges, should be a professional estimate of all administration and maintenance costs, including a provision for the cost of replacing plant machinery and fittings given their expected useful life. Compromises are sometimes made, often in the sum to be set aside towards a sinking fund.

The adequacy of service charges or the provision of a sinking fund is not always a priority in the first year of the development. This can sometimes lead to service charges being quoted at minimum levels to attract potential purchasers who are then dissatisfied in later years to discover that the real cost may be significantly higher. This situation is misleading and unfair to the consumer.

RECOMMENDATION 3.4

We recommend that a standard code of practice be adopted and made compulsory for the calculation of the apportionment method of the service charges within an estate. We further recommend that legislation requires that the initial budget be a professional estimate of all administration and maintenance costs, including a sinking-fund provision for the cost of replacing plant machinery and fittings given their expected useful life. This process is necessary in order to

eliminate unfair and inequitable methods and/or the giving of inadequate rates or inappropriate information on service charges.

3.5 The responsibilities of owner directors in determining the budget and service charge

The owner directors of management companies may be more concerned with immediate service charge affordability at the expense of the development's long-term sustainability. In particular, rental investors and first-time buyers may have a shorter time plan and different objectives than owner occupiers who intend to live in the development over a longer period.

Disregard of – or a failure to understand – the principles of good estate management and the requirement for adequate sinking funds can have substantial future adverse financial implications and can cause significant long-term problems.

Owner directors of management companies are often unaware or negligent in the matter of their responsibility to maintain the development for the long term when they prioritise the minimising of cost. They can be overly focused on service charge affordability and may seek to avoid making financial decisions for fear of attracting criticism from other owners.

Owner directors are unpaid volunteers who are elected often without reference to their suitability. There is no requirement for training or for candidates to provide credentials. The ease of election can expose management companies to certain dangers, such as bullying, abuse of power, negligence, poor decision making, thus placing the service needs and long-term maintenance requirements of a development at risk.

RECOMMENDATION 3.5

We recommend regulation of management companies and their directors and the adoption of a code of understanding and best practice for directors. Those who offer to serve as directors should be obliged to sign up to this code so as to clearly define their role and responsibility as directors, and agreement to promote the financial welfare of the management company at all times by making adequate provision for a proper level of service charge and sinking funds appropriate to the needs of their development. Furthermore, we recommend that it be required also under regulation that the auditors to the management company certify the annual budget and any special levies otherwise approved of by the directors.

3.6 Service charge recovery and debt collection issues

In the case of new apartments, it is a matter for the purchaser's solicitor to register the purchaser's title with the Land Registry or the Registry of Deeds. Sometimes this is not done for any number of reasons and thus an owner's lease may not always be registered and the counterpart returned to the developer's solicitor, in spite of the solicitor's undertaking to do so.

The non-return and delivery of counterpart leases combined with non-registration of individual owner's title can result in the management company being powerless in identifying the correct owner on title. This can prevent the management company taking legal proceedings to recover arrears of service charges owing by any such defaulting party.

This is a significant problem and it is causing much difficulty to the financial welfare of some management companies.

Furthermore, the standard documentation used does not require the payment of service charges by direct debit such as is provided for in commercial leases and they usually only provide for a low level of interest penalty for service charge defaulters. In addition, legal costs incurred are not always fully recoverable against the individual debtors and such costs must be borne by the management company.

These matters hamper the efficient collection of arrears of service charges and are often availed of by unscrupulous investors to avoid or postpone meeting their obligations. This has an adverse impact on the paid-up owners who bear the loss of income/funds together with the unrecovered legal fees.

RECOMMENDATION 3.6

We recommend legislative reform to require purchaser's solicitors to register leases and return the counterpart leases to the management company within a prescribed timeframe to enable the owners' identification and efficient recovery of service charges by the management company.

We also recommend that lease documentation be amended to enable management companies to collect service charges by way of direct debit or electronic fund transfer.

We further recommend that all costs, including legal costs and outlay, incurred by the management company in the collection of service charge arrears be fully recoverable from the debtor under the terms of the lease.

3.7 Requirement for an adequate sinking fund

In addressing pre-sale Requisitions on Title, solicitors for the purchasers are often satisfied to rely on confirmation that the audit is completed and returns to the Company Registration Office ('CRO') for the previous financial year have been made in a timely manner.

Although a completed audit and CRO compliance indicates that essential steps have been undertaken, they are, however, an insufficient basis to determine the financial viability and infrastructural viability of a management company.

Presently, apartments are being bought and sold without consideration of the adequacy of the sinking fund in the management company.

Without a proper sinking fund in place, management companies are at risk of not being in a position to deal effectively with essential repairs and maintenance in the future. Until such time as sinking funds become a factor in determining the real value of second-hand apartments, there will be limited appreciation of the concept.

Some management companies have a policy of maintaining a sinking fund for over-runs on day-to-day expenditure only, and of collecting any service charges needed periodically for major renewals and refurbishment by way of once-off special levies. Whilst they may wish to continue with such a policy, a new owner would not be aware of such a position unless in some way it was highlighted at the outset by the vendor.

A Chartered Surveyors Certificate on the adequacy or inadequacy of the sinking fund and the basis of the policy for the sinking fund is required as a means to ensure and confirm the position. This process would serve to put all owners and prospective purchasers on notice of possible future once-off levies to cover the cost of essential refurbishment work. We suggest that the cost of this requirement would be recoverable in the added capital value attributable to an apartment situated in a well-funded and certified development.

RECOMMENDATION 3.7

We recommend that there be a statutory requirement for a Chartered Quantity Surveyor's Certificate of Opinion as to the adequacy of the sinking fund as provided in respect of each management company every three years and that a copy of the certificate form part of the audit process.

3.8 Statutory compliance obligations of the management company

Directors of management companies are owner/members, elected by their fellow owners and act on a voluntary basis. The directors are responsible under company law for their actions and as such may be deterred or discouraged from taking on the role. If that should occur, the management company could fall dormant and where statutory filings are not made the company will eventually be struck off by the CRO. In such circumstances restoration of the company can be an expensive and onerous task. Such situations are often only discovered when an owner is endeavouring to sell. It then rests on them to undertake the reinstatement the company (a time-consuming and expensive process).

We note that on 10 May 2007 the Company Law Review Group's *Report on General Scheme of Companies Consolidation and Reform Bill* was presented to the Minister for Enterprise, Trade and Employment. The report was accompanied by a draft of the bill or 'General Scheme'. In July 2007 the General Scheme was approved by Government and is now with the Parliamentary Draftsman's Office. We understand that the Bill will be drafted in 2009 and it is expected that it will be enacted in 2010.

It is proposed under the designated activity company provisions that a management company will be designated as a Property Management Company (PMC) as opposed to the company limited by guarantee. The PMC will have more flexible arrangements for the transfer of membership and will be able to claim audit exemption. The Memorandum and Articles of Association will be replaced with a standardised one-document Constitution.

We understand why an audit exemption may be considered appropriate for some small management companies (PMC) as it reduces administrative costs. However, we are somewhat surprised as an Auditor's Report to the members is generally the one safeguard that directors and members rely on, and take comfort in the knowledge that the accounts and records of the company are being maintained in a proper manner. Accordingly, we do not consider this alteration and exemption to be in the interest of consumer protection.

We welcome other proposals in this area and put forward our own recommendations, as follows:

RECOMMENDATION 3.8

We recommend that management companies be awarded a special designation status within company law to provide for a less stringent process than company strike-off in the event of failures to file statutory returns to the Company Registration Office.

A specific Company Registration Office form could be introduced for a management company to distinguish it as a company with the sole purpose of managing a multi-unit development for the benefit of its members on a not-for-profit basis. The management company could then be subject to certain exemptions and or requirements, including for example:

- i. Strike-off exemption.
- ii. Appeal for late filing fees (in the event of rescues).
- iii. Reduced information for directors on B10s (as these are 'voluntary' directorships, many candidates do not wish to disclose other directorships to their neighbours).
- iv. Adoption of standardised Memorandum and Articles of Association.
- v. Adoption of standardised accounting reports.

This special status could also mandate the disclosure of additional information at AGMs. Such information might include reports on the management activities, a sinking-fund summary and analysis and insurance information. These items are regularly called for at AGMs but not statutorily required to be given under current requirements.

PART 4: Managing agent – issues and recommendations

4.1 Managing agents – requirement for regulation and licensing

Regulation and licensing of managing agents is required urgently to address current levels of poor performance and sometimes poor practices in the industry. Poor practitioners, and those developers/owners who engage them, are often responsible for poor service standards, including under-resourced service charges and inadequate sinking funds.

Approximately 10% of the members of the IPFMA operate in the residential sector. The Association recently launched its corporate membership category, which means that professional management firms will be more recognisable by the use of the IPFMA logo and will be listed in the Corporate Membership section of the IPFMA website. This will act as a valuable guide for consumers seeking reliable property management services. The IPFMA also plans to develop and support an information website for apartment owners.

A Code of Practice for Service Charges in Commercial Property launched last year by the Royal Institute of Chartered Surveyors was recently adapted and approved for adoption in Ireland following a joint initiative between the Society of Chartered Surveyors and the IPFMA; this document will be launched in mid-June 2008. It is the intention of the IPFMA to further adapt this code with respect to residential multi-unit management. The objectives will be to provide best-practice guidance on budgeting and service charge structures and reporting. Such standardisation will enable transparency and facilitate building occupiers/owners to understand what services they can expect to receive and how much they can expect to pay.

Among the many benefits of using a firm of managing agents with Corporate Member status is that consumers have assurance as to the provision of professional indemnity insurance and industry best practice through adherence to the IPFMA Code of Professional Conduct and Ethical Standards.

Notwithstanding the absence of compulsory regulation and licensing, most professional managing agents nevertheless operate with professional indemnity insurance in place and established best-practice guidelines, underwritten through service contracts entered into between them and their management company clients. Professional managing agents are also members of professional bodies such as the SCS, IPFMA, IAVI and IPAV and operate within the codes of conduct applicable. Without regulation, these professional managing agents sometimes compete in the marketplace against under-funded, under-resourced and inexperienced practitioners. The adverse publicity arising from the lack of quality service by these agents is reflected on the industry as a whole. Regulation would help to resolve this problem.

Because of the many failings in the multi-unit development process, property managers operating in this sector regularly experience hostility and abuse and are often maligned on a daily basis. In such a stressful environment, professional firms find it extremely difficult to retain good staff, leading to an exceptionally high level of staff turnover, which in turn causes further erosion of customer satisfaction. If this situation is not addressed it could have long-term negative, indeed disastrous, consequences, for the future of residential estate-management services in Ireland. It is vitally important that this problem is acknowledged and taken into account in any legislation passed.

RECOMMENDATION 4.1

We recommend that legislative power is granted as a matter of urgency to the already established National Property Services Regulatory Authority so that the introduction of licensing and regulation can be implemented with speed.

We also recommend that measures are put in place to enable management companies, their members, directors and management agents to work in a cooperative and professional manner for the future well-being of all interested parties. These measures should serve to facilitate an improved working environment to encourage the availability of quality professional staff and the reduction of inappropriate client behaviour.

4.2 Flawed expectations of the role, responsibility and remit of the managing agent

Clients naturally demand a high level of service. This is generally measured by the more informed clients as follows:

- i. Value for money – competent and reliable contractors and service providers.
- ii. Good site appearance – particularly evidenced by cleaning, grounds and waste management standards.
- iii. Prompt response – consistent operations and immediate attention to repairs.
- iv. Good communications – accurate minute taking and the circulation of regular and comprehensive information and reporting to residents.
- v. Professionalism and continuity of personnel – appropriate qualifications and limited changes and consistency to staff assigned.
- vi. Secure financial management – successful service charge collections, quality record keeping, transparency and reporting.

Therefore, for a professional managing agent firm to meet these criteria, a significant investment in resources is required, such as:

- i. Administrative and financial capability and qualified property management staff managed and supported with expert technical knowledge, training and appropriate remuneration.
- ii. Site inspections and planned preventative maintenance programmes operated and monitored consistently.
- iii. The engagement of competent vetted and insured contractors.
- iv. Systems, structures and procedures to ensure a first-class service is delivered consistently.
- v. Regular reporting requires a commitment and investment in quality communications.

- vi. Professional indemnity insurance is a prerequisite for the client's protection.
- vii. A partnership approach between the agent and the client delivering.

The services provided by a professional managing agent are broad and require multiple skills and considerable investment. This can be summarised under five separate service headings: (i) legal and corporate administration; (ii) buildings management; (iii) insurance management; (iv) financial management; and (v) communications management.

4.2.1 Legal and corporate administration

Involves:

- i. Receipt and the safe storage of the estate documentation/legal title/counterpart leases.
- ii. Knowledge of the legal framework, conveyance and lease documentation, contract and company law.
- iii. Corporate governance such as convening and attending at meetings, (AGMs, EGMs, Committees, Directors and Residents) and providing company secretary services to ensure statutory returns are undertaken in a timely manner and that the register of membership and minute books are properly maintained.
- iv. Responding to Requisitions on Title to the management company in the event of resales.
- v. Ensuring the management company is operated in compliance with Residential Tenancy Act 2004, Health & Safety Legislation, Fire Services Act 1981, Occupiers Liability Act 1995, Waste Management and Litter Pollution Acts and Data Protection Act.

4.2.2 Buildings management

Includes:

- i. Planned maintenance services – including services such as common area cleaning, window and carpet cleaning, grounds and landscape maintenance and waste management.
- ii. Mechanical and electrical services – including plant servicing and maintenance, such as lifts; sewage and water pumps; fire-safety systems; access and intercom systems; lighting and ESB generators; vehicular and pedestrian gates and security systems (CCTV).
- iii. Reactive repairs and renewals – includes as and when called upon attending to vandalism, graffiti, and repairs arising from wear and tear.
- iv. Contractor management – of all of the procured services to the buildings, to ensure competence, validation of insurance and verification of attendance and value for money.

- v. Liaising with consultants – and ongoing management of health and safety programmes; fire-safety systems management; energy-consumption management; after-hours emergency services; and janitor management.
- vi. Site inspections – regular attendance to identify any faults and service failings.
- vii. House rules management – can be an extensive role and difficult to deliver, given there are no real sanctions available to address infringements promptly and efficiently. The level of house rule abuse often depends on the occupier age and profile, location of the development and the ratio of owner occupiers to passing tenants.
- viii. Refurbishment and redecoration – betterment works must be planned and delivered as the requirement arises.

4.2.3 Insurance management

Insurance constitutes one of the highest expenditure categories and the risk of insufficient cover is serious.

- i. The managing agent is responsible for the arrangement of suitable insurance cover at competitive rates with minimum excess levels. Professional expertise is essential to ensure the building valuation for reinstatement is carried out competently and that the scope of cover for fire and perils insurance is adequate and appropriate.
- ii. Arranging additional cover for public liability and employers' liability, alternative accommodation, and statutory lift engineering cover and at the discretion of the client, directors' and officers' liability cover.
- iii. An efficient claims-handling process, particularly because of the level of multiple claims, is essential. Good policy administration and management is required to ensure owners' and mortgagors' interests are noted on the policy.

4.2.4 Financial management

Involves:

- i. Preparing and advising on the service charge budgets is central to managing agent's role. The professionalism of the managing agent is tested and reflected in their ability to ensure service charge adequacy and the promotion and provision of a sinking fund.
- ii. The service charge billing and collection can be a lengthy and involved process: on average in Ireland only about 10% of owners pay on foot of the initial demand and so the operation of a debt-collection programme thereafter is required. This process will include the calculation and charging of interest in line with lease terms and arranging and coordinating legal action to ensure full recoveries.
- iii. Cash-flow management and day-to-day accounting together with income and expenditure reporting and the coordination and completion of the annual audit.

- iv. Sinking fund management. The arrangement and ongoing management of the funds falls to the managing agent (certification should more appropriately be undertaken by a chartered quantity surveyor).

4.2.5 Communications management

It is reasonable to assume that a communication programme would include the gathering and management of owner contact details – coordinating the establishment of a residents committee and board liaison, and a programme of information through service reports, annual newsletters on estate information, occasional notices/circulars when relevant and the delivery of a comprehensive property management report annually at the AGM. However, a lot more can be demanded.

Numerous matters can arise which are outside the role of the managing agent. The resource needed to deal with such matters is a challenge. To explain and circumvent issues that do not correctly fall within the remit of the agent is an enormous service burden on a day-to-day basis as the level of individual owners' letters, emails and call enquiry is extensive. As much as 50% of these communications are in respect of matters outside of the direct responsibility and remit of the managing agent. Nevertheless, they must be responded to.

Taking and logging such communications and their response management is onerous. The agent presently carries the burden of educating the customer.

An inordinate number of queries can arise, mostly to do with snagging issues which should have been dealt with by others prior to purchase or in the period immediately afterwards. Callers want their questions answered, want assistance, and some want to complain and share their story and unfortunately not always in a reasonable manner. Endurance levels can be tested when allied with a consumer whose manner is aggressive and hostile because of the perception that the agent is somehow and mistakenly associated with the developer. Given the low level of consumer awareness, the scenario can be fraught with difficulty.

Staff-retention issues

The professional managing agent will always strive to promote adequate service charge budgets and sinking funds. Many inexperienced agents trying to establish themselves in the business would have a different approach. They will cut costs to a minimum level and promote a lesser provision for sinking funds in an effort to attain new business.

The multi-unit housing boom created the greatest challenge for the professional agency as consumers flooded the market and far outpaced the earlier markets of the 1980s and early 1990s. The earlier investors more readily understood the requirement and benefits of management and worked closely with agents to resolve any problems that arose in the development process. The present-day owner is generally a first-time buyer with a very different perspective on apartment living and on management issues. Some have made substantial financial sacrifices to 'get on the property ladder', and in many cases their ability to meet realistic service charge obligations is seriously compromised. This can affect their whole attitude to management, and instead of meeting the challenge, they resist it and become uncooperative and even hostile.

The result is that it is becoming more difficult to retain qualified staff to serve as property managers. They have a difficulty tolerating such a working environment and as a result many of the professional firms are struggling to retain their best staff. Up to 90% of newly recruited property managers leave the industry within 18 months because of a hostile environment. This is a shocking statistic and one that is causing the industry serious

concern. Most of those leaving the industry have third-level qualifications and our industry needs to retain these employees if it is to deliver a quality professional service into the future. A solution must be found urgently if the long-term sustainability of multi-unit property management is to be secured.

RECOMMENDATION 4.2

We recommend, as part of any legislation to be enacted, and in the formulation of any rules and regulations to be adopted:

- i. That the role of the professional management agent is acknowledged and recognised.**
- ii. That the established professional firms specialising in multi-unit development be acknowledged encouraged and assisted to continue in service.**
- iii. That regulations impose an appropriate professional level of competence and third-level education for entry.**
- iv. That firms applying for regulation and licensing are required to provide evidence of their investment and resources in training, communications, property management and company secretarial skills.**
- v. That the National Programme of Awareness recommended earlier in this position paper also acknowledges the important and valuable role of the managing agent.**

PART 5: Multi-unit development – conclusion

5.1 The need for an overall review

As noted throughout this paper, many of the problems within the multi-unit management industry stem from a widespread lack of public comprehension of multi-unit management. This is very understandable, given the complexity of the system and the less than satisfactory legal and corporate framework in which it operates.

These complexities serve to disadvantage purchasers and have enabled some developers to exploit shortcomings in the system for their own benefit. Meanwhile, management companies and managing agents have become an easy 'target' and a hapless victim.

Where successful residential developments in Ireland exist, it is mainly because of the professional approach of some developers who in partnership with reputable managing agents take a particular pride in delivering a quality product to the customer, thus facilitating efficient management.

A better legal framework and regulatory system would ensure this was the norm and not the exception and would go a long way to securing the future sustainability of apartment living in Ireland.

The Executive Chair of the National Consumer Association, Ann Fitzgerald, summed it up when she commented that 'Consumers in Ireland have more protection when buying a €30 kettle, than a €300,000 house or apartment in a multi-unit development.'

Clearly, urgent action is needed to bring about a best-practice environment for all parties involved in the process. We hope that the observations and recommendation made in this submission paper will help the Regulatory Authority in achieving these objectives.

RECOMMENDATION 5.1

We recommend that an overall fundamental review of the entire multi-unit development process be undertaken including the legal and corporate framework in which it operates, as a necessary step to develop and facilitate a more workable and efficient professional management service so as to ensure the sustainability of quality apartment living in Ireland.

Summary of Recommendations

PART 1: Legal documentation and framework issues and recommendations

1.1 We recommend a review of the legal documentation for multi-unit developments to ensure such documents are

- i. Standardised and make comprehensive and effective provision for the complexities of phased high density, mixed use residential schemes.
- ii. Adequate to prescribe a proper system of management, including equitable apportionment and adequacy of service charges.
- iii. Adequate to prescribe the requirement and terms of appointment of a professional management agent, and their responsibilities for the provision, maintenance and service standards

1.2 We recommend that multi-unit conveyancing documentation, including the Certificate of Compliance, be materially amended so as to address the limitation of the purchasers' rights and remedies available consequent to the usual qualifications in the Certificate of Compliance, which effectively exclude defects or completion issues that might arise outside the four walls of the apartment but within the development. This is important, as presently, once the purchaser completes, the degree of protection and his or her legal recourse in relation to the quality and completion of the common areas are limited.

1.3 We recommend that the legal framework for the management company be amended to provide an enforceable contractual right obliging the developer to satisfactorily complete the development of the overall estate and the common areas, as an integral part of the transfer of the common areas which the management company should have power to compel. This reform is required to address the objection that presently the management company has no enforceable contractual right against the developer for the construction and completion of the common areas (in particular, the structural parts) prior to their transfer. However, once common areas are vested in the management company it has onerous and immediate contractual obligations to maintain and repair those areas and structural parts, including all services, irrespective of their condition at the time of transfer.

1.4 We recommend reform of the legislative framework and amendment of standard conveyancing documentation to ensure that the management company can compel completion of the development overall, and delivery of an architect's certificate of such completion and compliance with all relevant standards and practices prior to the transfer of the common areas to the management company.

1.5 We recommend reform of the legal framework of multi-unit developments in relation to the transfer of the common areas so as to include:

- i. A compellable handover date from the developer to the management company.
- ii. A requirement for prior notice to the owners of such transfer.
- iii. Entitlement for the owners to have legal representation as a collective group.
- iv. A requirement on the part of the developer to address any snagging and completion issues and to furnish the owners and the management company with a final Certificate of Completion and Compliance for the entire estate.

- v. Suspension of the Statute of Limitations (six-year rule) to facilitate legal action against the developer for non-completion of remedial works to the common areas as presently there is no timeframe or such condition to the transfer.

1.6 We recommend reform to the legal framework so that in the event of defects and or common area completion issues, there is both a right to collective representation and a means of redress through the management company.

1.7 We recommend that a process for dispute resolution, including the appointment of an independent third-party arbitrator/expert, be defined and implemented through reform of the legal framework.

1.8 We recommend reform of the legal framework and documentation so that a defined process for the transfer of the common areas to the management company includes a condition for the delivery of a prescribed schedule of estate documentation. Such documentation at a minimum might include the following:

- i. An agreed snag list and Practical Completion Certification.
- ii. Certificate of Completion and Compliance with planning and building regulations for the overall development and estate.
- iii. A set of 'as-built' drawings, operational and maintenance manuals and health and safety manuals (three copies).
- iv. Warranties and other guarantees, including test records for drainage, water and heating pipe work.
- v. Certifications for fire safety, health and safety, including the project safety file.
- vi. A schedule of plant, equipment and infrastructure defining expected useful life, recommended maintenance and details of the relevant suppliers and installation sub-contractors.
- vii. The title documents to the estate.
- viii. The stamped and registered counterpart leases.
- ix. Documentation relating to the management company, including the statutory documents such as the Register of Members, the Minute Book and the company seal.
- x. A certified stamped and registered copy of the Deed of Conveyance of the common areas to the management company.

1.9 We recommend that contrary to the existing provision whereby the management company commences operations post the transfer of the common areas, legal reform of the framework should instead provide that the management company be entitled to operate from the sale of the first unit, notwithstanding the fact that the common areas are not actually transferred.

PART 2: Planning, building and construction issues and recommendations

2.1 We recommend that the conditions of planning for multi-unit development should oblige the developer as follows:

- i. To provide a bond at an agreed amount per dwelling to the local authority, to be released upon satisfactory completion of the common areas. In large schemes, the bond could be redeemable in relation to different blocks and defined boundaries before the vesting process, provided that all independent certification processes are completed.

- ii. To contract – both with the apartment purchasers and with the management company – to provide an architect's Certificate of Compliance with planning permission and building control. This should be provided before the planning authority releases its completion bond.
- iii. To require that each of the three parties to estate developments (apartment purchasers, the management company and the planning authority) be furnished with an architect's Certificate of Practical Completion, certifying that common areas are fit for possession by the management company. In large developments, such certificates could be issued as a series of certificates of partial practical completion, covering individual phases or areas of the development, so that the large scale of a development does not delay the issue of such a certificate and the recourse it offers.
- iv. To complete the development's common areas in an expeditious manner, within the duration of the relevant planning permission.
- v. To vest the common areas in the management company once the development's completion is certified and only after all of the above formalities are completed.

2.2 We recommend legislative reform to ensure that a comprehensive and consistent system of inspections of building regulation standards be provided by the local authority to police and ensure the completion of multi-unit development in compliance with building regulations. This is considered necessary as in multi-unit developments there is currently limited and inadequate assurance for completion and compliance with building regulations/building control as provided through the current process of 'self-certification' which operates poorly without milestone monitoring/ inspections by the relevant local authority. This reform is essential to protect apartment owners' investment and long-term housing welfare and amenity through the management company.

2.3 We recommend that legislative reform be enacted to provide that building authority enforcement powers be extended and sufficiently resourced to ensure a prompt and efficient means of addressing construction standards, defects and completion issues in multi-unit developments.

2.4 We recommend statutory legislation be enacted so that Home Bond, the building guarantee scheme, be developed to a similar standard for multi-unit developments as that provided to conventional housing units and that the scheme be also extended to include building services including plumbing and mechanical and electrical services within the common areas.

2.5.1 We recommend urgent legislative reform to provide a process which ensures that works set out in the developers' certification for fire-safety design and installations *are independently inspected and certified as built*.

2.5.2 We recommend legislative reform that, prior to any building occupation or handover to the management company, that the developer is compelled to deliver the following:

- i. A copy of the approved Fire Safety Certificate application documentation.
- ii. The final approved fire-safety technical report which accompanied the application (also known as the 'Compliance Report').
- iii. Any supplementary reports or clarifications submitted as part of the application.
- iv. Drawings including: site location map, site plan, floor plans, sections, elevations.
- v. The certificate as issued including any conditions etc.

- vi. Details of any relevant letters accompanying the application or submitted during the course of its assessment, appeals and decisions.

We recommend a review of all existing apartment buildings through a nationwide risk-assessment programme to ensure their safe operations with respect to fire safety.

We recommend a national programme of education and awareness be delivered to ensure that owners and directors of management companies and all occupiers of multi-unit dwellings are aware of the responsibilities and observations required of them to ensure that apartments are a safe place in which to reside.

PART 3: Multi-unit developments and management company issues and recommendations

3.1 We recommend that a national programme of education and awareness be provided aimed at highlighting responsibilities and the long-term benefits of properly managed developments to counteract the unbalanced 'cost-only' orientated media coverage in recent times. Essentially, such a programme needs to explain the roles and responsibilities of the owners, the developers, the management company and the managing agent, the extent and limitation of the services and the factors determining service charge costs and variances.

3.2 We recommend that owners who accept appointment as directors of a management company be adequately protected from personal and legal liability insofar as they should not be held personally responsible for the state of affairs of the management company prior to their appointment, nor for any building defects existing at the time of the transfer of the common areas to the management company or which have occurred since then.

This can be achieved by ensuring that a regulated process of transfer of the common areas to the management company takes place including certification for completion and compliance with planning and building regulations (including fire) as part of the process.

3.3 We recommend reform of the legal framework to include a defined arrangement for the participation of the owners in the management of multi-unit developments during the period of time prior to and up to the transfer of the estate. This process should provide for an appropriate 'owner-inclusive' system of management along the lines of voluntary best practice currently adopted by some professional developers and their managing agents.

3.4 We recommend that a standard code of practice be adopted and made compulsory for the calculation of the apportionment method of the service charges within an estate. We further recommend that legislation requires that the initial budget be a professional estimate of all administration and maintenance costs, including a sinking-fund provision for the cost of replacing plant machinery and fittings given their expected useful life. This process is necessary in order to eliminate unfair and inequitable methods and/or the giving of inadequate rates or inappropriate information on service charges.

3.5 We recommend regulation of management companies and their directors and the adoption of a code of understanding and best practice for directors. Those who offer to serve as directors should be obliged to sign up to this code so as to clearly define their role and responsibility as directors, and agreement to promote the financial welfare of the management company at all times by making adequate provision for a proper level of service charge and sinking funds appropriate to the needs of their development. Furthermore, we recommend that it be required also under regulation that the auditors to the management company certify the annual budget and any special levies otherwise approved of by the directors.

3.6 We recommend legislative reform to require purchaser's solicitors to register leases and return the counterpart leases to the management company within a prescribed timeframe enable the owners' identification and efficient recovery of service charges by the management company.

We also recommend that lease documentation be amended to enable management companies to collect service charges by way of direct debit or electronic fund transfer.

We further recommend that all costs, including legal costs and outlay, incurred by the management company in the collection of service charge arrears be fully recoverable from the debtor under the terms of the lease.

3.7 We recommend that there be a statutory requirement for a Chartered Quantity Surveyor's Certificate of Opinion as to the adequacy of the sinking fund as provided in respect of each management company every three years and that a copy of the certificate form part of the audit process.

3.8 We recommend that management companies be awarded a special designation status within company law to provide for a less stringent process than company strike-off in the event of failures to file statutory returns to the Company Registration Office.

A specific CRO form could be introduced for a management company to distinguish it as a company with the sole purpose of managing a multi-unit development for the benefit of its members on a not-for-profit basis. The management company could then be subject to certain exemptions and or requirements, including for example:

- i. Strike-off exemption.
- ii. Appeal for late filing fees (in the event of rescues).
- iii. Reduced information for directors on B10s (as these are 'voluntary' directorships, many candidates do not wish to disclose other directorships to their neighbours).
- iv. Adoption of standardised Memorandum & Articles of Association.
- v. Adoption of standardised accounting reports.

This special status could also mandate the disclosure of additional information at AGMs. Such information might include reports on the management activities, a sinking-fund summary and analysis and insurance information. These items are regularly called for at AGMs but not statutorily required to be given under current requirements.

PART 4: Managing agent – issues and recommendations

4.1 We recommend that legislative power is granted as a matter of urgency to the already established National Property Services Regulatory Authority so that the introduction of licensing and regulation can be implemented with speed.

We also recommend that measures are put in place to enable management companies, their members, directors and management agents to work in a cooperative and professional manner for the future well-being of all interested parties. These measures should serve to facilitate an improved working environment to encourage the availability of quality professional staff and the reduction of inappropriate client behaviour.

4.2 We recommend, as part of any legislation to be enacted, and in the formulation of any rules and regulations to be adopted:

- i. That the role of the professional management agent is acknowledged and recognised.
- ii. That the established professional firms specialising in multi-unit development be acknowledged encouraged and assisted to continue in service.
- iii. That regulations impose an appropriate professional level of competence and third-level education for entry.
- iv. That firms applying for regulation and licensing are required to provide evidence of their investment and resources in training, communications, property management and company secretarial skills.
- v. That the National Programme of Awareness recommended earlier in this position paper also acknowledges the important and valuable role of the managing agent.

Part 5: Multi-unit development – conclusion

5.1 We recommend that an overall fundamental review of the entire multi-unit development process be undertaken including the legal and corporate framework in which it operates, as a necessary step to develop and facilitate a more workable and efficient professional management service so as to ensure the sustainability of quality apartment living in Ireland.

Glossary of key terms

Sinking fund

A sinking fund is a pool of money created to build up funds that can be used to pay for large items of infrequent expenditure (such as the refurbishment of a roof) and for major items that arise more regularly, such as redecoration of the common area interiors. The sums required can be significant over a 30-year life cycle. The fund must be initiated from the very first year and then adjusted as necessary annually and collected to avoid, as the work arises, the costs having to be funded through a special levy or a one-off lump sum.

In simple terms, infrequent but essential refurbishment or replacement headings are: lifts (motors/parts and carriage); mechanical and electrical plant – lighting systems, pumps; fire alarm and safety systems; intercoms; security plant (i.e. CCTV cameras); gates (motors and parts); roofs (major repairs to, or replacement of materials and parts); roads and car parks, footpaths/kerbs (re-surfacing, repairs or replacement); replacement of windows (the management company is often responsible for individual apartment windows); repairs to building fabric (i.e. re-pointing of brickwork).

More regular refurbishment might include: interior common areas (redecorating of walls, ceilings and woodwork, usually including external side of apartment doors and door frames); re-carpeting and re-tiling of floors; exterior repainting of walls surfaces, balconies, railings and woodwork.

The usual method of calculating how much money is to go into the fund each year is to take the expected costs of future works and divide it by the number of years that may be expected to pass before it is incurred. However, this requires specialist expertise and a chartered quantity surveyor should be consulted to assess the building fabric, materials and plant to ensure the all the provisions are identified and accounted for adequately. The expected life of plant and equipment will depend on the item in question and will be influenced by: the quality of the original installation; the type and level of maintenance carried out; technological advances which may make an item obsolete or difficult to maintain; legislation, particularly health and safety.

A management company

A management company is a company formed by the developer to own and control the common areas in the development (such as the gardens, car parks, entrances, corridors, stairways, roofs, structures and plumbing and electrical services). This company has the responsibility for the provision of services to these areas (such as grounds and cleaning services, insurance, waste disposal, security, building maintenance, lighting etc.) The management company is funded by service charges paid by the apartment owners.

A managing agent

A managing agent is a professional firm contracted by the management company to arrange for the provision of these services, the collection of the service charges and the day-to-day administration of the management company.

Key organisations

Irish Property and Facility Management Association	IPFMA	www.ipfma.com
The Irish Auctioneers & Valuers Institute	IAVI	www.iavi.ie
Society of Chartered Surveyors	SCS	www.scs.ie
The Institute of Professional Auctioneers and Valuers	IPAV	www.ipav.ie
Dublin City Council	DCC	www.dublincity.ie
National Consumer Agency	NCA	www.consumerconnect.ie
Law Reform Commission	LRC	www.lawreform.ie
National Property Services Regulatory Authority	NPSRA	www.npsra.ie
The Irish Home Builders Association	IHBA	
HomeBond		www.homebond.ie
The Law Society		www.lawsociety.ie
Office of the Director of Corporate Enforcement	ODCE	www.odce.ie
An Bord Pleanála		www.pleanala.ie
Construction Industry Federation	CFI	www.cif.ie
Royal Institute of Architects of Ireland	RIAI	www.riai.ie
Company Registration Office	CRO	www.cro.ie
Land Registry		www.landregistry.ie