



O'Dwyer Property Management Ltd.

Living in a New Phased Development - What to Expect in the Early Years

An ODPM Explanatory
Guide

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Introduction

The purpose of this guide is to explain, in general terms, the issues which often concern owners in new phased developments in the first years.

I thought I was moving into a development like in the brochure – My development is only half built and can I complain?

Living in a phased development requires a certain amount of tolerance from new owners as regards dust and other unpleasant factors which impact on those who take up residence while construction continues. This has to be an accepted part of living in a phased development and depending on the stage the development is at when the buyer purchases will influence the level of inconvenience these factors cause and the length of time they must be tolerated.

Can I seek compensation for the dust, dirt & inconvenience?

The only compensation that you might derive from suffering the consequences of living on a partial building site is the original purchase would normally be less than the value of the houses sold when the site is complete.

What is a Management Company?

The Management Company is a company set up by the developer at the commencement of the development to be responsible for the maintenance and management of the structure of the common areas of the complex as defined and set down on the plans/site maps as set out in title.

Why do we need a Management Company?

When a private development contains what is known as 'common parts', that is, any part of the development that is common to more than one owner, not forming part of any one dwelling or apartment, those common parts must be owned and vested in one company, known as the management company. These areas can be internal and/or external. For example, internally – lifts, fire alarms, corridors, etc and externally – grounds, vehicular gates, boundaries, lobbies, stairwells etc.

What is the service charge?

The service charge is the cost attributable by each dwelling in the estate towards the funding of the services provided by your Management Company.

Why should I have to pay a service charge while the place is still under construction?

Notwithstanding an owners view on the condition of an incomplete or indeed complete development, the service charge must be paid, as owners are contractually obliged under title to pay it. Non-payment will render you liable to an interest penalty and legal fees if the matter is referred for debt collection.

Am I legally obliged to pay a service charge?

Your solicitor when completing your conveyance may not have explained to you that irrespective of the fact that the estate was under construction and might be for some time that you were signing a document that obliges you to pay from the first day of purchase. Please note that the service charge is only used for services provided to completed parts of the development i.e. those parts which have been handed over.

Why is the standard of cleaning not always consistent?

Cleaning is a problematic area for all new developments whilst under construction as dust and dirt is generated daily. ODPM aims to provide an acceptable level of cleanliness within these constraints. The reality is however that an area that is cleaned thoroughly can become dusty/dirty again an hour later. One solution would be regular cleaning however this comes at a cost to residents and this is something ODPM would endeavour to keep to a minimum if possible.

There is a charge for window cleaning on my bill, but the windows were not cleaned in that service charge year – Can I have a refund?

Should a service that was due to be carried out not be carried out, the fund remains in the service charge account. The intention is that this work will be carried out as soon as it is appropriate. Refunds are not given.

If landscaping is covered in the service charge and there are no shrubs/flowers near my residence, but rather at the other end of the estate, why should I have to pay for this part of the service?

The appeal of many developments to investors is the overall appearance of the estate and this would include the areas which have been landscaped by the architects to give an aesthetic look to the area. There is no provision made for altered rates should one house benefit more or less from the services to the estate and this would include proximity to landscaped areas etc. This often appears unfair to owners who are residing in a partially built estate but is an associated part of private estate living.

If the builders/contractors are parking in my car space what can I do about it?

Contact the developers site office or their head office directly and if this practice continues, make a complaint in writing and contact the Managing Agent.

I was told there would be a full- time Janitor on the site but I haven't seen him yet...Why?

Each service generally commences when there is an appropriate number of residents in occupation on the development. All owners and residents will be advised when the Janitor is recruited and starts. The agent will advise of work hours and contact details.

Why are the developers still in control of our development?

Generally, the developers remain in control of the development until the estate is finished and all units sold and handover takes place. ODPM is retained by the developer to work on behalf of the residents . ODPM will ensure the best service is provided by reasonable means.

The floor covering in the common areas still hasn't been put down – When will this be completed?

It is in the long term interest of all owners not to have flooring fitted in the common areas until the majority of residents have moved in. Any damage caused to common areas as residents move in is not rectified by the developers.

There are many small finishings which need to be addressed in our development ...

ODPM prepare cosmetic finishing lists which are passed to the developer. ODPM will do their best to ensure such finishes are attended to however the Management Company has no legal power to ensure attendance.

If finishes are bad or the owners have concern over the completion of the development what can they do?

Professional building surveyors can be retained to carry out a professional ?? and survey report.

The car spaces are not allocated and I want to claim the car space outside my residence – After all, I did pay for a car space with my apartment...

Leases which purchasers would have signed on closing contain details pertaining to the allocation of spaces. Please note that where one space is allocated to a premises, then only one space is permitted for parking in.

Where car spaces are not allocated then residents are free to park in any designated parking areas. Please revert to your solicitor for clarification on the parking allocation for your premises.

I require two car spaces and there is only one allocated to my residence – What can I do about it?

Again, refer to your Lease which will detail any car space allocation. Where one space is allocated to a premises, then only one space is permitted for parking in.

I need an extra key for my building entrance door – Where can I get one?

You can order keys from the Access Device Key Sales Department on 01-6603822 (Mon – Fri 10am – 4pm).

Further Queries?

Should you have any further queries in relation to any aspect of the management of your development please do not hesitate to contact ODPM's **Property Services Team** who are available to address your calls and assist you in any way they can.

You can contact the **ODPM Property Services Team** on 01-6603822, Monday to Friday, 9am to 5.00pm. Please have the following information ready to help them deal with you more efficiently:

- Your development name
- Your name
- Your unit number

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Disclaimer

This document is prepared by ODPM and is intended to answer some of the common queries raised by members of Management Companies in an understandable manner without using a great deal of legal terminology.

The intention is to give general guidance to cover concerns which commonly arise but by no means does ODPM accept any liability whatsoever for errors or omissions.

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