

The Multi-Unit Development Bill 2009 – 27th May 2009

On 27th May 2009 Minister Dermot Ahern published the Multi-Unit Developments Bill 2009 he said it introduced reforms for the owners of existing and new apartment and multi-unit residential complexes. The new Bill would update legislation in apartment management and ownership and significantly refocus legal protections towards owners of apartments.

Speaking at a joint press launch with Mr. John Gormley, T.D., Minister for the Environment, Heritage and Local Government, Minister Ahern said: **"The comprehensive reforms set out in the Bill are designed to improve the regulation of multi-unit developments and the governance of management companies in such developments.**

The Bill's provisions will ensureimproved legal protectionand address concerns identified in the Law Reform Commission's Report on Multi-Unit Developments."

"..The Bill is to introduce a comprehensive legislative framework to cater for the specific needs of apartment owners in multi-unit developments. Existing legislation under which property management companies operate is inadequate to deal with and resolve the various difficulties being experienced by individual apartment owners."

Minister Ahern added: **"The Bill will, I believe, improve the management and maintenance of the internal and external common areas in apartment complexes. The Bill specifies new standards to ensure the smooth ongoing operation of such companies, including rules on the calculation of service charges, the establishment of sinking funds, the holding of annual meetings and the preparation of reports for apartment owners within the complex. The Bill also includes provisions for the resolution of disputes. While the emphasis is on resolution of such disputes by means of mediation, the court will be empowered to make appropriate orders where mediation attempts have failed."**

The Bill was outlined as a further step in the Government's response to the issues faced by apartment dwellers.

Summary of the Multi-Unit Developments Bill 2009

The Bill contains proposals for a comprehensive statutory framework for multi-unit developments and for governance of the property management companies which own and manage the common internal and external areas of such developments. This new framework will apply not only to new developments, but to those under construction and those which have already been completed.

- **Obligation to establish company**

- In future, the developer of a multi-unit development must establish an owners' management company and transfer ownership of the common areas to it before any apartment is sold.
- This transfer of ownership does not relieve the developer in any way of his obligations to complete the development.
- The company must have the words "owners' management company" in its name.
- The owner of each apartment will have one vote.
- When an apartment is sold, membership of the company will in future transfer automatically to the new owner.

- **Duties of company**

- An owners' management company will be obliged to prepare an annual report and provide a copy to each apartment owner.
- The annual report must be discussed at a meeting of company members and the meeting must be held at a reasonable time and within reasonable proximity of the development.

- **Annual service charges**

- An owners' management company must establish and maintain a scheme of annual service charges; the annual charge must be approved by a general meeting of the company's members.
- The annual charge must be calculated on a transparent basis and be fairly apportioned between the apartment owners.
- The service charge may not be used to defray expenses on matters which are the responsibility of the developer or builder.
- Service charges in respect of any unsold units must be paid by the developer.

- **Sinking Funds**

- An owners' management company must establish and maintain a 'sinking fund' for non-recurring maintenance and repairs.
- In new multi-unit developments, the fund must be set up within three years of the sale of the first unit; in existing developments, it must be set up within 18 months of enactment of the Bill.
- The annual contribution to the sinking fund is a matter for the apartment owners but a minimum annual charge of €200 per unit will apply.

- **House Rules**

- An owners' management company may make House Rules for the multi-unit development with the objective of enhancing the quiet and peaceful occupation of the apartments.
- These Rules must be approved by a meeting of the apartment owners.
- In cases where an apartment is let, a copy of the Rules must be included in the letting agreement and they will be binding on the tenants.

- **Resolution of disputes**

- The Bill provides for a new court-based dispute resolution mechanism which will apply to both new and existing multi-unit developments.
- Mediation is the preferred option for resolving such disputes and applicants must state whether or not mediation has been attempted.
- The court may, at any stage during proceedings, direct the parties concerned to meet for discussions and attempt to settle the matter in issue.
- Where mediation fails, the court may make an order where it is satisfied that a right has been infringed or an obligation has not been discharged.

- **Amended strike-off provisions**

- Struck off property management may be restored to the Companies Register within a 6-year period provided all outstanding annual returns are submitted.

The Bill and accompanying Explanatory Memorandum are available on the Oireachtas website (www.oireachtas.ie)