

# **OPENING STATEMENT TO THE JOINT OIREACHTAS COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT BY THE CONSTRUCTION DEFECTS ALLIANCE**

**Thursday, 7 November 2019**

## **Introduction**

My name is Kath Cottier and I'm the Director of Housing Services with Clúid Housing Association – one of the largest social housing providers in the country – as well as being Chair of the Beacon South Quarter Owners' Management Company. I'm also leading the delegation here today and it's important to explain that the reason I have taken this role is to use Clúid's property expertise to help resolve an issue which is crippling many ordinary households and negatively affecting the reputation of apartment living which is a key component of long-term planning for our urban centres.

Returning to my role here today, I want – on behalf of the Construction Defects Alliance – to thank the Committee for giving us this opportunity to address the real-life experience of homeowners who are having to deal with structural defects in their homes which have arisen through no fault of their own but for which they have been left holding the baby.

We hope that our deliberations here today will contribute to a process through which this Committee's own report, *Safe as Houses?* – which is now nearly two years old – can be successfully implemented and some relief delivered to the tens of thousands of homeowners affected by construction defects.

## **Construction Defects Alliance**

I want to begin by explaining who and what the Construction Defects Alliance is as we're just recently formed.

The Alliance is an informal grouping – which has the support of the Apartment Owners' Network (AON) – currently involving owners and OMCs from over a dozen different locations around the greater Dublin area which are affected by construction defects. We also have active involvement from some of the professionals who are working with the owners and OMCs concerned. Our panel today is made up of representatives of those different elements as well as Des McCabe from the AON. As you may recall, representatives of AON appeared before this Committee in April 2018 and set out for you the issues, including fire safety construction defects, impacting on apartments and multi-unit developments.

The Alliance has its origins in the Beacon South Quarter Lobby Group – of which I'm a member – which has been campaigning for the last couple of years for action for homeowners affected by defects. Through our campaigning work other individual owners and OMCs approached us and got involved in the campaign. Ultimately, as the numbers began to grow, it made sense to set up the Alliance.

At the moment, the Alliance includes people involved in over a dozen developments near Swords, Blanchardstown, south Meath, City Centre, Dublin 6 and 12, Stillorgan and Sandyford. We know that there are many, many more developments around the country affected by defects and we hope that the publicity surrounding today's hearing will encourage them to join us in our campaign which has one very simple aim – the implementation of the *Safe As Houses?* report.

## **Scale of the Problem**

Most of the members of the Alliance own homes in apartment developments – the majority of which were built during the Celtic Tiger era. However, some pre-dated that era and some defective homes have also come along after 2008.

Returning to Celtic Tiger era apartments, it's worth bearing in mind that CSO data shows that over 131,000 apartments were built during the period 2000-2008 – just before the financial crash and deep recession which hit this country. We simply don't know how many are affected by defects. Indeed, because of the consequences – in terms of potential remediation costs, loss of property value and difficulty in selling their homes – many homeowners simply don't want to know if their apartments or houses are affected by fire or other defects. But from a health and safety point of view this is an appalling vista – we can't continue, with a hear no evil, see no evil approach to the issue of fire and other defects. We don't even have to mention Grenfell Tower to see where that road leads to!

Coming back to trying to estimate the scale of the problem, Keenan Property Management have publicly stated that 70% of the apartments in their portfolio are affected by defects. Taking that as a possible measure of the scale of the problem leads us to the figure of almost 92,000 apartments being affected by defects.

Of course the seriousness of defects and the scale of the costs involved in remediating the problem varies from location to location. In Beacon South Quarter – where there are almost 900 apartments – the cost of fire remediation works is over €9 million. Each owner has been levied for the costs of these and other works and the average bill is almost €13,500 per apartment – some bills are higher and some are lower depending on the size of the apartment concerned.

Beacon also has considerable water ingress problems but we're in the middle of negotiating a settlement to an insurance claim. Depending on the outcome of that process, we may need to go back to the homeowners to look for more money to complete the water ingress remediation works.

In a number of adjacent developments – and the owners there don't yet want to out themselves (more on that shortly) – the remediation costs are even higher. In one development, owners were levied €16,500 each and given three months to come up with the money – in one lump! In another location, estimates are for around €25,000 per apartment.

## **Extreme Stress, Worry and Strained Relations**

As public representatives, sensitive to your constituents' concerns, I'm sure you are aware that this situation causes the homeowners concerned huge stress because of the financial burden, considerable worries because of the spectre of fire safety and also impacts on the relationships between owners, their OMCs and the agents acting on behalf of the OMCs. All of which undermines the very idea that one's home is a sanctuary. Some of my colleagues before you will attest to that later in this proceeding.

I want to address the issues of the worries over fire safety first. As you can imagine all the talk over recent times about Grenfell Tower has had a profound effect on people living in properties that are not secure from a fire perspective. And it's a well-founded worry – in Beacon alone there have been eight fires in recent years with some apartments being absolutely gutted. We also know that people died as a result of a fire in Verdemont in Blanchardstown, a terrace of houses in Newbridge, Co Kildare was destroyed by fire in the not too distant past and considerable damage was done to the Metro Hotel in Ballymun when people were resident in it.

It's because of this threat that OMCs are obliged to act to remediate fire defects and to take additional fire safety measures. Again, in Beacon, we have employed additional fire wardens on a 24/7 basis as well as installing additional fire alarms. All of this costs money, and has led to hikes in annual service charges on top of mortgage payments and the remediation levies.

On the financial side, the OMCs need to get as much money as possible upfront in order to get the remediation works done – there's no point in starting works without the funds to pay the contractors concerned. The need to get money upfront places huge strains on owners who have to find the resources to pay the levies in addition to all of their other costs. In Beacon, we have a number of large institutional owners who can afford to pay upfront with individual owners being largely forced to borrow – at interest rates of 9% or 10% – or pay it out of cashflow if they can. It's important to stress here that my involvement in this campaign – and that of Clúid and other institutional owners – is nothing to do with extracting any financial benefit from the misery of individual homeowners. To be clear, we're not looking for or expecting to get redress for ourselves – our sole focus is on individual homeowners.

Coming back to the issue of the financial burden being experienced by homeowners, it's only fair to say that it is placing huge stress on many, many people and we know some are really struggling to pay their levies. Another aspect of this stress is that many homeowners are worried about the impact on their lenders and insurers if and when they find out about the defects as well as the real concern that they may have difficulty selling their property. These worries are why so many of the people involved in the Alliance are happy to talk to their public representatives but will shy away from the media and it's why so many of them are sitting in the gallery and not before you this morning.

The various stresses experienced by homeowners are also, in turn, impacting on relationships within the different developments. For example, the OMCs' agents are the

ones tasked with collecting the levies and this is not easy and can sometimes involve legal proceedings which are not pleasant for all concerned. In other cases, the OMC directors – who are only volunteers after all – are having to levy sums of money which their neighbours are deeply unhappy about and this can cause a lot of difficulty for neighbourly relations. And remember that all of this stress and strain arises through no fault of any of the people involved – yet they are left to mop up after other people’s failings.

### **Frustration at Inaction**

Given the human dimension that I’ve just outlined, it might not be too hard for Committee members to imagine the deep frustration that owners of defective homes experience when they hear Ministers say that this issue is a private contractual matter and nothing to do with the State.

The Construction Defects Alliance would strongly challenge the notion that the State has no responsibility in this matter because the defects concerned are all breaches of the Building Regulations – which came into effect in 1990 – but which the State did not properly enforce. Unfortunately, the latest in a long line of disastrous ‘light touch’ approaches to regulation in Ireland.

The mantra of this being a ‘private contractual matter’ really grates with the homeowners concerned as most of us have made and are making considerable efforts to hold developers and contractors to account but to no avail.

For example, we in Beacon South Quarter instructed our solicitors to explore if we could take a case against the contractors – as the developers had already gone bankrupt (as is the case in so many developments). Our solicitors concluded that we had a 20% chance of success – at best – and that such a case would cost €750,000 at a minimum. Rightly, we decided that it would be imprudent to take a case.

Meanwhile, some of those involved in the construction process at Beacon and elsewhere are going on about their business – including getting substantial public contracts – while the owners are left to pick up the tab. Another reason why owners of defective homes are so deeply frustrated.

Finally, Alliance members see that owners of homes with Pyrite and Mica have had redress schemes set up – just on the cusp of the Local and European Elections earlier this year – and we know of many apartment developments where arms of the State – such as NAMA and local authorities – have paid for remediation works. Why them and not us? Why, two years on from the adoption of *Safe as Houses?*, has nothing been done in relation to the implementation of its recommendations?

## Redress Scheme

As I mentioned the Construction Defects Alliance's aim is to get this Committee's own proposals in *Safe as Houses?* implemented. It's worth recalling what they are:

- The establishment of a redress scheme to assist homeowners with latent defects;
- Provision of an information and advice service for those affected by defects;
- Redress scheme to be funded through industry levy matched by Government funding, tax write offs or interest-free loans.

Based on pronouncements from Ministers, the current Government does not appear to support the Committee's proposals, although we note with interest that some parties have already indicated support for these measures and others are moving in this direction.

We hope that by the time of next year's General Election that we will have sufficient commitments on board to ensure that the next Programme for Government contains firm commitments to right the wrong that has been done to the owners of homes with structural defects.

## Interim Measures

However, while the Construction Defects Alliance is focused on delivering the *Safe as Houses?* report's recommendations, we are eager to explore if the current Government could facilitate soft loans to help ease the pain for owners who are having to pay levies – on top of their mortgages and service charges – to remediate defects.

It's important to say that there is a strong precedent for the State providing loans for home improvements at soft rates. For years, local authorities provided Home Improvement Loans of up to €15,000 over 15 years at 2.75% – while many local authorities don't do so anymore, some still do. Why can't the terms of this scheme be broadened to include those who are owners of homes with structural defects that have had a levy for remediation works imposed upon them by their OMC?

Local authorities have the experience and infrastructure to administer such loans – even those not doing the Home Improvement Loans anymore are administering the Rebuilding Ireland Home Loans. The Housing Finance Agency can access funds at close to 0% interest – which as far as we are aware is off-books from the State's point of view – and that money can be provided to owners through the local authorities. In this way, owners can be assisted in getting access to cheaper money, which will allow them pay their levies upfront – thus facilitating the remediation works – and to pay over a longer period thus easing the pressure on their cashflow.

From the State's perspective, such a proposition does not involve it signing the dreaded 'blank cheque' and still enables it to assist people who are experiencing real stress and pressure.

We also think that a system of tax breaks should be put in place – like the Home Renovation Improvement scheme – to help take the sting out of the levies homeowners are having to pay. The Beacon South Quarter Lobby Group proposed such a measure in its Pre-Budget Submission which was received by Government in early July. Given that the Finance Bill has only recently been published, maybe this is something that could be moved upon quickly.

It's important to reiterate that these proposals are not our preferred solution – but they represent acceptable interim measures that would offer some relief to those affected by structural defects they did not cause.

## **Conclusion**

I hope this Opening Statement sets out in broad terms the issues facing tens of thousands of homeowners around the country – in particular the stress and strains that the thing they most dreamed of – having a home of their own – is now causing them and their neighbours. And, as I said earlier, my colleagues can – and will – outline much more eloquently the nature of this lived experience during the questions and answers to follow.

The owners of defective homes are deeply frustrated at the inaction that has surrounded their situation – but you here today can begin the process of helping them.

We want to see your own report implemented, but short of that, surely it's not beyond the capability of all concerned to set up a scheme of soft loans to help ease the burden on these hard-pressed citizens as well as putting in place tax breaks.

Thanks again to the Committee for asking the Construction Defects Alliance and the Apartment Owners' Network to appear before you this morning and we look forward to engaging with your questions now.

Ends.