

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

Tuesday, 1 December 2020

Introduction

My name is Kath Cottier and I'm Director of Housing Services with Clúid Housing Association as well as being Chair of the Beacon South Quarter Owners' Management Company and the Construction Defects Alliance. The reason I have taken up these roles 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 the delivery of the relevant commitments in the Programme for Government.

Construction Defects Alliance

I want to begin by explaining who and what the Construction Defects Alliance is.

The Alliance is an informal grouping – which has the support of the Apartment Owners' Network (AON) – currently involving hundreds of owners and OMCs from over 80 different developments around the country 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 Dónal Nugent, Barry Mulhern and Ciara Holland who are owners of apartments that have experienced defects – as is Des McCabe from the AON – and Stephen Scott, Scott Murphy, who is managing the remediation of many defective apartment developments.

The Alliance's campaign has one very simple aim – the implementation of this Committee's *Safe as Houses?* report.

Scale and Urgency 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 and insurance 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.

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! Earlier this year, Eamon O'Boyle – fire engineer and one of the expert witnesses before this Committee back in 2017 – wrote in the *Engineer's Journal* (bit.ly/2Q9mCix): “*Fire safety of apartments is one of the many 'legacy issues' faced by Government and it cannot be long-fingered until there is a tragedy.*”

In this context, O'Boyle argues that “*it is essential that high-risk buildings be identified, and the initial focus should be on buildings where people sleep overnight. These include apartments, hotels, hospitals, dormitories and student accommodation blocks.*” It's important to point out, that while a review of high-risk building was undertaken at Government's behest post-Grenfell, it only covered buildings over 18 metres high so the vast majority of multi-unit developments in Ireland were not part of this review's remit. So, in real terms, the process of identifying high-risk buildings has yet to be carried out.

In terms of the metrics of the problem in Ireland, Eamon O'Boyle estimates that 75% of Celtic Tiger era apartments are affected by fire defects – which would mean, based on CSO statistics, that almost 100,000 apartments have legacy defects. The cost of remediation is unknown, but based on experience it can vary between €5,000 to €60,000 per apartment with €15,000 seeming to be the median cost.

Causes of Defects

It's important to step back and look at the nature of defects and they largely fall under two headings: fire and water ingress.

The fire issues arise because insufficient fire stopping was put in place during the construction process or it was put in incorrectly. This is a critical issue for people living in multi-unit developments as fire stopping is the material used to compartmentalise one apartment from another and from the common areas and to impede the spread of fire if one breaks out. Fire stopping allows a conflagration to be tackled at its seat and also facilitates an orderly evacuation of the affected premises.

Obviously if there is insufficient fire stopping in place then fire and smoke spreads more quickly than it should and makes the task of containment and safe evacuation much more hazardous – or worse!

The problem with fire stopping is that it's hidden behind walls, around doors, in between floors and ceilings – nobody purchasing an apartment can see whether it's in place or not and they take the Fire Certificate at face value. The issue of inadequate fire stopping generally comes to light when people smell smoke or cooking fumes from another apartment, hear louder noises than they should, see light coming through from someone else's home or experience water breaking through from the common areas or another apartment. By the time these issues come to the fore, the builder/developer is long gone.

Rectifying insufficient fire stopping requires taking down plasterboard, lifting floors and ceilings, going behind service shafts and risers and putting in additional material. It is time-consuming and costly work. The only way one can ensure that fire stopping is properly installed in the first place is by having on-site building control oversight and supervision at intervals during the construction process. Once the building is completed it is too late! And, of course, the State failed to ensure that the level of building control required to capture fire and other defects was in place.

Extreme Stress, Worry and Strained Relations

As public representatives, sensitive to your constituents' concerns, I'm sure you are aware that apartment defects cause the homeowners involved 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 who are online 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 years 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 South Quarter there have been eight fires in recent years with some apartments being absolutely gutted, we know that people died as a result of a fire in Verdumont 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 while undertaking remediation works including employing additional fire wardens on a 24/7 basis as well as installing additional fire alarms. All of this costs money, and leads to hikes in annual service charges on top of mortgage payments, massively increased insurance costs and the remediation levies.

On the financial side, OMCs need to get in 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 averaging €15,000 in addition to all of their other costs.

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 – experience is that apartments affected by defects only change hands on a cash-basis as financial institutions will not lend for their purchase.

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.

Proposed Working Group

The commitments in the Programme for Government to examine the issue of defective housing in the first 12 months having regard to the recommendations of the *Safe As Houses?* report is the first serious effort by Government to address the matter of legacy defects – and that is why the Alliance warmly welcomes it.

As you know, the Government has proposed to establish a Working Group to conduct this review – with a very specific focus on legacy defects. We're particularly pleased that the Programme sets out a time limit on this review process requiring it to be completed by July 2021. Adherence to this timeframe is crucial so that whatever recommendations come from the Working Group can be put to Government in sufficient time that they can be taken into the calculations for Budget 2021.

We understand from what the Minister has said, that the Construction Defects Alliance and the Apartment Owners' Network will have one representative each on the Working Group and we look forward to playing our part in this process. We also know from our ongoing dealings with the Department and the Minister that they are in the process of appointing a Chair and once this is completed, then the rest of the appointment process will be undertaken.

Cheaper Loans Not Sufficient

You might recall that at the outset, we said that our aim is to campaign for the implementation of the *Safe as Houses?* report. As the members know, that report sets out a range of options for tackling the costs of legacy defects including a redress fund (paid for by the State, the construction and insurance industries), access to cheap loans and tax breaks.

The Alliance's preferred solution is a redress fund and there is precedent there in terms of mica and pyrite. We have had to address the loans issue publicly because it has been raised with us by various Oireachtas members and political parties.

It's important that Committee members and Government are absolutely clear on our position – access to cheap loans on their own (whether that's no interest or very low interest) would not be acceptable as a solution for tackling the costs of remediation to the Construction Defects Alliance. While they would ease the cash flow pressure on OMCs and owners, they would still leave the owners 100% on the hook for remediating defects they did not in any way cause. The very least that the Alliance would accept would be a combination of soft loans and tax breaks or a financial equivalent.

It's also important that everyone is clear that whatever financial solutions arise from the Working Group process would have to include a retrospective element. It's a fundamental principle for us that apartment owners who have done the right thing and taken on the burden of paying for remediation works have to be included in whatever scheme is proposed to Government.

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.

In conclusion, it's critical that the Committee and Government are aware that the full ramifications of the defects crisis in our multi-unit developments is yet to unfold. If OMCs and apartment owners are left unassisted in the process of tackling legacy defects, then this problem has the potential to completely undermine the national strategy for high density living. The public must have confidence in apartment living and for that to be the case they need to know that the State will intervene to ensure that high density residential accommodation works for all concerned.

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.