

DÁIL ÉIREANN

AN COMHCHOISTE UM THITHÍOCHT, PLEANÁIL AGUS RIALTAS ÁITIÚIL
JOINT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

Dé Máirt, 15 Deireadh Fómhair 2019

Tuesday, 15 October 2019

The Joint Committee met at 11 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies

Seanadóirí / Senators

Mick Barry,	Martin Conway.
Pat Casey,	
Mattie McGrath,	
Darragh O'Brien,	
Eoin Ó Broin.	

I láthair / In attendance: Senator Joan Freeman.

Teachta / Deputy Noel Rock sa Chathaoir / in the Chair.

Business of Joint Committee

Chairman: Apologies have been received from Deputy Fergus O'Dowd and Senators Collete Kelleher and Jennifer Murnane O'Connor. I propose that we go into private session to deal with some housekeeping matters.

The joint committee went into private session at 11.04 a.m., suspended at 11.16 a.m., and resumed in public session at 11.17 a.m.

Residential Tenancies Board: Chairperson Designate

Chairman: At the request of the broadcasting and recording services, members and those in the Visitors Gallery are requested to ensure their mobile phones are turned off completely or switched to airplane, safe, or flight mode, depending on the device used, for the duration of the meeting. It is not sufficient to switch them to silent mode as it will still maintain a level of interference with the broadcasting and recording systems.

I welcome Mr. Tom Dunne, chairperson designate of the Residential Tenancies Board. By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

I call Mr. Dunne to make his opening statement.

Mr. Tom Dunne: I believe a copy of my opening statement was sent to the joint committee. Does the Chairman want me to go through it?

Chairman: We can take it as read if Mr. Dunne would like to proceed to questions instead.

Mr. Tom Dunne: It might be better to do so.

Chairman: Are members agreeable?

Deputy Eoin Ó Broin: If the opening statement is taken as read, have we resolved the matter of whether it will appear in the Official Report?

Chairman: On committees of which I have previously been a member, they have certainly appeared in the Official Report.

Deputy Eoin Ó Broin: I ask because recently we took some statements as taken as read and they did not appear in the Official Report. We generally prefer to take them as read, but we

do not want to lose out on-----

Chairman: We are not entirely sure what the position is.

Senator Martin Conway: It is a short statement. Mr. Dunne can get through it. He will be fine.

(Interruptions).

Deputy Eoin Ó Broin: Will the clerk to the committee find out what happened to it? Will the clerk to the committee find out what happened to that? We do not want to lose the value of having Mr. Dunne's words of wisdom on the record-----

Chairman: Previously, we have treated them as being on the record. We will certainly look into that.

Mr. Tom Dunne: What does the Chairman want me to do?

Chairman: If Mr. Dunne likes, he can certainly read an excerpt from it-----

Mr. Tom Dunne: At the risk of-----

Chairman: -----or just the introduction and conclusion. It is his opening statement after all, so whatever he wishes.

Mr. Tom Dunne: In view of what Deputy Ó Broin said maybe it might be better to just read through it.

Chairman: If Mr. Dunne so wishes. The floor is his.

Mr. Tom Dunne: I thank the Chairman. I am grateful for the opportunity to appear before the joint committee in my capacity as chairman designate of the Residential Tenancies Board, RTB. If it is acceptable to the committee I will first highlight my career as it is relevant to the role of the RTB.

I qualified as a chartered surveyor in the late 1970s and worked for ten years in one of Ireland's leading firms of surveyors, valuers and estate agents, gaining experience across a wide range of property consultancy, management, valuation and investment areas. In 1980 I joined the Dublin Institute of Technology, now the Technological University of Dublin, TU Dublin, as lecturer in urban economics and property evaluations where I have spent the bulk of my career, retiring recently as the head of the school of surveying and construction management. This is a large school in TU Dublin with some 1,000 students across 14 academic programmes from degree to post-graduate levels, including PhD students. That was a senior appointment in the university and it required an active role in public sector management, including participation in committees, boards and councils at the highest levels in the university and outside it.

During my career I lectured in variety of areas related to property, including property valuation techniques and housing. My research interests included property taxation, urban economics, housing and, in particular in later years largely because of my involvement in the Residential Tenancies Board, in the private rental sector. I have also engaged with professional and commercial organisations, including the Dublin Chamber of Commerce, the Society of Chartered Surveyors Ireland, and the Irish Property and Facility Management Association. These engagements have given me a wide range of experience in the management and governance

of organisations with a public service remit and an active membership. This involved chairing many committees with those organisations and included a term as the president of the Society of Chartered Surveyors Ireland.

Internationally, I have served for eight years on the governing council of the Royal Institution of Chartered Surveyors, which is a very large professional body based in London with members in a large number of countries around the world.

Of particular importance in terms of my consideration of my role as chairman of the RTB is my lead role in the Commission on the Private Rented Residential Sector, which I chair. In 1999 I was asked by the then Minister of State with responsibility for housing and urban renewal, former Deputy Robert Molloy, to chair the commission and it reported in 2000. The purpose of the commission was to examine the working of the landlord and tenant relationship with regard to residential tenancies, and to consider key issues such as security of tenure, the supply of accommodation, investment return, market considerations and constraints on the development of the sector. The terms of reference were deliberately wide, as the private rented sector had been neglected for many years and was in need of reform. The commission's report informed the Residential Tenancies Act 2004, which provided for the creation of the Private Residential Tenancies Board, PRTB, now the RTB. From 2004 to 2009 I chaired the PRTB, as it then was, during the period it was established. Also of note in the context of my experience across housing is my role in 2003 in assisting the all-party Oireachtas committee on the Constitution in the preparation of its ninth report on property rights.

It is 15 years since the now RTB was established and 19 years since the Commission on the Private Rented Residential Sector reported. The sector has changed significantly in this time and the remit of the RTB has also expanded and devolved considerably. I believe I will be able to contribute positively to supporting change. The important changes I oversaw as the chairman of the commission and subsequently as chairman of the RTB created a new regulatory framework and a quasi-judicial service to replace the courts for landlords and tenants. The implementation of the recommendations from the commission was significant at the time and I believe this experience gives me a particular understanding and insight, which I bring to the RTB.

I now turn to what I see as the priorities important for the role of the chairman and for my approach as the chairman of the RTB. There are core tasks with regard to the leadership and effectiveness of the board. I have summarised a number of key priorities. One is to oversee the effective implementation of the considerable programme of change on foot of recent legislation. This expands the remit of the board to all student-specific accommodation. I am sure that members of the committee will be aware of much of this. It will also give the organisation extensive new powers that give the RTB the ability to proactively investigate and regulate the sector. This is an important development for the regulation of the overall rental market. It is important that the approach to doing this is sensitive and that we focus on supporting and informing people in complying with regulations, as well as empowering people with knowledge. The ultimate goal is compliance, not punishment. We need to support landlords in fulfilling their obligations.

Second, the RTB has an important role to play in using and developing data and research to provide evidence and intelligence on the rental sector. We will continue to grow and invest in this area. It was an important aspect of the recommendations in the original commission's report because at the time it was seen, from the State's perspective, that a lack of information was one of the deficiencies in analysing what was going in the sector. It still happens to some extent.

Third, it is important that the RTB can deliver in a challenging environment. The organisation is supporting a significant proportion of the population and demand for its services continues to increase. Maintaining existing services, organisational supports and adequate resources to ensure effective delivery is a core priority.

Fourth, the RTB has an ambitious five-year strategic plan, underpinned by a vision, to support and develop a well functioning rental sector that is fair, accessible and beneficial to all. I believe in this vision and will work with the board, the director, the executive and stakeholders to support the delivery of the strategic priorities of the RTB.

Fifth, if appointed, I intend to strive to achieve the highest standards of good governance and adhere to best practice, consistent with the RTB's position as a public body and our important mandate. I will support the organisation and monitor our performance in delivery and achieving the planned outcomes within the strategy.

There are significant changes affecting the rental sector, with restricted supply alongside increasing demand for accommodation, affordability issues, with rents at an all-time high and significant legislative and regulatory change and uncertainty. The RTB plays a critical role in working to resolve the crisis. It does this through an enhanced regulatory function, education and awareness which empower people with knowledge on their rights and responsibilities, as well as our data which provide a robust evidence base to inform policy.

I again thank the Chairman and committee members for inviting me to meet them. I assure the committee that I have a genuine interest in this role and believe I can make an effective contribution to the important work of the RTB. I look forward to engaging with the committee again in the future if appointed to this important role.

Chairman: If members wish to contribute, I will call them in the order in which they indicate.

Senator Martin Conway: I congratulate Mr. Dunne on his appointment which I have no doubt will be ratified. The work the RTB does is extremely important because essentially it is the watchdog to protect the rights of tenants and those of landlords when tenants do not fulfil their responsibilities. In that sense, the RTB has a dual role. Mr. Dunne has studied the legislation significantly and noticed and noted the amount of change there has been. Does the RTB have enough power? From his review ahead of his appointment, has he identified any area in which the powers of the RTB should be strengthened?

Mr. Tom Dunne: If I go back and look at the creation of the board, the intention was to remove what was contentious at the time, namely, dispute resolution, from the courts. Effectively, it was not working because if a landlord wanted to deal with a tenant, it was difficult to get the matter before the courts because it was very expensive. Solicitors were charging a lot of money because the issues were contentious and there were many difficult issues under landlord and tenant law. From a tenant's perspective, he or she could not access justice effectively because court procedures were complex and he or she would have to be supported by a solicitor. The intention of the original Act was to take all of it outside the courts and create a dispute resolution process which would enable landlords and tenants to come to some conclusion on their differences. Importantly, even at the time it was seen that tenants might be in their accommodation for longer than the norm. They were mostly in place for one year at the time, but the commission foresaw a period when that might change and tenants would spend longer in tenancies and that as a result, they would have an ongoing relationship with their landlord.

The intention, therefore, was to create a structure which would allow disputes to be resolved in a way that would not sunder the relationship between the landlord and the tenant. Tenants, therefore, would have to leave the accommodation and that is why the idea of mediation was brought in, adjudication followed by tribunals. Senator Conway calls the RTB a watchdog and while it has that function, it is more a dispute resolution service. It has to be impartial to maintain the integrity of that role. Landlords and tenants might not see it as being impartial but it is. One of the most important issues the chairman and the board of directors need to keep an eye on is making sure the dispute resolution service is seen as being as impartial as the courts in resolving disputes between landlords and tenants.

Senator Martin Conway: We have all seen on television and have witnessed in person the appalling standards of some accommodation and the RTB certainly has a job to do to ensure that is properly policed. Another group who feel forgotten are what Mr. Dunne describes as “incidental landlords” because they were advised for whatever reason to buy a second property. They have difficulty evicting tenants and find their properties wrecked. The only comeback they have is the deposit. I am not talking about big landlords with multiple properties because they just take the good with the bad but where people are struggling to pay the mortgage on a property and thousands of euro worth of damage is done, they feel disenfranchised. The RTB has significant work to do to convince incidental landlords that it is a fair and level playing pitch.

Mr. Tom Dunne: I completely understand this. It is a business risk that a landlord takes when taking on a tenant that the tenant may not work out. The important point to bear in mind is that in any business or sphere of life, a few people will always cause many problems. If the incidental landlord has borrowed money, perhaps to create a pension fund for himself or herself, or has inherited a house or has a dwelling that he or she put on to the market and the tenant acts in a disruptive way and proves difficult, that costs him or her an enormous sum. That fear is one reason incidental or accidental landlords are getting out of the market. One of the intentions of the legislation was to try to empower landlords to deal with tenants in a timely way. The board has a focus on making sure that the landlord gets a tenant out in as timely a fashion as possible but the board has to work within the law as laid down. That law originates in landlord and tenant law and is influenced by the Constitution where there are strong property rights and rights to protect the home, which people forget. It is difficult for the State to create a law that covers a situation where a landlord can get a tenant out very quickly. I do not think that will ever happen. It remains a business risk for landlords. All the board can do is try to make its dispute resolution processes as efficient and effective as possible and in the event of there being a tenant who has caused trouble that costs the landlord a lot of money-----

Senator Martin Conway: What are Mr. Dunne’s views on rent pressure zones, RPZs? They were introduced to ensure that rents did not skyrocket and to provide affordability for renters. Does he think they are working? An incidental landlord in Wicklow rented out a property for several years to the same person at a discount. That person moved out but because of the laws and regulations governing RPZs, the landlord was not even able to get market value for it because they could only increase the rent by 4%. Is there a role for the RTB in advising or making recommendations to Government on improving the structure of RPZs?

Mr. Tom Dunne: Of course. That will be an important aspect of the board’s work. It was also provided for in the original legislation that the creation of the board would afford the Government the opportunity to receive some good advice based on evidence from the board’s activities and that is available. The board has an important role in advising the Government on

RPZs. However, any system of rent certainty one brings in is going to contain some anomalies and that is one of them. That might be examined in the current RPZ system. Rent certainty and rent control are fraught issues. Getting the model right is difficult the world over. The model we brought in here has been pretty cleverly constructed, given all the constraints that are brought to bear in trying to construct a model of rent control. I take the point, and the board and I are certainly conscious that there are anomalous situations in which benign landlords lost out in the formula that was brought in to deal with these zones. How to deal with that now is a question to which I would have to give a lot more thought at this stage.

Deputy Eoin Ó Broin: I congratulate Mr. Dunne on his proposed appointment; that is probably what we can say at this stage. Based on his presentation and having worked with him in the past, he is eminently qualified and will do a good job in the role. I wish him good luck with that. I would like to make a couple of comments so that he knows where some of us on the committee are coming from. We pay close attention to the RTB and many of us have been arguing for the board to be given increased powers. We are supportive of the Government's albeit belated introduction of some of those powers in the recent legislation. One of the main priorities is to ensure the new legislation hits the ground running as quickly as possible. Recruitment and IT issues have to be resolved but the sooner all of that is in place, the better. While it is not all completely under the control of the RTB and some of it was time-lined by the Department, it is something we would all like to happen as quickly as possible.

From a policy point of view and in respect of the RTB's role of offering policy advice, one of the issues that is not getting enough attention in government or in the Department is the considerable loss of rental properties that occurred in 2017 and 2018. Over that two-year period, 12,000 rental properties were lost from the market. The most recent figures from the RTB indicate that 3,000 new rental properties were gained in the first quarter of this year but we will have to wait to see if there is a trend indicating that the loss has stabilised. My big fear last year was that we were seeing a disorderly exit of accidental and semi-professional landlords who were availing of the upturn in property prices to get out of the market. There is not an awful lot we can do about that in terms of those people wanting to leave, but sitting back and doing nothing is the worst option. The RTB could usefully lead a conversation informed by the evidence, as we get more data quarter on quarter, as to whether we are seeing a disorderly exit and what the most appropriate policy responses would be to ensure that, if it happens, this exit has the least damaging impact on tenants and the rental sector overall. Much of it is driven by accidental landlords simply wanting to get out. Now that property prices have recovered to their original mortgage purchase prices, it is the opportune moment to go. However, we do not know if that is the case and we do not know what other factors are influencing this. Perhaps some research, data and discussion on that would be useful.

That leads to a broader conversation on the fact that we have too many accidental and semi-professional landlords. It is not that we cannot have professional landlords with one or two properties. Germany and other countries show that we can. The work that the RTB has been doing on attempting to assist landlords to become more professional needs to be accelerated, as I am sure the officials will agree. What that looks like, how we do it and whether it should be compulsory or voluntary is a conversation we need to have. It needs to be ensured that landlords fully understand that this is not a passive investment or something they can do in their spare time. It is almost a full-time job in many cases. This committee might want to return to that as a key issue some time next year.

The third issue is security of tenure. While Part 4 tenancies give the impression of security

of tenure on paper, section 34 is filled with problems. This committee has returned to that repeatedly. Many of us, including Deputy Mick Barry, myself and others, have tabled legislation to remove many of the section 34 grounds such as sale and the use by a family member. If we want to professionalise the sector, we need to ensure that people who want to rent can do so for very long periods without that insecurity. With the rental market in a period of transition, maybe now is the time to grapple with that. We cannot continue with a drip-feed of amendments to the Residential Tenancies Act 2004 because that destabilises the market, but some of these things need to be tackled.

I wish to discuss the rent pressure zones, RPZs. Without opening a broader policy conversation I note that according to the latest Residential Tenancies Board, RTB, information new rents in Dublin have increased by 8.8%. While the policy might have been well-crafted, there is not much evidence the RPZs are working effectively. The fact that more and more areas are being included in the RPZs confirms one of the fears many of us originally had, namely, that there would be a ripple effect pushing up rents in the areas adjoining them. We will have to return to the conversation on rent certainty, rent management and a more effective way to guarantee them.

The great difficulty of our current system is that both the landlord and the tenant are the losers at both the low point and the current high point of rental price. That huge volatility is built into the system. The RPZs were a temporary measure, one which I did not support and I do not think is working. If we are going to reform the rental sector over the long term, how can we get the balance right between tenants' legitimate rights and expectation to reasonable rents that they can manage over the course of their life cycle and landlords' reasonable expectation of a fair return on their investments as long as they are fully compliant with the law and are providing a good service to tenants? I am a tenant and I have a good landlord, so I have experienced this directly. We have not fixed that yet. That is another policy conversation we need to have. We would welcome the opportunity to come back to that discussion next year.

Mr. Tom Dunne: I will comment on some of those points. Very briefly, I agree with the Deputy on the need for the Residential Tenancies Board to support landlords. As has been said, many landlords are incidental or accidental landlords and are not as aware as they might be of the risks they undertake when they become landlords or of the procedures and policies. That points to one original intention of the Residential Tenancies Act 2004. It had to be complex. There were 202 sections in that Act. The Residential Tenancies Board started out with the intention of ensuring that the experience of landlords would not reflect the complexity of the Act. There was enough information on the website so that if a landlord looked at it, he or she could find out how he or she should behave as a landlord. We intended to support landlords in that way. We must continue with that work.

The Deputy is probably right about what has happened in the marketplace. Many of those incidental and accidental landlords are finding the going a bit tough. They appreciate the risks associated with residential investment. They live in fear of a boiler breaking down, a roof coming off or some other major event which would require them to fund repairs. They do not have the resources to do that. As such, they are a very vulnerable class of people. That is one of the motives for getting out. That points to a wider debate which is perhaps not for this committee. This committee can look at the rental sector, but if I may say so there is a need for the State to look at housing in a very broad way. I would advocate the State sitting down to examine the housing system and how it interacts with the social welfare system, the planning system and all the other systems. This could be done in a somewhat similar way to what was done for the

health service. We might get a rental sector that works better out of that.

As Deputy Ó Broin pointed out, one of the problems with the current legislation is that because there have been several amendments it is getting very complex. Many landlords see the complexity, do not know how to handle themselves and decide they need a solicitor. That in itself is a deterrent against getting involved.

The issue security of tenure occupied more of the Commission on the Private Rented Sector's time than perhaps any other issue. If the committee members are looking for pointers on that, the back of the original commission report contains some very good discussions of the reasons for the mechanism that was put into the legislation. There are some good discussions in the back of the original commission report on why the mechanism was put into the legislation. It is very difficult to bring in a measure of security of tenure. If one rents from a professional landlord, a REIT or a company one has stronger security of tenure than if one rents from a private landlord. A REIT cannot recover possession on the basis of wanting a family member to occupy the accommodation, nor will it recover possession on the basis of wanting to refurbish because the properties have probably been kept at a higher level and it will be longer before they need to be refurbished. Property investment companies put money in for the long term and are generally not going to sell a property. Indeed, an amendment to the rules stipulates that if such a body wants to sell a block of flats, it has to do so in phases. A tenant gets better security of tenure when they rent from an institution than if they rent from a private landlord.

If we move from the present situation where there are a lot of accidental landlords to one where there are more professional landlords, that will help security of tenure. Professional landlords anywhere in the world will say they want to keep tenants because changing tenants costs money and it is a disincentive for them for tenants to be moving all the time. It is very hard to give security of tenure when market rents are volatile because, as soon as rents exceed the controlled levels, there is pressure to get tenants out and this can be nasty, as we have seen in other countries. It is a very complex area and the safeguards put into legislation represent a delicate balance. If we brought in a measure of security of tenure that did not allow a person to retrieve his or her property for their own use or that of their family, it would deter people from bringing their properties to the marketplace, thus reducing supply. If a person goes to work abroad and fears they will not get possession of the property again, they will not rent the house. It could have the effect of reducing supply and this needs to be thought about in great detail before we move from where we are at the moment.

Deputy Pat Casey: I wish Mr. Dunne the best of luck. I am not sure whether he was head-hunted or expressed an interest in the job. If the latter, why? He must have a reason for going for the job. What does he see as his priorities in the job?

Mr. Tom Dunne: As I said in my opening statement, I have just retired and I was asking myself what I would do. I saw the advert and decided I would be really interested in doing it, especially given the fact that I had been there before. One retains an interest in certain things. I have a knowledge of the creation of the legislation and the reasons it was created as it was, as well as the nuanced judgments that were made in framing the different sections of the Act. It is important to maintain that understanding and the possibility of becoming chair gives me the opportunity to try to influence the discussions about how the sector will evolve, which I believe it will do. I expressed a view in 2010 or 2011 in the middle of the recession that when we emerged from it, the private rented sector would be a larger part of the housing system and that the importance of legislation relating to the sector would be crucial to having a good housing system. I have an interest in it and I would be happy to spend the next five years of my

life watching that creation that I was part of at the beginning. That is the motivation. I have the time to do it. In fact, one of the problems I had the last time is that I had an onerous job as chairman of the board and I found it difficult to manage that with a full-time job. I do not mind admitting that. It was very time-consuming. My poor wife had to endure me reading board material on Tuesdays and Wednesdays and she could not come near me, but now I have the time.

Deputy Pat Casey: I wish to follow up on a few points, but at this stage Deputy Ó Broin has raised most issues. Every member has had different views on the RTB be it from the point of view of a tenant or a landlord in terms of having had bad experiences and if they have not got the outcome they wished to achieve. It is the case that most landlords see the RTB as the enemy, as opposed to the board taking a more proactive role, which it could do. The challenge for the RTB from a landlord's point of view is to prove that it is there to assist him or her as well; that it is not the enemy but is are part of the solution.

Equally, as we transition from accidental or small landlords to the more commercial landlords, how does Mr. Dunne see the board promoting the interaction with both tenants and landlords? As he said, the entire area has become much more complex and that is causing problems for the accidental or small landlord.

Deputy Ó Broin referred to resources and IT systems. We inquired about that when the legislation was going through. We all know of significant, bad experiences concerning the roll-out of IT in the public sector. We are asking landlords to upload their rents on an annual basis. Equally, we have recruitment problems in the country now. What impact will it have if there are problems with IT and resources?

As a country, we have depended on the small landlord with one or two properties and there seems to be a move to the more commercial operation. According to my understanding, commercial landlords are looking to the higher income level of the rental market rather than the lower and middle income levels. Will that be a challenge in the future if they do not get involved in the lower end of the market?

Mr. Tom Dunne: The Deputy is correct. Many landlords see the RTB as an enemy. My answer to that when I was chair is that was not the board's position. Where a landlord will most likely come up against the board's operations will be in a tribunal or adjudication. That is not the board. The people involved are independent and they are employed by the board. Often, they are similar people to landlords such as solicitors, auctioneers and accountants. Many different professions are involved and they sit and make a judgment on the cases before them. The board does not do that, as such. It is not the board that is against them, if one likes. That is a mistake, but I can understand it.

I did it when I was there previously and I am pleased to know the board has been trying to make the information available on the website as accessible to landlords as it can. That is important given the complexity of the legislation. The board must support landlords in setting down guidelines for how they should behave so that, first, they will be less likely to get in trouble and, second, if they do get in trouble then they can get out of trouble.

I will give one particular example of that. One of the things that landlords do not tend to do is monitor the rent coming in as assiduously as they should. Professional landlords do that. They check the rent coming in every Monday or whenever it is. That is the first sign that something might be going wrong with the tenancy, and they are on top of that. They will check and ring the person, because it is not personal. A private landlord is often embarrassed to ring

up a tenant to say the rent did not come in, ask why and refer to giving two weeks notice. It is seen as coming on heavy. That is the way the systems work. Landlords need to be given the confidence to work the system and not to be afraid to tell tenants how it works and that if they do not manage it or do certain things, they will lose out very badly. Landlords have to be helped and assisted in that regard.

Commercial landlords will be a feature of the future. This is happening worldwide. It is happening for macro reasons beyond Ireland as a State. Funnily enough, commercial landlords fear regulation and legislation less than the private landlords. They are quite happy to operate within systems of rent certainty and regulation. The more professional landlords we have in the sector, the better the sector will be.

Deputy Darragh O'Brien: I thank Mr. Dunne for his presentation. I read the opening statement. I apologise for being delayed getting to the meeting. I wish Mr. Dunne well on his appointment, should it happen.

I am greatly concerned about resourcing, which my colleagues have mentioned. While there has been a rush towards additional regulation and giving the RTB more responsibility, there has not been the same rush to provide additional resources and IT systems. Regarding annual registration, are those systems in place and robust right now?

I would like Mr. Dunne's view on co-living. I do not support co-living at all, as it is not a solution, or even a partial solution, to our housing problem. I was greatly concerned when reading the legal submission to an Bord Pleanála on a certain planning application. It argued that co-living would not come under the RTB or any of its legislation because club membership would be set up. People were to be regarded as lucky enough to be club members of the new developments and would, therefore, not be covered under the RTB legislation or any of the amendments thereto. Has Mr. Dunne a view on that? Has he looked into the area of co-living? How can it be ensured people are not being exploited in such circumstances?

Reference was made to the investors. I agree there is a role for them but the problem, which may be more at policy level, concerns the proportion and location. In certain parts of this city and county, the market is saturated with investor and investment fund landlords. They can effectively set the rent for the area, particularly with new units. There was a recent application to develop 1,200 units in six apartment blocks between Dublin city and Fingal. Almost 1,100 of the units will be build-to-rent. That is going to a REIT or pension fund. While there is a role for them, we certainly have to watch where the units are located and ask whether they are saturating or taking over certain parts of the market in the city. We need to do the same for purpose-built student accommodation.

My other question is on the licence to reside. The amendment to the RTB legislation, with which many of us present were involved, tries to ensure students have the protection of the board. Is Mr. Dunne happy that they have the requisite protection now? Has the board the resources to deal with the thousands of students who will come to Dublin city, generally for a nine-month period, year on year and then move to other areas?

On the proportion of renters, I was looking at figures from 1991. Nine percent of people were in the private market whereas now the proportion is 21%. It is of concern to me and my party that there has been such a massive move towards the rental market. Others would have us believe in a further push towards public housing. I support such a move but they argue there should be more renting of both public and private, with cost-rental models and so on. It seems

to be a continuation of the trend of reduction in home ownership and in giving people an opportunity to own their own homes. That is probably another policy issue, given there has been a distinct move towards pushing people into the private rented sector.

On enforcement of determinations, Mr. Dunne has some previous experience in the role. It is the most frequent complaint or feedback we receive from both sides after going through the process with the RTB, which can be extensive and time-consuming, as he will know. The enforcement aspect does not take place until the end of the process. We debated the matter with the Minister. A judicial determination is ultimately needed to enforce an RTB order. While the Department argued against quasi-judicial orders, people can ignore these determinations, and I am aware of such cases currently before the RTB. Has Mr. Dunne a view on the matter?

Mr. Tom Dunne: On the resources, I was happy, albeit unhappy on another level, that the recent budget has given the board an additional €2 million, although it sought €2.5 million. I certainly see a case for additional resources to be given to the board. I have reviewed the work-plan for the board. It has expanded its roles in the recent past to the point where I expect it to be an issue that will face me as a chairman.

In the first couple of years when we were trying to set up a system to register landlords, PPARS was in the back of our minds. We spent a small amount setting up a rudimentary system to learn how it would operate. The board has a great deal of intelligence in respect of how the system would operate. As I understand, it has a programme - RTB 360 - that will implement a new management system. I have some concern about its introduction because I share the Deputy's view that whenever one starts touching IT systems, they can be problematic. I will have to keep an eye on the matter in the future.

On the issue of co-living, the commission spent some time examining circumstances where people shared houses and examining the relationships between them. Often, a tenant had let somebody stay in a room and maintained his or her position as a tenant, but what was the status of the other person - a tenant or what else? It was a form of co-living. The formula in the Act is curious in that regard because the tenancy is the tenancy, and people become licensees within that tenancy and then can become enjoined to the tenancy. It is quite complicated and is probably often ignored, although trying to legislate for it is complex.

The licences and other contrivances that people raise to try to keep tenants out of the agreement have to be examined in the particular case that presents before a dispute resolution. I am sure it will happen that somebody will take one of the licences to the RTB. The disposition of the courts in the past was always to penetrate that and determine the nature of the relationship. If it was one of landlord and tenant, and if the written wording used between the parties was a contrivance to avoid the reality, adjudicators and the courts usually found such a contrivance was not acceptable. Such an arrangement was found to be a tenancy, or what it claimed to be. To some extent, that will have been an amelioration of the matter and there will doubtless be a few court cases relating to it. When people live together in other forms of accommodation such as student housing, where they share a great deal of the accommodation, it becomes problematic because the legislation deals with a dwelling, which is defined as being capable of being lived in independently. The co-living experience might cause some concern and may lead to some review of the issue. I do not know how it will go. It is a very small sector and I am not sure it will grow to a size where it becomes a problem. It will always be a niche sector.

On the question of the move to rental, the Deputy made a good point about something I was trying to point out earlier. These Houses, and the parties in it, must think about housing

more broadly. They need to sit down and look at the shape our housing sector will be in ten or 15 years hence. They should take a view through the cycle and into the future. We can use economic instruments to influence how much home ownership there is in society, how many people will be in the private rental sector and what we want in the social rental sector. We can influence that through taxation, the social welfare system, traditions and the situations with which we all live. We must think about this issue. Maybe all the parties can get together, sit down and think about it. I was part of a group of people who got together approximately a year and a half ago and we all said that the housing situation needs to be solved. We recognised it as an acute problem and saw the issue of its cyclical nature. The conclusion we came to was that there needs to be a collective view on how we manage housing. I will talk to Deputy O'Brien about that again.

It should be remembered that the role of dispute resolution was taken from the courts and given to the Residential Tenancies Board, RTB. That was a significant change because there is a question mark over the issue of administrative law and whether the State can create entities like the RTB to carry out functions that might be seen as the bailiwick of the courts. There is always a tension between these Houses and the courts. The formula that the Act came up with was that of a determination order, DO. The intention behind it was that if the courts had confidence in the board, they would accept the DO. The board established that in its first years and that enabled the Legislature to move the enforcement of DOs from the Circuit Court to the District Court, which makes it much easier to do.

It is a complex area. My own disposition is that the DOs should be enforced by the courts and they should not look behind the issues. That is a confidence issue. It is important that the RTB retains the confidence of the Judiciary because otherwise the whole scheme under which it operates could fall apart.

Deputy Mick Barry: I have a short and simple question. Has Mr. Dunne ever had the experience of being a tenant and paying rent to a landlord? Has he ever had the experience of being a landlord and collecting rent from a tenant? If he has had either of those experiences, how did he find it?

Mr. Tom Dunne: Luckily, I am of a generation of people who tended to move away from home and into their own accommodation. I was lucky to be able to do that. I was never a tenant.

Members of my family are tenants. I recently accompanied my son to London to try to find accommodation for him because he is doing a master's degree over there. I had an interesting experience marching around London and looking for accommodation. He is now paying rent. That is my nearest emotional engagement with being a tenant.

I have never been a landlord. Going back to what I was said earlier, despite my engagement in the property business, one thing I learned early on was that being a landlord is not for the faint-hearted. I am not sure if I want to be a landlord or not. I made the decision not to be. In the property business, one can see when property values are going to go up and there were times when many fellas told me to get involved and buy something. I chose not to.

Chairman: I call Deputy Ó Broin. I am conscious that this meeting is due to run until 2 p.m. and that we have five witness groups to talk to. We might keep this second round of conversations brief.

Deputy Eoin Ó Broin: I have three quick supplementary points. I would add a note of caution to Mr. Dunne's optimistic view of the real estate investment trusts, REITs, on two grounds. First, there is a growing body of evidence here and internationally that where a real estate investment trust, REIT, purchases tenanted properties, there can be an even greater insecurity because it wants to get those tenants out and replace them with a more lucrative set of tenants. That is something we need to be very concerned about.

More importantly, given the very generous tax benefits of real estate investment trusts or Irish Collective Asset-management Vehicles, ICAVs, not just here but internationally, there is growing evidence to suggest that their involvement in the rental market, particularly those that are more short-term in nature rather than the older longer-term pension fund investors, can lead to real affordability problems. That is something we are seeing in big cities. I mention that as a caution.

On security of tenure, in section 34, we have to make a decision at some point about whether we want amateur or professional landlords. I often use the following comparison. If I get into a taxi and halfway through the journey, the taxi driver stops the car asks me to get out because he has to go to pick up his daughter, nobody would think that was normal but that is what we allow landlords to do. They can enter into a tenancy agreement, but halfway through that tenancy agreement they can ask one to leave because they want to look after a family member. I understand why that was done when it was done. The difficulty is that it incentivises a lot of semi-professional accidental landlords. Many of those landlords should not be in the market but we need them to stay. At some point, however, we need to have a conversation about what it means to be professional landlord. There is a level of regulation and certification that applies a taxi driver or a door person but that does not apply to a landlord. I ask the witness to think about that.

If the budget allocation for the Residential Tenancies Board, RTB, is €500,000 shy of what was requested, does the witness know at this stage what will not be covered by the €500,000 that has not been provided? Are there things the RTB wanted to do with those funds that will not now be possible because the Government has only allocated €2 million rather than €2.5 million?

Mr. Tom Dunne: I do not know the answer to that question. I will be asking that question.

On the security of tenure issue, I am not sure that kind of analogy is the same here. The original legislation was constructed to ensure that there is nothing in the marketplace that stops a landlord offering a tenancy for 20 years or 30 years, or whatever. The tenancy can be as long as the landlord and tenant choose. I, as a landlord, can offer a person a house for 21 years or for the rest of the person's life and we could agree a rent. There is nothing in the legislation to prevent us from agreeing a fixed rent for the rest of the person's life. That is an institutional thing in the marketplace. A very important point to remember is that if one takes on a lease, one takes on a liability and a contract to pay the rent until it is over. It is a complex one. There is a culture in this country that we rent for a short time and not for long time.

Deputy Eoin Ó Broin: Is this a culture or a consequence of a legislative framework?

Mr. Tom Dunne: We could have a debate about that. One could go down the road of influencing that through the tax or social welfare systems, better than dealing with it through legislation in the RTB. This is an open question. There is certainly nothing in the law that prevents anybody in this country from renting an accommodation to a person for his or her life or for

21 years. That is not prevented by the legislation. As to whether it would happen or not is a separate question. It does not happen in the marketplace. If one is going to take on a liability like that, one might as well take on a mortgage, if one can get one.

Chairman: I call Deputy Casey now.

Deputy Pat Casey: We must equally admit that a significant portion of the rental sector is working properly. From today's debate, one would get the impression that it is completely imploding and not working.

I return to the amateur landlords, as Deputy Ó Broin has described them. In fairness to Mr. Dunne's contribution, he made the point that the commercial landlord is more tuned in, more aware and is watching for things, and is mindful if the rent not coming in. What the commercial landlord, however, does not do, that the amateur landlord does, is that it does not have the same relationship with the tenant. The RTB has said that it is critical that there is a relationship between the tenant and landlord, so that when there is a crisis with the tenant, sympathy can be expressed, or if there is an issue, they can work things out. That does not necessarily work in the commercial field but it works with the amateur or accidental landlord. I do not want it to be seen that we are critical of the accidental landlord and that we want to move wholesale to the commercial model. They have a significant role and the majority of them are doing their job and behaving correctly as landlord and towards the tenant.

Mr. Tom Dunne: Absolutely. Over the years, I found while looking at rental sectors in different countries that there is not one model for all countries. They are very different. I have yet to come across a country where there is not a private rental sector with amateur landlords. There are always amateur landlords and they complement other systems. I cannot see a situation arising where there will not be a role for the private landlord. The Chairman is correct that they fulfil a role in the marketplace and sector that needs to be encouraged.

Chairman: I thank Mr. Dunne. I wish him the best of luck as chairperson designate.

Mr. Tom Dunne: I thank the Chairman.

Chairman: I hope that he is surrounded by as complementary a team in his role as I am in my role as Chair here. It is important work and as a former renter for eight years, I am acutely conscious of the RTB and its work. I wish Mr. Dunne and his board the best going forward and thank him for his submission and time today.

Sitting suspended at 12.16 p.m. and resumed at 12.18 p.m.

General Scheme of the Land Development Agency Bill 2019: Discussion (Resumed)

Chairman: At the request of the broadcasting and recording services, members and visitors in the Public Gallery are requested to ensure that their mobile phones are turned off completely or switched to airplane, safe, or flight mode, depending on the device, for the duration of the meeting. It is not sufficient to just switch phones to silent mode as this will maintain the level of interference with the broadcasting system. We will resume pre-legislative scrutiny of the general scheme of the Land Development Agency Bill.

I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defama-

tion Act 2009, they are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable. I welcome Mr. Tom Dunne, Dublin Institute of Technology; Ms Orla Hegarty, assistant professor, UCD; Professor Rob Kitchin, Maynooth University; Ms Karen Murphy, Irish Council for Social Housing, ICSH; and Mr John O'Connor, Mr. Jim Baneham and Ms Catriona Lawlor of the Housing Agency. I call Mr. Dunne to make his opening statement.

Mr. Tom Dunne: I submitted an opening statement to the committee which can be taken as read. I am grateful for the opportunity to appear before the joint committee in respect of this Bill, which I believe is very important. I agree that an agency such as that envisaged by the Bill should be established as one of the tools available to the State to address the complex necessities of creating a sustainable housing sector.

Development land does not just exist. Rather it is created by putting together parcels of land, legal rights, technology in the form of infrastructure and planning rights to produce a developable site on which accommodation can be provided for housing and other purposes. This process of site creation usually takes place in response to market signals such as high prices, which provide the incentive to people to produce the sites demanded in an active property market. However, in housing as with all forms of property, the process whereby this happens is complex. Importantly, each parcel of land is heterogeneous and will have a singular set of circumstances to be addressed to create a developable site. Putting together complexity with uniqueness results in the need for bespoke processes, which is one reason property development takes time.

If one thinks of a property development site as a product used by developers, a useful insight can be grasped. It is only one of the inputs required to produce accommodation, the others being materials and labour. With such an insight, it can be appreciated that someone or some entity must perform the function of pulling the inputs together. These inputs, the land, accessible infrastructure, permissions and the finance needed to fund the creation of a developable site must be drawn together in the right way so that development on the site will be optimum.

The State in the normal course of its operations will use land and, at times, an individual parcel of land may cease to be used for the original function. Such land surplus to previous requirements should be put to new uses according to the priorities of the time and as efficiently and effectively as possible. For instance, right now, housing is a priority and any surplus land could be made available to provide for housing. In the past, for instance, the acquisition of industrial land was a priority and IDA Ireland had some functions in this area. One way of doing this is simply to sell the land on the market and allow market forces to work to produce housing. However, the property market, more than other markets, is not sufficiently effective to enable this simple strategy to work as well as it might if the market was efficient. Hence the requirement for some agency to act as the conductor of the process whereby any particular site will be provided to property developers in a form that will allow them to do what they do best, namely,

develop property. Often that conductor will be a developer putting together a site as part of their pipeline of projects to keep them in business. Given the finance costs and risks, speculators perform this function but may fail for some time to assemble the right blend of inputs or be thwarted for an uncertain period by something outside their immediate control.

The State will always need development sites to produce social and, depending on market conditions, affordable housing. Acquiring sites in competition with more agile and well resourced market participants, however, will often pose a problem and can result in the state increasing development land prices if it competes in a vibrant market. Taking a longer through the cycles approach, and in the interests of the common good, it can be a properly empowered agency of the State that is best positioned to draw the inputs together to produce development sites, particularly in the case of surplus State land. The creation of an agency such as the one envisaged in this Bill, therefore, will provide the state with one of the tools it needs to facilitate a properly functioning housing sector and I support the creation of this agency.

Ms Orla Hegarty: I thank the committee for the opportunity to attend this session as part of scrutiny of the Land Development Agency Bill. I will outline the policy context, then expand on specific objectives of the Bill and whether they are met. There is little detail in the heads of Bill and some of my commentary is based on statements made in this House, in the media and at public events.

The fundamental issues are housing affordability, sustainable growth and a resilient construction industry. All are critical to competitiveness and economic stability. Missteps come at high environmental, social and economic costs. All three are areas of significant past failures where Government policy calls for reform.

In 2016, the National Competitiveness Council pointed out that a well-functioning housing and construction sector is critical to the overall health of society and the economy. It warned: “The current escalation in residential property costs represents perhaps the greatest threat to Ireland’s competitiveness.”

Since then the median price of a new-build home nationally has increased from under €250,000 to €355,000, or by 44%. The prohibitive cost of housing is a barrier to urban growth, which is a priority of Project Ireland 2040. Furthermore, if our cities are not affordable to families, the direct result is sprawl, which undermines the climate action plan, reduces productivity and limits opportunities for employment and education.

Last year, the National Economic and Social Council, NESC, identified land management as key but, more critically, the council pointed out that it is not only about land; it is about fixing Ireland’s broken system. Land is one lever for change, but the housing system is broken.

Last week, the Economic and Social Research Institute, ESRI, informed the committee that rising house prices can be explained by disposable income, demographics, jobs being created and the cost of finance. However, unaffordable prices are also a factor of limited capacity, little competition and high barriers to entering the sector.

Housing supply tied to a speculative market in a boom-bust cycle results in overpriced housing and uncertain supply. Solving this problem requires specific action to support capacity building in the sector, to open markets to competition, to raise standards, and to support employment and training.

In this context, the LDA proposal raises a number of specific issues. On its remit, the pro-

posed powers are wide ranging and removed from direct Government controls. It is unclear whether the LDA is bound by current and future Government policy.

On governance, commercial property development and construction involve large sums over long periods, which expose the State to significant financial and political risks. It is critical to have high levels of specific expertise, robust governance, transparency, external oversight and means of intervention.

Freedom of information is essential for ensuring public confidence, transparency and accountability. Given that lobbying legislation has specific provisions for planning because of the risks of corruption and the significant sums in land transactions and development contracts, the activities of all personnel of the LDA should be included in the statutory lobbying register.

The Bill proposes a new land registry. Setting up this land registry in another State agency with relevant expertise on a statutory basis would reduce administration, mitigate the potential for conflict of interests, and ensure alignment with best practice.

On spatial planning, the Bill includes lands in urban centres with a population in excess of 10,000. This extends to 41 towns in regional centres such as Cavan, Tullamore and Killarney, and in commuter belts such as Ashbourne, Greystones, Cobh and Skerries. Twenty seven of these 41 towns are in Leinster, with nine in Munster, three in Connacht and three in the three Ulster counties. This arbitrary classification has implications for transport, infrastructure and regional development.

I will elaborate on a number of issues, specifically those not mentioned by other witnesses. On construction reform, the Construction 2020 plan reflects on the “speculative greed, short-term thinking, poor planning and low standards” of the boom that resulted in “unmanageable mortgages, debt overhang, negative equity ... and sub-standard apartments”. It recognises the “need to develop an overall strategic approach to housing supply”.

This proposal for 150,000 homes is a planned investment of more than €50 billion in the construction industry. It has the potential to be transformative. However, indications are that there is no strategy for construction, other than to outsource development to large entities, as a means to lever social and discounted housing in a package of 60%, 30% and 10%.

An approach that outsources control of price, delivery speed, housing mix, quality and profit margin is high risk and it comes at a premium, as has been seen in other capital projects. Large entities that control local markets can also lead to high prices, low quality, and suboptimal conditions for construction subcontractors and suppliers.

In the current conditions, it is not sites that are unviable; traditional speculative development is unviable. This is what is broken, and it is potentially the Achilles heel of the LDA proposition because the objective of optimal use on a commercial basis for individual sites is the business of traditional speculative development. It seeks to extract the maximum value from land through high market prices and minimal standards and is very vulnerable to market fluctuations. This is unlikely to lever reform or bring stability in output and price. Relying on speculative markets for delivery is also very uncertain. The Rebuilding Ireland target of 125,000 new homes in five years lacked the levers to ensure delivery and in the first three years only 47,000 new homes have been built, which is 38% of the target.

With regard to construction costs, where land is available and actual construction is derisked from speculative markets and high cost finance, it is affordable. This is confirmed by the figures

of the Department of Housing, Planning and Local Government for competitively tendered social housing. In most urban centres production costs of €220,000 are achievable.

Solutions to the supply and affordability challenge lie in design, procurement and finance. I do not intend to comment on the issue of finance other than to say evidently €1.25 billion will not build 150,000 homes; it will build fewer than 5,000. However, housing, unlike other capital projects, can be built incrementally and seed funding rolled over by phasing and strategic procurement. State-led master planning and infrastructure can de-risk development, mitigate delays and reduce costs and finance for SME developers. Unbundling, which means making small lots for SME design teams and builders, can open new markets, raise standards, drive innovation and create more competition. Public contracts in small lots for SME builders can allow them to recapitalise, re-equip and undertake other private developments, which builds capacity in the sector. Mass procurement of building components, standardising details and investment in research can lead to efficiencies, productivity and skills. Affordable housing is defined in the Planning and Development Act. It is based on production costs, not on a discount on market value. These are more resilient and recession proofed strategies that accord with best practice in procurement, value for money and faster delivery. These market reforms and efficiencies have the potential to deliver truly affordability housing without State subsidies or reduced quality. The Land Development Agency's proposition does not respond to this opportunity. In fact, the recent redefinition of affordable housing as a discount, or subsidy, on market prices is regressive because it will profit developers, rather than improve access to housing for those on middle incomes, or incentivise efficiency in the sector.

At the rate at which we are building homes, every new home needs to be future-proofed for 100 years. Only 1% of housing stock is being replaced annually. A short term objective of commercial returns is wholly inappropriate in assessing the long-term social, environmental and economic needs and life cycle costs of new housing communities and their infrastructure needs. A €50 billion investment in housing has the potential to lever many other policy objectives, including reform of the construction sector, climate adaptation, architecture and place-making, training and skills, infrastructure, transportation and spatial planning. However, a requirement to obtain a financial return for the State, as required by the LDA, is not compatible with affordability.

What is important is the long-term viability of cities, not the short-term opportunity of sites. Every euro of value extracted from public lands is not free; it is debt for future households. Every plot given away is a lost opportunity to provide for permanent affordability. Every deal that stalls due to unforeseeable market fluctuations is a family without housing. Ireland has the advantage of having a lot of land in public ownership, but as the National Economic and Social Council stated, affordability should be an explicit objective. Supply of housing is not in itself a reliable or sustainable means of making housing affordable. Ireland must re-engineer affordability into the supply of housing.

Professor Rob Kitchin: I thank the joint committee for giving me the opportunity to present to it. I welcome the idea of managing in a co-ordinated way public land for the benefit of the public. It is vital to deliver the national planning framework and address some of the housing supply issues. However, the Bill seems to be premised on supporting the use of public land in conjunction with private actors on a commercial basis for profit. There is an underlying ethos of marketisation and the privatisation of public assets and using their value as a means for the private sector to deliver public housing and other building and infrastructural projects, as opposed to the public sector delivering them.

As currently formulated, the heads of the Bill are thin on specifics regarding the LDA's role and operation. It would seem more appropriate to call it the "Land Development Company" as opposed to the "Land Development Agency". To my mind, an agency is more of a public actor and facilitator and more about policy formulation, oversight, regulation and so on. The LDA, however, is very much set around a commercial basis and is effectively being set up as a semi-State company. The word "agency" seems a misnomer.

It is not clear where the liability falls if the LDA's schemes or groups fail. This matter does not seem to be covered in the heads of the Bill. If there is a large State investment in projects and those projects fail for whatever reason, I am unclear as to where the liabilities will lie.

It is also not clear how the LDA would work in practice with local authorities and other public landholders or which entity has priority or control of decision making. If land is held by a local authority, semi-State agency or State agency and the LDA is interested in using it as part of a development, who has power and control and who gets to say that the LDA will use that land or can a public body decide not to co-operate with the LDA? Since the power relationship is not set out, I am unsure as to how the LDA will perform its work in practice.

Most of my comments concern governance, oversight and open government issues. For example, there is no detail of how the board of the LDA should be appointed other than it should be appointed by the Minister. If this is a public agency, then it should be appointed through the State boards process and appointees should have skill sets appropriate to the work of the LDA. Ideally, there should be representatives from various sectors, including the public sector, industry, civil society and academia. It should not be loaded with developer interests.

The LDA will be exempt from the Freedom of Information Act. This seems problematic, given that the LDA will be given up to €1.25 billion. The public should have the right to know what work has been undertaken, supposedly for their benefit. The LDA should be available to answer FOI requests, with specific queries that have commercial sensitivity being assessed on a case-by-case basis as to whether information can be made available rather than a blanket exemption. A large amount of public funding and potentially a large level of public liabilities are involved.

I am not entirely certain who owns the LDA. For example, will 100% of its shares be held by the Government or will other interests be able to own shares? Under heads 24 and 25, it is certainly the case that the Government would be able to sell shares. This raises questions around a public agency that has some level of private ownership, given issues of a conflict of interest with other entities and of providing a private entity with access to public information, which would appear to give the entity a competitive advantage. Including a provision to privatise a public agency raises issues. In that context, to what extent would there be public accountability?

Head 36 concerns the review of the LDA's achievements. It is vague and essentially just states that the Minister will assess progress. Perhaps it would be more suitable to stipulate that an appropriate set of expectations, targets or benchmarks would be set by the Minister or the Department of Public Expenditure and Reform that the performance of the LDA would be assessed against over certain periods. It is difficult to judge performance or hold a body accountable if there is no sense of what it is seeking to achieve and what satisfactory or successful outcomes would look like.

On Head 32, the national public lands register, in my view, given the demand for open gov-

ernment and the Government's commitment to it, the public lands register should be open data and it should be made available through *data.gov.ie* in suitable formats and also as data layers in *myplan.ie*. This should be written into the heads of the Bill rather than hope it occurs voluntarily. I do not accept there is commercial sensitivity around identifying the location of public land, which agency owns or its current status. In my view, this information should already be public knowledge, as it is in other countries.

Do we really want to have in place an agency which would be allocated up to €1.25 billion of public money, in which there is no openness and transparency in terms of appointment of the board and the assets it manages, which is exempt from freedom of information and public scrutiny, which can be semi-privatised or fully privatised and which has no defined method of expectations, targets or benchmarks? In my view, the answer is "No" and I would encourage some review of the governance mechanisms around the new entity.

Chairman: I thank Professor Kitchin for his opening statement and I now invite Dr. Donal McManus to make his opening statement.

Dr. Donal McManus: I thank the Chairman and the committee for inviting the Irish Council for Social Housing, ICSH, to engage with it today on the significant issue of the delivery of homes across Ireland. I am accompanied by Ms Karen Murphy, ICSH director of policy. The focus of our opening statement is the approved housing body, AHB, sector and land supply.

The ICSH is the national federation of housing associations with more than 260 AHB member organisations that collectively own and manage over 35,000 homes at affordable rents for families, older people, people with disabilities, homeless and single people. The AHB sector has had a commitment to developing and managing social housing over the long-term and addressing the changing needs of the population.

When the Land Development Agency, LDA, was initially announced it was very much welcomed by the sector and the ICSH. For some time, the ICSH had advocated that there was an urgent need for the strategic management of State lands with an appropriate tenure mix. In our view, when it comes to the development of valuable State assets, the public interest is best served by ensuring that a significant proportion of social and affordable housing is built on State lands. Housing associations need State lands in addition to private lands to deliver social rented homes affordably. It is a simple equation - the low cost of land should feed into lower costs to deliver social and affordable homes for the taxpayer.

We welcome the proactive role being adopted here by the State in the management of land. In particular, the ability to drive strategic land assembly is a strong power which will be deployed for the public good. Any interventions which drive down the cost of land for housing are to be welcomed and supported. In our view, the current 10% social housing mandated on land development agency sites as a minimum is too low and just matches the Part V requirements on private sites. The LDA is currently active in delivering more than 3,000 homes on State lands. We would hope that within the 3,000 homes currently being delivered the social element is significantly higher than this and we acknowledge that the LDA stated view is that 10% is a minimum.

In regard to the proposed legislation, we would sound a note of caution in regard to the commercial remit of the proposed company. While there are significant differences between the current proposal and the NAMA legislation, in our view the commercial remit of NAMA meant that the social dividend came at a commercial price. We would hope that the LDA will

enable the provision of social and affordable housing at a lower cost overall to the Exchequer.

On Head 8, in regard to the “objects”, we would like to see the delivery of social housing, affordable rental housing and affordable purchase as part of its remit. The LDA potentially has a significant role to play in the expansion of a cost rental sector in Ireland and explicit objectives to achieve this should be included. We welcome the register and would recommend a review of the previous housing land map to ensure all State and semi-State mapped land is up-to-date and accounted for.

On Head 9, we would like to see an explicit relationship between the LDA, AHBs and local authorities for the provision of housing and related amenities. The LDA should have the power to enter into agreements with local authorities and AHBs, which will be regulated by the State under the new Housing (Regulation of Approved Housing Bodies) Bill 2019. Compulsory purchase order, CPO, powers would also be a necessary addition to their functions.

Regarding the potential management of housing by the LDA, in our view that is not that body’s central objective and should be carried out by local authorities and AHBs. If the LDA becomes a large-scale landlord, it will be distracted from its central functions and objectives. A question would also arise concerning the LDA then coming under the regulation of the RTB as a rental housing landlord.

The drafting of the legislation should explicitly provide for the use of the Public Appointments Service, PAS, in the recruitment of board members because transparency on governance arrangements is crucial. In addition, if we look at the nation’s changing demographics, we know that a much greater percentage of new housing must come in the form of lifetime adaptable housing. That will enable a growing number of older households to age in place. We suggest that, at a policy level, the new LDA should be guided to deliver within its plans a percentage of homes for older people, as well as accessible homes. That will assist the Government in meeting its housing policy objectives. The LDA should also have powers to set standards to support and achieve Government objectives in areas such as energy efficiency and zero carbon and lifetime housing, to name just two examples.

To conclude, and linking the future outputs of AHBs to land, last year the sector provided 3,219 social homes. That was some 38% of the national total social housing output and was the highest ever recorded by this sector. More than 4,000 households were taken off the social housing waiting list. As a sector, there are challenges to continued delivery at a high level and the availability of sites which are zoned, serviced and have planning permission will greatly assist the AHB sector in scaling up its future delivery of homes. I welcome any questions the committee members may have.

Chairman: I thank Dr. McManus. I call Mr. John O’Connor to make his opening statement.

Mr. John O’Connor: I thank the committee for the invitation. Would it be allowable for my statement to be taken as read into the record?

Chairman: It certainly is. It cannot go on the record, as discussed earlier, but it can be uploaded to the website and will, therefore, be part of the public record. Is that acceptable?

Mr. John O’Connor: That is fine. In the interests of time, I will just highlight some key issues in the statement and the rest of it will be taken as read.

Chairman: Of course, that is fine.

Mr. John O'Connor: The three main areas I would like to highlight are the use of public land, housing supply and affordability and climate change. Turning first to the use of public lands, most of the objectives and functions of the LDA relate to the use of public lands. One area the committee might consider is the level of long-term control of public lands and the level of ownership that should be kept by the State and local authorities. I refer to retaining ownership, in some cases, and leasing that land so that control is retained. The balance of control of lands that should be retained by State is open to debate.

The Housing Agency will initially be transferring three sites in Skerries, Balbriggan and Naas to the LDA. To date, the board of the Housing Agency has applied the principle when transferring lands that such lands have to be used for public or community purposes. Transfers already undertaken to local authorities or AHBs have been for social and affordable social housing, schools or community use. The Housing Agency desires that lands in its ownership which are transferred to the LDA would, in the main, remain in public control in the long term. It is also important that the LDA is given support when lands are transferred to it from Government agencies and organisations. The first big issue is how should we use public lands, what long-term control should we have in place and what is appropriate.

The second issue is housing supply and affordability. One of the main objectives is for the LDA to deliver housing on scale to help address the housing crisis, of which a key element is affordability. We want housing that is affordable to buy or rent in the main in terms of what is being delivered on sites under the control of the LDA. We need a mixture of tenures and income groups to build good communities.

Semi-public uses would entail social housing use, cost-affordable rental and affordable purchase housing. There has been much debate about rental versus ownership, but it is a question of getting the balance right. There is a need for both in our housing system.

The advantages of providing affordable rental housing are that the land is kept in public control and investment can be put in place to fund developments, which ensures certainty of delivery. Building in scale also helps to reduce market rents. Home ownership advantages are that it gives people a clear stake and equity in their properties and provides security, particularly compared with the private rental sector. People will also have a long-term asset as their mortgages are repaid. It is a question of getting the balance between rental and home ownership right.

The third issue I wish to highlight is climate change. It is critical that the LDA's developments be sustainable and that climate change be taken into account therein. None of us appreciates the scale of the climate change problems we are facing. In that context, the agency needs to consider how its developments will work in ten, 30 or 60 years. Perhaps the approach should be to ask how a development undertaken today will be perceived in 30 years. A development should not be considered from today's perspective.

We must ensure that we comply with the national planning framework, particularly as regards compact growth in our towns and cities where the LDA is focused. We must ensure an adequate density, particularly density of population, to support public transport and public infrastructure and reduce car usage. It is important that sustainability be a key aspect of the developments undertaken by the LDA. The agency should be a leader in this regard, particularly compared with the private sector.

These are the three key issues: how to use the public lands and what level of long-term

control should we keep; affordability and how to focus on getting housing supply delivered; and how to take the climate change agenda into account in delivery. We are happy to answer members' questions.

Chairman: I thank Mr. O'Connor for being so considerate of the committee's time. His full submission, for which I thank him, will be available on the website. I will call members in the order in which they have indicated: Deputies Ó Broin, O'Brien and Casey.

Deputy Pat Casey took the Chair.

Deputy Eoin Ó Broin: I thank the witnesses for their submissions, which are helpful. I am a strong supporter of active land management and would like to see a strong, well-resourced public agency whose function is, in the first instance, to manage public lands strategically. However, I am in an increasingly uncomfortable dilemma, in that the more I read the heads of the Bill and listen to various views, the more I see that is not what we will get. All the other stuff in this legislation undermines the part we all would like to see. I am concerned that the proposed land management functions of the agency will be very weak, particularly with the absence of compulsory purchase order, CPO, powers. While the Department has indicated that there will be amendments on Committee or Report Stage, it says they will provide for very limited CPOs for small parcels of adjoining land rather than something more significant.

My main concern, and it speaks to some of the comments today, is the commercial residential development element of this proposition. My question for everybody, and particularly for Mr. O'Connor, is: do we need to combine those two things? Would it not be better to have an active land management agency whose job is to manage public land strategically and where that land is to be used for certain purposes it would be handed over to, or the agency would engage with, local authorities, approved housing bodies or the IDA to develop it? The LDA would be about land, not residential development. It is not an exaggeration to say that if this legislation ends up in the current format, we are potentially facing a National Asset Management Agency, NAMA, mark two. When I said that in the committee two weeks ago I thought Mr. John Coleman would recoil from it, but he was kind of nodding at that point - one can look at the committee meeting recording to see it - that it is a different vehicle but is heading in that direction.

I do not wish to pick on Mr. O'Connor but the other witnesses have been very clear and I want to hear a little more about the Housing Agency's view. I know Mr. O'Connor is on the board and that puts him in a difficult position but his job is also to provide advice to the Government on housing policy. I wish to tease that out. Other witnesses should feel free to intervene but they answered many of my questions in their opening statements. First, at a time when we desperately need a large volume of social and affordable housing, and Mr. O'Connor said at the agency's annual conference last year that he did not think the political system fully understood the scale of affordable cost rental we need, is it correct to limit the LDA to a 40% quantum of social and affordable public housing or should it be bigger? Both the National Economic and Social Council, NESCC, and the Economic and Social Research Institute, ESRI, said last week that it should be bigger but I wish to hear the Housing Agency's view on it.

Given that the bulk of the developments will be joint ventures where the LDA, as an independent commercial designated activities company, will be creating special purpose vehicles with other market actors, is that the best way to achieve the affordability that Mr. O'Connor wishes to see? Looking at the O'Devaney Gardens development, it is clear that the model, whatever one thinks about it in theory, will not deliver affordability. I am also concerned about, and the ICSH referred to this, the tension that inevitably will emerge between its social objec-

tives, vague as they are in the legislation, and its commercial requirements. What happens when there are conflicts? Section 10 of the NAMA legislation said that NAMA not only had to have a commercial return, but the maximum commercial return. In this case it is different, but I am interested in Mr. O'Connor's view on how we can ensure that the need for social and affordable housing becomes the key driver. Social and affordable housing is not even referenced in the aims and objectives of the Bill. Should it be referenced in the aims and objectives?

I seek the views of all the witnesses on CPO powers. They are not provided for and, clearly, they must be. What type of CPO powers are needed?

I had not thought previously about the point made by Professor Kitchin. Where liabilities will fall if a project fails is an important point. Mr. Coleman was clear when he appeared before the committee that the LDA would be setting up special purpose vehicles. The possibility of those things ending up badly, for example, in a downturn or a hard Brexit, is not unreasonable. Do the witnesses have views on that and on how to protect ourselves from it?

To pick up on a point from Professor Kitchin, we asked the Department about the sale of shares. The officials were clear that shares could only be sold internally within the Government from one Minister to another and two Ministers would have sole ownership. Regardless of whether that is in the final Bill, Professor Kitchin highlighted the need for us to be careful that the final legislation does not allow the sale of those shares beyond the Government. That is what the current position is.

Some 60% of this housing is going to be sold at open market price. We will have the odd Shanganagh and get a little more here and there, but for this entity to remain off-balance sheet, it must be independent of the Government in its governance. It must be a market operator and the lion's share of what it does must reflect market realities in terms of investment decisions and prices. The question I am putting to the witnesses is: "When did it become the responsibility of the State to provide open market priced housing?" All of our housing legislation is about meeting social or affordable housing need, yet the policy of the Department of Housing, Planning and Local Government is actually saying that 60% of these developments should be available for the open market. How did that change in policy happen because it almost seems to have happened at a quiet policy level in the Department and it is a fundamental shift on which I would like to know the witnesses' views?

I thank the Chair for his indulgence.

Vice Chairman: I thank Deputy Ó Broin. I will start with the CEO of the Housing Agency, Mr. John O'Connor, as I think Deputy Ó Broin targeted a few questions at him. Will the other witnesses indicate if they wish to contribute? Witnesses are not obliged to come back in, should they not wish to do so. I am aware that we have five delegations.

Mr. John O'Connor: Deputy Ó Broin's first question was on role of the Land Development Agency and whether it should be involved in active lands management or carrying out developments. Yes, there is an absolute need for active land management. I think it is important to have the Land Development Agency actually involved in development because many of the sites are very large, so one needs an organisation with the skills to deliver on the development of those large sites. I think the two roles can be combined. It is also important for the Land Development Agency to use approved housing bodies and local authorities, where appropriate. Let me explain what I mean by that. In some cases it might be best for the Land Development Agency to do the master planning of a site, put in the infrastructure on the site and then parcels

of that land may be developed by the Land Development Agency, the local authority, approved housing bodies or others. The Land Development Agency working with the local authorities would do the master planning, fund infrastructure and ensure the development happens but it also needs to include the involvement of local authorities and approved housing bodies.

The view of the Housing Agency on the long-term ownerships of land, and how it has acted, is that it has normally tried to put land into the ownership of the local authority in that the local authority will be there in the long term, whereas the Housing Agency will not. In some cases the Housing Agency has transferred land to approved housing bodies.

There is a combination in terms of active land management and development. In terms of the development model, I think much needs to be driven directly by the Land Development Agency in terms of having the developments designed and constructed again in conjunction with the local authorities and Approved Housing Bodies. Where there is a form of joint venture, I take note of Deputy Ó Broin's point about the need to be careful in how things have worked out in other developments, but we must work out what is required and utilise the skills of the private sector to have the developments constructed and delivered quickly. The Land Development Agency, should work on its role as a developer.

The Deputy asked about the provision of social and affordable housing. Let me clarify the position. My understanding of the Government's decision was not necessarily related to the Land Development Agency. It was in respect of the sale of any lands by a State body; the State body must sell the land on the basis that 10% of the land will be used for social housing and 30% for affordable housing as a minimum. If it was within the control of the Housing Agency, the preference would be to specify much higher levels of social housing and affordable housing provision. To take the land in Skerries, for example - it is one of the initial sites on which the Land Development Agency is working in consultation with the Housing Agency and Fingal County Council - the desire is for one third of the units to be social housing, one third to be affordable housing to rent and one third to be affordable housing for purchase. In the case of smaller sites, nearly 100% of the units might be public housing. It depends on the site involved. It is up to the Minister and the Oireachtas to decide how to write the affordability and provision of social housing in to the mandate of the Land Development Agency, but they must be written in in order that its obligation to deliver will be clear.

Deputy Eoin Ó Broin: Does Mr. O'Connor mean that they should be written into the legislation?

Mr. John O'Connor: I will leave it up to the Minister and the Oireachtas to decide how best to nail it down.

Deputy Eoin Ó Broin: Does Mr. O'Connor believe it would be better to include it in the legislation?

Mr. John O'Connor: It has to be a clear part of the agency's mandate.

Chairman: That is fair enough. Does Deputy Ó Broin want to direct questions towards anyone else specifically?

Ms Orla Hegarty: I would like to respond to three points. The Deputy mentioned the tensions between social objectives and commercial requirements. I alluded to the broader cost of some of these developments. Mr. O'Connor has just mentioned the land in Skerries as an example. Skerries barely meets the requirement that a town have a population of 10,000 people

to be eligible. Building 250 houses will raise the population by nearly 10%. If one looks at the site purely from a commercial perspective, there is obviously development potential. However, road and rail infrastructure to Skerries is already at capacity, while drainage and water supply services are under pressure. It is the antithesis of the national development plan to provide more housing in a commuter town 30 km from Dublin if there is not the capacity on public transport. If the objective of the LDA is achieving consolidated growth, many of the towns appear to be repeating some of the mistakes of the past. They are commuter towns, developed at low densities, within reach of Dublin. There are broader issues in respect of the tensions between policy objectives and the broader costs of extending schools, widening roads and increasing capacity on public transport. They may not be reflected on the balance sheet of the LDA, but they will be in the costs to other Government agencies.

My second point is related to open market rates. It does not come from the Bill but from other policy statements made in this area. My reading of the situation is that the figure is 90% for market rate housing, of which 30% will come at a discount on the market rate. The Planning and Development Act 2000 specifically refers to affordable housing being made available at the cost of providing it. The situation is the same in respect of Part V social housing. The redefining is a recent development which comes from the United Kingdom. Effectively, it is the case that the figure will be 90% for market rate housing, of which 30% of which will come at a discount on the market rate, with the cost, one presumes, being subsidised by the other units in some way.

My third point is that this will make everything vulnerable to market pressures. If 90% of the deal or joint venture is based on the sale price for the 90% of houses that will be sold at market rates, it is vulnerable to a market in which we have no control over the sale prices of houses. They are subject to many external and internal pressures. There could be an external economic shock that will knock 10% to 15% off the cost of housing. This is not within our control, yet a deal will be linked with anticipated market sale prices. That is where I see a high risk of failure. Even when deals are made - they are a long way out and will involve a lot of money - if there is a shock to market prices for any reason such as a rise in interest rates or some other factor, these large propositions will be at risk. It goes back to the question of future liabilities. There is provision for other financial instruments to allow the LDA to raise finance for these developments and get involved in joint ventures. People do not realise that, when developing and getting involved in procurement at that level, the site is compromised as soon as the deal is signed. As we have seen in the case of the national children's hospital and other infrastructural projects, one cannot reverse out of such agreements. The site is already used, the deal is bought into. There are potentially very open liabilities here on these sites. If it is 90% dependent on market rates for housing and the State is getting into very large transactions, it is potentially very risky.

Mr. Tom Dunne: I support the idea that the agency should have compulsory purchase powers. That is very necessary. For example, one thing that bedevils property development or site assembly and slows it up is one often finds flaws in title. The title may prohibit a particular form of development that might need to go on the site. The agency would need power to compulsorily acquire that, otherwise the agency could get into a situation where it was held to ransom. I very much support it having compulsory purchase powers.

The compulsory purchase powers available to the State are very complex. I imagine the agency would not use them widely. Many protections are built into the system of compulsory purchase. I would not be particularly worried about the agency going off and buying stuff, using its powers to buy things that it should not buy. The agency would need the powers for the

specific reason I gave. I could not imagine an agency such as this operating efficiently unless it had powers.

Dr. Donal McManus: I concur with Mr. Dunne on the agency's powers. We have come across it with things such as ransom strips which hold up developments and are very preventative of schemes. Ransom strips are probably the easier side to do as they are small parts of land but beyond that there is also compulsory purchase order, CPO, powers for other public bodies. I am not clear if the Land Development Agency would be first among equals. There is a body that is trying to assemble land, that is part of its function. If other public bodies do not agree to that, is it still possible to use CPO powers? Whether the land agency is first among equals is really the key issue in the whole Bill. The onus is on the other public bodies to say why they cannot give land for housing. It should be on them to do that, otherwise one is doing much chasing around to try to get land. CPO powers will be key for the small bits of land. Also, the Land Development Agency should be the leader in negotiations with other public bodies.

Chairman: That is a fair point.

Deputy Darragh O'Brien: I genuinely appreciate the detailed, thoughtful submissions. The committee met with the Department for pre-legislative scrutiny, as well as with the Land Development Agency and other stakeholders, at the outset. This continues. I would reiterate a point I made to the Department and the Land Development Agency that we are doing this the wrong way around. The Land Development Agency has been established for more than a year by a ten page statutory instrument which established an agency which received €17.5 million in funding in the budget but it does not have any land and has no legal powers in real terms. We discussed this with Mr. O'Connor. I understand that no land can be transferred to the LDA until the legislation is in place and establishes the agency and its powers. We are doing this the wrong way around because there is an assumption in the Department and by the Minister that this approach will have support. The more I see it, and the more we delve into the heads of the Bill and the contributions by stakeholders, the more concerns I have with this approach. I think most of us are agreed, and know I agree with Deputy Ó Broin, that we need a land management agency. We need a co-ordinating agency that can assist on this. What I do not want to see is a vehicle that effectively privatises and further outsources the development of State-owned land and abrogates responsibility for the delivery of public social and affordable housing. I do not mean to feed into any kind of speculation at the moment but we might consider the legislative and electoral cycle. How can it be that for legislation of this importance we only have heads of Bill? We have not seen the draft Bill. I have put the officials on notice that we will not accept significant amendments on Committee or Report Stages as happened with the Residential Tenancies (Amendment) Act 2019 and other recent Bills from the Department. I cannot see how in the time remaining in this Oireachtas this legislation will pass. There are too many unanswered questions.

Veering away from the policy areas, which I understand can pose a difficulty for Mr. O'Connor, if we take Ms Hegarty's example in Skerries and Mr. O'Connor's example in Balbriggan, two areas that happen to be in my constituency and that I am familiar with, how much preparation had the LDA and the local authority done on the delivery of those sites? The LDA told the committee a few weeks ago that little, if any, work had been done in the preparation of the eight or nine sites it had for delivery of social and affordable housing. That is contrary to the information on the ground, particularly in regard to Castlelands and Skerries. Is another agency needed or will this complicate the delivery of these lands and further delay the delivery of housing there? I would like Mr. O'Connor to elaborate on the desire of the Housing Agency

that land transferred to the LDA be primarily used for public purposes and long-term control be retained. I support that but if the ratio of homes to be delivered on the land is 60:30:10 and, taking Ms Hegarty's point, which I agree with, that the other 30% is at a reduced market rate affordable housing model, it is effectively 90:10. We would relinquish 90% of the lands that we own under that model. How does that sit with the Housing Agency's view that Mr. O'Connor has put before the committee?

In respect of the Lobbying Act 2015 and FOI, Professor Kitchin and Ms Hegarty have mentioned concerns about the exemptions from the Freedom of Information Act and the Lobbying Act, which I have also raised at the committee. Are there reasons the exemptions outlined in the heads of the Bill would apply? Why would the agency seek a clear exemption from FOI? Are there, in some instances, genuine commercial reasons for that? I agree with Professor Kitchin that there is no reason the public register of lands could not be published; perhaps others do not. There was a type of register on the Department's website where we could see lands that are in ownership.

I agree with the notion of affordable rent for public housing. Affordable purchase comes under the 2000 Act. I agree with the witnesses that there cannot just be a discount on market price. We keep chasing the market price. Is it their view that one does not have to dispose of the land to deliver affordable purchase as well as cost rental and affordable rent? Models in other countries deliver a true and equitable stake but it is not necessary to dispose of the land to do so. Perhaps the witnesses can elaborate on how they see that being done.

I commend the ICSH on its work. It is in an invidious position making an input to this because we had a long discussion a couple of weeks ago about the on or off-balance sheet issue. All of us who have spoken publicly on this want the issue addressed and want the AHBs to be off-balance sheet, as in other countries. It appears that the Department wants to keep them on-balance sheet. The Department of Finance has said it is neutral on that. How do the witnesses view the work they do in delivering AHB housing but affordable purchase and affordable rent going? If the Housing Agency continues to deliver nearly 4,000 units, if it is 6,000 or 8,000 now, when is that going to start impacting on the balance sheet? Does Mr. O'Connor see a risk of restricting the delivery of homes because the Government has not grappled with this issue of working to get the AHBs off-balance sheet? I will have a few more questions for afterwards.

Mr. John O'Connor: I thank the Deputy for his questions. On the Skerries and Balbriggan sites, the Skerries site is 7 ha. It is constrained. There are issues in terms of infrastructure and services for that site. Fingal County Council had a local area plan carried out for it. It had planned to build 100 homes initially on part of that site ahead of getting further infrastructure in place. The plans were at an advanced stage. The Land Development Agency is coming into position with the expectation of trying to develop the complete site and all the homes. The Deputy is correct that Fingal County Council had got that to an advanced stage. The possibility with the Land Development Agency is with the complete site. The Balbriggan site is at Castlelands - the Hampton land - which is a large site of 24 ha. Fingal County Council has been working for many years on a master plan for that site and is still setting out that master plan to get it approved by the members. The council was at an advanced stage of planning on it. In terms of delivering a site on that scale, an organisation like the LDA which has the funding to provide the infrastructure and so on may be the best way to deliver it. However, without the LDA, Fingal County Council would be in a position to start.

Deputy Darragh O'Brien: Could we say that both of those examples were at an advanced stage already without any other agency intervening? That is my point.

Mr. John O'Connor: They were at an advanced stage in terms of planning. In terms of delivery, the Skerries site would have been closer to delivery by Fingal County Council. There are a lot of issues in terms of how the Balbriggan lands should be developed. Fingal County Council was just being careful about how it approached that and about the timing and phasing of the development. In terms of long-term control of State lands, it is most important that we do not have a situation in ten or 15 years' time whereby the State does not have land. The Housing Agency lands were effectively funded by the State and our view is that the bulk of the Housing Agency land should be retained in public ownership. In the transfer of that land and the form in which it is done, control should be kept in place. In respect of land from other organisations, for example the HSE, it might be a case that they need funding for other purposes in terms of hospitals and so on. It is a question for the Oireachtas as to the level of State control that should be retained in those sites. The 10% and 30% are minimum figures. The view of the Housing Agency is that in both cases, the social and affordable housing on those sites should be provided at cost. There should not be a land cost in the provision of affordable or social housing on those sites. The land should be subsumed to start with. We need to look at how we are controlling State lands and if one looks at other countries, they tend to keep long-term control. Often it is by way of leasing the land for 100 years or whatever and, depending on the use, whether one has to pay for that or not is dealt with by local authorities or by the State.

Dr. Donal McManus: The Deputy mentioned the balance sheet issue. As far as we are aware, only one jurisdiction in the European Union is on-balance sheet and that is the UK, though a couple of years ago, it decided to get all associations off-balance sheet. In the UK there are joint ventures between housing associations and private companies on a not-for-profit basis. If we provided more cost-rental accommodation, it would help our balance sheet argument. EUROSTAT referred to three or four areas that indicated being on-balance sheet, one of which was income. If we had cost-rental accommodation, or even affordable rental, it would help. We have re-engaged with the Department as to what is required.

Deputy Darragh O'Brien: When will we get to the stage when Dr. McManus's organisation is fishing in the same pool as local authorities for funding because it is on-balance sheet? Would that restrict its development?

Dr. Donal McManus: In a few years, with the money coming onto our balance sheet from the Exchequer every year, we will compete in the same fiscal space as local authority housing, roads and so on. In the context of the national debt, people may see it as a rounding error at the moment but the debt in our sector is accumulating quickly. We estimate that it will become a bigger issue in the next couple of years.

Ms Karen Murphy: The impact is not as visible or urgent at the moment because we are still under the Rebuilding Ireland targets. The target of one third of the 50,000 units is stitched in, which brings us up to 2021 when we will enter into the unknown to some extent. The different priorities will impact on the on or off-balance sheet statement but it has been two years and there is some urgency now.

Ms Orla Hegarty: Affordable ownership gets to the crux of the issue. A lot of people want to buy a house but many in Dublin cannot afford to. There is a mismatch between the ESRI research into income levels and property prices in Dublin. We could provide everybody with expensive houses and subsidise them to maintain the market or we could crash the market and put everybody who has a house in negative equity again. The issue is finding some way to have a parallel system through leases, community land trusts or something else that creates a secondary market in housing, affordable to people within their own means but not competing directly

with the private market. The scale of the challenge for affordability in Dublin is enormous and a niche scheme for a certain percentage of the market, or a discounted market, will not meet the need. The ambition needs to be much greater.

External oversight is important in the context of confidentiality and freedom of information. I have experience of looking for information under the FOI Acts where the local authority decided it was confidential. I took the case to the Information Commissioner for a determination on the legal aspects. It would be within the remit of the LDA to withhold information on the basis of commercial sensitivity in a narrow area such as market rates, though there should not be a blanket exemption. There is a provision for an external determination on points of law.

Chairman: We have written to the Information Commissioner to seek his views on that point and we are awaiting a response.

Professor Rob Kitchin: I am not clear as to the extent to which freedom of information is covered by the controller or the council. Is it a public agency or-----

Deputy Darragh O'Brien: According to the Department, it is.

Professor Rob Kitchin: It is not, then, outside FOI. If it were, it would be a big issue. I believe that the blanket exemption is simply put under the notion of commercial sensitivity, so everything the agency does would be commercially sensitive. I do not accept that this is the case. Many public agencies around the State work with companies. Universities, for example, do a lot of research through Science Foundation Ireland funding, for example, or with companies. We are not exempt from FOI on that, and why would we be? It is public money being used supposedly in the public interest, and it has a commercial angle. Unless there are specific reasons, I would not go with a blanket ban. As Ms Hegarty said, there might be rulings where it is believed to be outside of FOI and someone could go to the Office of the Information Commissioner to get a specific ruling on that. A blanket ban, however, does not seem to be in the public interest. In the past, this was an area in which we had a lot of issues. Let us consider the era of the brown envelope, or the many scandals relating to various planning issues, development sites and land, such as the Liffey Valley site. There were also issues around risks-----

Chairman: If Professor Kitchin does not mind, I ask that he please be careful with regard to specific examples.

Professor Rob Kitchin: Okay. In a general sense-----

Deputy Eoin Ó Broin: It is on the record now.

Professor Rob Kitchin: In a general sense, one could get *The Irish Times* and find lots of issues around this and I am sure we could go back through various hearings and find various examples of poor practice in planning decision-making. There are big risks and potential liabilities, as Ms Hegarty said earlier. The Chairman has me worried about naming other examples but a lot of money was lost in the Docklands on certain sites and State agencies were investors in sites when the crash happened. A lot of money was lost by State agencies. There are potentially significant liabilities. In that case, hundreds of millions of euro were lost, which was not an insignificant amount. There may be issues also regarding lobbying, insider deals, financial irregularities and so on. To be outside any kind of lack of transparency would create possible accountability issues downstream. I would be very cautious about that.

Reference was made to ownership of land. There are models in Europe where the land does

not leave public ownership. In the Netherlands, for example, land is leased and it does not leave the state's control. There are such models, which may also serve to reduce development costs because the land price is not included in the development costs.

Chairman: I thank Professor Kitchin. Does that answer the Deputy's questions for now?

Deputy Darragh O'Brien: Yes.

Deputy Pat Casey: I thank the witnesses for their contributions. The more we go through the Bill, the more holes we find in it and the more questions are raised about it. How we manage land now and into the future is how we will develop affordability, so we are considering critical legislation. Something is needed to try to control and manage land but I do not know if this legislation is the vehicle to do that.

Over and again I have addressed my concerns on over-marketisation and privatisation, as mentioned by Professor Kitchin. Ms Hegarty also mentioned commercial viability and profit. This is referenced throughout the heads of the Bill. If we keep using that terminology and keep looking for that return, we can never deliver affordability. This is because we are not just looking at land costs; we are looking at the market value of land costs. It does not work as a starting point.

We all have concerns regarding oversight. Deputy O'Brien had negotiated a €6 million cap for local authorities to spend, up to stage 4, before they had to go to the Department for approval. Clearly, the Minister is now saying that this will not happen and that we do not have faith or trust in the way local authorities do their work to give them this sanction, yet, the Government will hand €2.5 billion over to an organisation with what we believe are significant issues in respect of transparency and oversight. Perhaps we might get the delegates' views on that matter.

Ms Hegarty has mentioned that the policy will change because of the circle of Governments. We have discussed on a number of occasions whether the legislation should include a minimum number of affordable or social houses that need to be delivered, rather than depending on what Government will be in power tomorrow. It all comes down to delivery.

On the issue of land use and how we control same, Ms Hegarty mentioned something that I was following, namely, a State-led process of drawing up master plans for infrastructure. The other issue is whether infrastructure is more critical than sites. If all of the land zoned in Ireland was of tomorrow morning to have infrastructure, would it help significantly in delivering affordability? If so, tools such as site taxes and vacant site levies could be used to trigger it. Perhaps I am wrong, but Ms Hegarty seemed to suggest the State would draw up master plans for towns with a lot more detail. Perhaps she might expand on what she said. We could lay out clearly how every town would be developed, provide the infrastructure and then unbundle it, as Ms Hegarty said, before phasing it and delivering it in sections. I had not thought of unbundling until Ms Hegarty mentioned it this morning because it is quite apparent that the construction industry is relying on a number of key contractors to deliver. We have lost the small and medium-sized builders that were able to build schools or 20 houses. They have been nearly wiped out completely. That is not good for the market because we are seeing that because of the margins large construction firms are beginning to demand more and more. This is adding to the challenge in delivering affordability.

We cannot proceed with the Bill. I cannot see us supporting it under the current policy under which 60% of homes are private, 30% are affordable and 10% are social. It is not a model I

can support in moving forward. It goes back to whether it should be included in the legislation.

As I have lost my train of thought, I might come back in later.

Chairman: The Deputy has asked more than enough pertinent questions, but he is more than welcome to come back in in a second round of questions. We might go to Ms Hegarty first and Mr. Kitchin thereafter.

Ms Orla Hegarty: I will start with the issue of master plans. The legislation is in place. The local authorities have the power to develop master development plans and local area plans; they just need the resources to do so. There is a hierarchy of plans from national level to regional level to local level. The advantage in the local authorities carrying out the function is they have the expertise and the planners. There is a broader remit. As they also carry out their local housing strategies, it is a case of having joined-up thinking, rather than duplicating the effort somewhere else, if the resources are provided to enable the local authorities to do this.

Unbundling has been done successfully elsewhere in Europe. In drawing up a local area plan the local authority will know roughly what infrastructure will be provided on every site and what its capacity will be. That in some way will put a cap on the value of land because it will already be known what will happen. Providing the infrastructure means that builders can plug in on the edge of a site, be it for street lighting, drainage, water services or whatever else. It also means the roads will already have been built. It also means that there will be channels for lots of smaller SME builders to become involved. One of the issues that is a real barrier to expanding the construction industry and the creation of gainful employment concerns how fractured it is and it has become even more fractured. There are large entities at the top that might be receiving a lot of public money, as in the example of Carillion, but that money might not be filtering its way down under the terms of the public contract. Rather, it might be filtering down in private contracts into subcontracts to people who are often working in difficult employment conditions. They might be unable to take on apprentices or carry out training or they might be waiting for long periods to be paid. All of this makes employment precarious and it is a barrier to young people becoming involved in construction. What it all means is that the sector is fragile. If we want to rebuild, we will need the SME builders and the people who perhaps have a contract for ten council houses, out of which they can buy machinery, take on an apprentice and buy a piece of land for a private development. That is how we will build capacity in the housing sector and get some competition going. The other difficulty with bundling these large sites is that there is very little competitive tension if there are few entities which can tender for this work. If the tendering is for small builders, there will be a lot of competition in the market and people whose standards fall short can be weeded out and the work can be prioritised with those who do a good job. In bundling into large entities, all the work is subcontracted and it is very hard to track where the poor practices are. It is also hard to include social and other clauses that could be put into public procurement that would improve some of the other issues in the sector.

Professor Rob Kitchin: We are all agreed that active land management is necessary, is a useful thing for local planning and for large-scale strategic spatial planning and is key to the national planning framework and being able to deliver on that. The real issue is how it will do this. We are pretty poor at infrastructure. We tend to build the housing and then try to do the infrastructure afterwards. We do not have a strong track record, with a few exceptions such as Adamstown and so on, of thinking about the infrastructure going in before or at the same time as the housing goes in. There potentially will be a move towards doing that in the Land Development Agency with proper master planning towards co-ordinating and putting in infrastructure at the right points and making sure of that. It is very evident in places such as the unfinished hous-

ing estates where there were houses but no roads, water, sewerage or street lighting because of the point at which they failed. In other countries it was the other way around. Photographs on Google Earth in 2009 showed that in the US, there were the roads and infrastructure but the houses were missing because the infrastructure had to go in before everything else so that when people move in they have what is needed.

Co-ordination of that would make a lot of sense. If that does not happen and pressure is put on the transport or health systems, because only the housing estate is dealt with and nothing else around that is co-ordinated, then that becomes a problem. It needs to move towards larger-scale local development plans where there is joined-up co-ordinated planning around that, as opposed to just developing specific sites. If we get into the business of creating specific sites, we will create a series of other related issues around schools and health centre capacity, water or sewerage or whatever else. In other European countries, development companies like the certainty of planning. Construction companies like knowing what will be developed over the next 30 or 40 years. They know their phasing, they know there is certainty in the market and that this is almost certainly going to happen. They like the certainty and profit. They are often not looking for mad profits but for a good 5% or 6% return. They are not looking to make a huge buck and get out. It would be positive if we can move towards that. Whether our developer or construction industry would like that is a different matter but perhaps we can move the planning mindset onto having much more co-ordinated long-term planning. The Land Development Agency is a good vehicle to do that and we should be landbanking. We know the population will go up by 500,000 over the next 20 or 30 years and that we are going to have to build infrastructure and so on and we should be doing it in a co-ordinated way.

Mr. Tom Dunne: The question of active land management and the issues around that is one of the great deficiencies of our planning system and needs to be addressed for sure. I did not see this agency as being a particular way of doing that but thought that it would have a role in it. The sense I got from the legislation was that it was intended to take lands that are already in the ownership of the State in various forms, which are often just there and are not needed for the purpose for which the entity that holds them is going to make use of in the future, so the question about such lands is what does one do about them. The option preferred by the local authority, the HSE and other agencies is to flog that land, to put on the marketplace and see what happens. The Land Development Agency, LDA, is intended to prevent that from happening. Instead those lands will be taken and managed by the Land Development Agency. Active land management and the related issues are a different question. While I agree with a lot of what has been said about active land management, which is one of the great deficiencies in our system, this is meant as a more specific agency, which I believe the State needs. The State has a management agency in the Office of Public Works, OPW, which largely looks after the management of properties used by the State. The Land Development Agency is intended to take the lands that are no longer needed by the State and which must be put to some other use. With the current crisis in the sector, the most logical thing to do with all that land is to use it for housing, if it can be converted to that purpose. Some 15 or 20 years down the road we might have a shortage of land for industrial purposes, as we had in the past. This agency is intended to perform a more specific function. It should not be opposed because it does not perform a range of other tasks which are definitely needed in our planning system, like active land management. That is why when I read this Bill I felt the State needed a tool like this agency to perform this specific function.

Chairman: I thank Mr. Dunne. As no other speakers wish to comment, we will go back to Deputy Ó Broin for his second round of questions. The Deputy has two minutes.

Deputy Eoin Ó Broin: As this is important legislation, can I take the time of the members who are not present?

Chairman: The Deputy has limitless minutes.

Deputy Darragh O'Brien: The Chair can let him go on forever.

Deputy Eoin Ó Broin: That is the plan.

Chairman: With deference to the witnesses, we will try to be brief.

Deputy Eoin Ó Broin: I have a couple of quick questions. I would like to return to Mr. O'Connor's point about the Land Development Agency providing master plans and servicing sites. My question relates to Ms Hegarty's comment. Local authorities already do that. We have just agreed a very substantial strategic development zone for Clonburris. Local authorities have a huge amount of skill and expertise. Adamstown, also in my constituency, is a good example of that. The value of those processes is that they have some democratic input and some public consultation and engagement. Not only did the LDA lack any of these skills when it was set up, thereby being obliged to acquire them, it lacks the statutory requirement to engage with elected representatives or members of the public. I still do not see what added value the LDA provides that we could not have got from better-resourced local authorities, including master planning and site servicing.

Moreover, because we are spending a lot of time talking about residential development and all the associated difficulties, we are not talking about active land management as much as we should. With reference to Mr. Dunne's point, the Government is making two claims about this agency in its conversations with us. The first was already mentioned; this agency will take Donnybrook bus garage from the CIÉ or vacant lands in Cork from the HSE and will use them for something better. However, the Government also talks about other active land management functions. We are not getting proper sight of that. If people have models of best practice, perhaps they could share them with the committee.

Partly because he sits on the board of the LDA, I am interested in Mr. O'Connor's response to Ms Hegarty's point about affordability being delivered by cost rather than by market discount. The published figures for O'Devaney Gardens really show the risk of applying the market discount. We are told that two-bedroom apartments and three-bedroom houses will retail for approximately €310,000. That is at a discount of 35%. That means that Bartra Capital has priced those units in at €477,000 before knocking off a discount of 20%. The State then steps in and cross-subsidises a further discount through its equity share. While the house will be sold at €310,000, Bartra Capital will be paid €370,000. If the affordable purchaser ever buys out that equity, he or she will essentially have paid €340,000, €350,000 or €360,000 for the house.

That can be compared to the cost model, which I know Mr. O'Connor strongly advocates and which Ó Cualann Cohousing Alliance and others have delivered. This would deliver exactly the same house or apartment for €250,000. Given these figures, how can we ensure that the LDA delivers affordable units on the basis of the economic cost of delivery, rather than large companies' inflated market tenders at a discount? Given the heads of the Bill, I fear the price will be the market value minus the discount, rather than the cost. This will not merely fail to guarantee affordability; affordability will not be available at all.

Chairman: I thank the Deputy for keeping to his allotted time. It was impressive. I call Mr. O'Connor.

Mr. John O'Connor: On master planning and the role of the LDA in that regard, I agree with other speakers that it is best when local authorities make detailed plans. As part of devising local area plans, they do more detailed master planning, although that is not currently the case throughout the country. It is done to a limited extent but there needs to be more of it. If the LDA has control of large tracts of State land, it can assist in the master planning. While it will have to work with the local authority in question, it will have the ability, and potentially the funding, to deliver the infrastructure upfront.

On affordability and affordable housing, we often get caught up with the market value and the market rent. We should approach it with the intention of determining the cost of delivering the housing. If land has been provided at no cost, we should seek to determine the minimal cost of building a house while ensuring a high quality and that the long-term maintenance costs are low. We should consider it from a cost base, rather than be sucked into viewing it from the perspective of the market and trying to discount from there. We should focus on the cost of delivering the housing and on the builder, who wants to be paid a normal return with a modest profit.

Chairman: I thank Mr. O'Connor and call Ms Hegarty.

Ms Orla Hegarty: On the market value versus the cost of production, another current issue is the cost of finance. For Part V projects I have recently examined, in some cases up to €20,000 was paid in finance costs because developers have to borrow at high rates. That is a poor use of taxpayers' money if finance is available elsewhere. Some of the cost of delivery concerns public contracts where, under a normal construction contract, the builder is paid monthly and does not have to finance the entire development. That is a much more strategic use of capital, as well as being a quality control. In decisions about outsourcing to large developers who will finance projects, there is a heavy component of finance cost.

Chairman: That is a fair point. I call Ms Murphy.

Ms Karen Murphy: I agree that the cost approach makes most sense and there is a legal precedent, given that it is done every day through Part V planning agreements. The cost is not always affordable, however, and sometimes in actioning the delivery, the cost can be above what is affordable, not in respect of market but of incomes. We need to stitch in subsidies where necessary to ensure that the cost base is supported by some measures.

Deputy Pat Casey: On the role of the LDA, I did not read into the legislation what our guests have read into it. Unless the LDA has a function in acquiring land for future use, it will not serve its purpose. One of its primary objectives is to stockpile land for future use. I have an issue with State land being sold to the LDA at market value. Whether it is HSE or CIÉ land, the State bought it originally and I do not know why it should pay market value on the land to be given to the LDA. If we continue to use the term "market value", affordability will never be delivered. On the point about on and off-balance sheet - and I recognise that the Irish Council for Social Housing is here today - what happens if the Land Development Agency is proven to be on balance sheet tomorrow morning? Nobody can tell me whether it is guaranteed to be off-balance sheet tomorrow. It all depends on the capital and the control of local authorities over who gets into housing, as our guest have said. Tomorrow morning, the Central Statistics Office, CSO, or EUROSTAT, could say the model is wrong and the agency should be on-balance sheet. What impact would that have?

On the topic of land ownership and leasing arrangements, I lease my own business back to the State for a penny a year for 200 years, if demanded. I have no freehold but I am allowed do

whatever I want on it, whether that is to develop it, expand it or apply for planning permission. Is that the type of model we might be looking at for residential properties? If it is, there are already examples of it in Ireland.

Mr. Tom Dunne: I did not understand that to be the Land Development Agency's only function. That would be its major function but it will clearly have a role in supporting local authorities that are not well supported or resourced with the kinds of professionals needed for residential development. That is also an important part of the function of the Land Development Agency. Its functions are not as narrow as the sense of them I may have given.

The State will have land, from various sources, which it may not need. Something needs to be done about it and it is important that the State has a credible agency that understands how to manage land and pass it through its various functions in order for it to become a resource that is available to developers and builders to build on. That is what I saw this agency doing. I did not see the function of this agency as stockpiling land and it should not be doing that. Stockpiling land is just parking a resource that should be used for some more immediate purpose. If an agency such as this gets into stockpiling land, the scheme will have gone entirely wrong.

Deputy Pat Casey: I would not call it stockpiling but buying strategic land in advance. Otherwise, we are back into the market cycle again where the State comes in too late to purchase land that has already been zoned.

Mr. Tom Dunne: That is a function of local authorities but they need assistance. We do not do it, and that is another story, but I want to make the point that we should not be stockpiling land because it then becomes a resource we do not use.

Accounting conventions that we have established for imposing discipline on Government agencies insist that we take land from agencies at market value. Land is just another resource, like all the other things that are valued as inputs into whatever a hospital has to do. Land is just one of those resources. It happens to be on balance sheets at its market value because that is what is done under accounting conventions. If land is taken out, one must pay in because it is a resource. How to handle resources in organisations is a very big question. I do not know if it is right to do it or not.

Deputy Eoin Ó Broin: The point Deputy Casey is making is that land is not registered at current market value in many instances. Large volumes of public land sit on the balance sheet of a public agency at the value at which it was acquired rather than the open market value. If I understand the point Deputy Casey is making, the market value should be the compensation level if it is then coming off balance sheet.

Mr. Tom Dunne: I may be out of my depth on this because it is a long time since I have studied accounts but my understanding is that land can be left on the account at the historic cost. Accounting conventions require that to be revalued periodically and, in any event, if it is going to be disposed of or transferred out, that would have to be done at market value. That is my understanding.

Deputy Darragh O'Brien: I suppose the point Deputy Casey is making is that the State owns land and is then buying it back from itself for an inflated price.

Mr. Tom Dunne: For the market price.

Deputy Darragh O'Brien: A market price which, if one is buying land in Dublin right

now, most people would say is approximately 35% above what it should be.

Mr. Tom Dunne: Yes.

Deputy Darragh O'Brien: That is the point but we could talk about that all day.

Mr. Tom Dunne: We could argue that all day.

Chairman: I am conscious that this type of questioning about market-to-market accounting is really for the accounting specialists within the Department itself. On a point that Ms Murphy made, ultimately when there is an operation such as one under Part V, the money does not disappear. It comes from reducing the value of the price of the land when it is bought initially. The person who pays that is the landowner. I am not objecting to this as I believe it should be done that way. Theoretically, land prices should be really low. They are really just evidence of scarcity. The way to solve that problem is to manage the process of land administration properly and to have a supply of land on the market regularly that meets the demand. The trouble in our country is that this requires resources. Deputy Casey made the point that it is the infrastructure that is crucial. The land is available but it is the infrastructure that is crucial.

Deputy Darragh O'Brien: That is it. Ms Hegarty mentioned the northern commuter belt. The northern commuter line, including at Skerries, is operating over-capacity. Where there is no investment in capital infrastructure for a sustained period and no new interconnector in the city, and where rail capacity cannot be increased to get people into the city, it presents an issue in that an increasing number of people are just shoved onto existing infrastructure. It is about balancing against the need for people to live somewhere and have homes. Politicians are the ones who have to accept, amend or reject the legislation. This is why it is very useful to hear all the points of view. Ultimately, as Deputy Casey said, if we were to establish an agency and capitalise it with €1.25 billion, effectively on a commercial semi-State basis, and if we were not happy there was proper oversight, the people would be asking us in ten years why we passed the legislation on the nod. That is why we have to tease all these things out.

Mr. Tom Dunne: All I am saying is that there is a need for a resource like this to be available to the State to do a lot of the work-----

Deputy Darragh O'Brien: Absolutely. Land management. I agree.

Mr. Jim Baneham: The Deputy is correct that leasing of land is not new. It is one of the ways to ensure a certain level of control is retained over the use of the land. With regard to the agency site in Stepside, called Enniskerry Road, it was provided to the two approved housing bodies on the basis of a 150-year lease. There are covenants in the lease requiring cost rental dwellings to be such dwellings for a period of at least 70 years. As mentioned, it is a means by which the State can provide land but restrict how is used in the future.

Dr. Donal McManus: Matters should not be over-complicated. In the past, there were very good examples of where sites were provided for affordable housing. The old low-cost sites scheme of local authorities was very much localised. It was a national scheme but it was rolled out fairly well. Most of our sector expanded on the basis of the scheme. A small builders scheme linked into this structure activated the construction market over time. Confusion arises sometimes when trying to create a structure in addition to supports to deliver land.

Maybe the mechanism was initially for larger sites but we see it applying to smaller sites also. I refer to the ability to impose a CPO on land and to then use a mechanism such as the

low-cost sites scheme to deliver housing. One can link the two together. It is not an either-or situation. Some initiatives worked very well. The low-cost sites scheme was a real driver of our sectoral expansion, as well as for individual owners wishing to build homes. Small builders schemes, as mentioned, attached conditions to how land was used and to building standards. Sometimes people over-complicate things. What is driving this may be a discussion about the market operator. Deputy Ó Broin referred to this. The starting point is probably the market operation and how this could be passed by EUROSTAT and not be on the balance sheet, as with Irish Water. That is driving the discussion in addition to the functional aspects. Things did work before, albeit very much in a piecemeal way. We hope the mechanism under discussion will co-ordinate all the measures under one roof.

Chairman: I thank all the delegates for contributing time, expertise and answers. I certainly appreciate their time today, as do the other members of the committee. I thank the witnesses for engaging with us today.

The joint committee adjourned at 2 p.m. until 9.30 a.m. on Wednesday, 16 October 2019.