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PROFESSIONAL

AUTUMN 2009

IPAV EDUCATION COURSES

IPAV MAKES SUBMISISON TO JOINT OIREACHTAS COMMITTEE



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contents

WELCOME TO THE PROPERTY PROFESSIONAL



Fintan McNamara

THE PROPERTY
PROFESSIONAL IS THE
MAGAZINE OF THE INSTITUTE
OF PROFESSIONAL
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Welcome to the Autumn '09 edition of the Property Professional.

The property industry continues to be in very challenging times. However, it is clear that some other European economies are now emerging from the recession which is a good omen for the future. However, it will clearly be some time yet before the Irish economy – and with it the property industry – begins to move in a positive direction again.

To assist with the varying challenges out there, this autumn, IPAV will again be pressing ahead with a full programme of education courses for those already in the industry and those who are considering a future career in it or a related profession.

Details of all the courses are contained elsewhere in the magazine and I would particularly appeal to all IPAV members to participate in the Continuous Professional Development or CPD seminars between now and next May. As the new Property Services (Regulation) Bill, 2009, is likely to become law before Christmas, participation at ongoing education seminars will be compulsory in the near future and members are asked to be well prepared for this.

As all property transactions whether purchasing, selling or renting, involve the transfer of monies from one party to another, the new Regulator will be demanding the highest standards of professionalism from all auctioneers and estate agents who wish to continue to practise. It is IPAV's intention to be at the forefront in setting and adhering to such standards. To date, the Institute can be proud of a history of general excellence in the operation of its members, set through self-regulation and we hope to continue to maintain and even raise those standards in the new era of regulation.

To meet the ongoing challenges of the current climate, IPAV members must diversify into new areas of activity and add new skills to their existing set. To help with this, the Institute will again be organising weekend courses which deal primarily with aspects of lettings.

The first weekend course will be held on the weekend of October 2 and 3 and I would sincerely ask that members consider attending or sending a member of their staff along. The reaction to the previous courses was extremely positive and I look forward to meeting many of you at these in the months ahead.

To help with the increased emphasis on education and general upskilling, IPAV has launched two new websites. The first is www.propertycourses.ie which contains details of all of IPAV's property courses, both full and part-time.

The second is a website geared exclusively to promote IPAV's unique full and part-time courses in the Fine & Decorative Arts. Take a little time to look at www.fineartcourses.ie and perhaps you will find something there of interest to you or a member of your staff or family.

And finally, do feel free to contact me at any time at IPAV's National Office in relation to the above or any other issue of relevance.

Best wishes

Fintan McNamara
Chief Executive

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MESSAGE FROM THE PRESIDENT



John Shaw

Fellow Members,

As we enter the traditional autumn property season, there are now signs of reasonable activity at the lower end of the housing market. Most of the transactions involve first-time buyers and there is now very good value out there for the discerning purchaser. This is good news and there is now every indication that we are close to, or at, the bottom of the current cycle.

However, it will be some time yet before investors return to the market. Falling rents and the new €200 charge on non-principal private residences will continue to deter them but Government and the general economy needs an ongoing input from private investors to help cope with the likely future housing demand.

It is clear that the property industry and the indeed the economy generally will continue to be unstable until the details of the National Asset Management Agency are worked out. There is considerable controversy as to whether NAMA is the correct path for the country to follow. However, what is clear is that we need fast and swift action of some kind to get the banking sector functioning properly.

While other European economies such as Germany and France have already overcome the worst of the current recession, it is clear Ireland will continue to lurch on in difficult economic circumstances for some time to come.

Meanwhile, IPAV is continuing to lobby the Government with regard to many aspects of the housing market. In this regard, in July the Institute made a presentation to the Joint Oireachtas Committee on the Environment, Heritage & Local Government on many aspects of the Private Residential Tenancies Board and in mid-September we are scheduled to have a meeting with the Minister for Housing.

The Property Services (Regulation) Bill, 2009, is only one of a number of pieces of legislation which affect the property industry. The long-awaited Multi-Unit Developments Bill which tackles the many and varied problems associated with apartment complexes has also had its first debate in the Seanad. The issues it addresses are complex and IPAV will be monitoring its progress through the Houses of the Oireachtas.

With regulation around the corner, the current downturn is an ideal opportunity for IPAV members to upskill and this autumn the Institute is again providing a range of seminars and training opportunities, details of which are contained elsewhere in this issue. CPD certificates will be awarded again to those who obtain the required number of points.

Our education courses have also witnessed a downturn and I would urge members to consider sending members of their staff to participate in them. In the scheme of things, the property market is not a single one involving marketing and selling homes. Rather, it is a complex and varied collection of many different markets offering a challenging and rewarding career for those who are interested in it.

I hope that all members will have the confidence to meet the challenges ahead and continue to provide the highest quality service to the members of the public which is the hallmark of the Institute.

I look forward to meeting you at the Autumn seminars.

God Bless

A handwritten signature in black ink that reads "John Shaw". The signature is written in a cursive, flowing style.

John Shaw

President

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RESIDENTIAL

LETTINGS

COMMERCIAL

OVERSEAS

IPAV MAKES SUBMISSION TO JOINT OIREACTAS COMMITTEE

ON JULY 28 LAST IPAV MADE A COMPREHENSIVE SUBMISSION TO THE JOINT OIREACTAS COMMITTEE ON THE ENVIRONMENT, HERITAGE & LOCAL GOVERNMENT ON THE OPERATION OF THE PRIVATE RESIDENTIAL TENANCIES BOARD. THE IPAV DELEGATION CONSISTED OF JOHN SHAW, IPAV PRESIDENT, FINTAN MCNAMARA, CHIEF EXECUTIVE AND THOMAS WOODBYRNE, NATIONAL COUNCIL MEMBER. BELOW IS A SUMMARY OF THE KEY POINTS MADE.



BACKGROUND:

IPAV was established in 1971 as a representative body for auctioneers and estate agents nationwide. Today, IPAV has 500 member firms who, in a normal market, give employment to an estimated 3,000 persons in property related activities, including valuations, sales, lettings and property management.

The Institute is a self-regulating body and all members must operate to a prescribed Code of Conduct. IPAV's Disciplinary Committee also includes two independent external members.

The provision of high quality education courses, including Continuous Professional Development for existing members, is a central part of IPAV's work.

THE PRIVATE RESIDENTIAL TENANCIES BOARD

IPAV members advise and work on behalf of an estimated 10,000 buy-to-let investors and landlords. Many members are adjudicators with the Private Residential Tenancies Board (PRTB) and have an in-depth knowledge and experience of the workings of the Board. Following extensive

consultations with its members, IPAV is strongly of the view that improvements could be made for a more effective functioning of the PRTB.

To date, 108,012 landlords have signed up with the PRTB (only 17,000 landlords under 1996 regulations registered 29,000 units with the local authorities). The total number of registered tenancies is c. 200,000 and the total number of tenants registered is c 360,000. These figures are subject to fluctuation.

It was anticipated during the deliberations of the Rented Housing Commission - the body which framed the recommendations for the Residential Tenancies Act, 2004 - that approx 10% of tenancies would present on an annual basis for dispute resolution. However, the reality is that, since the establishment of the PRTB, the total number of disputes lodged is 5,500, a fraction of that figure.

The truth is that the Private Rented Sector in Ireland, like its European counterparts, is a much happier place than is commonly realised, with over 90% of tenancies trouble free. This is proven by the very fact that less than one per cent of tenancies present annually for dispute resolution at the PRTB.

On top of that, the sector has improved both in quality and quantity, with a 100% increase from the 81,000 private rented units available in 1991. Since the introduction of standards legislation in the mid Nineties, almost 100,000 local authority inspections have taken place, with now less than 20% of units deemed to require upgrading and repairs, some of a minor nature.

Current statistics indicate that 70% of disputes lodged are by tenants and 52% of these relate to deposit retention. Adjudicators and Tribunals have broadly determined that, in 25% of cases, the tenant was entitled to a return of the entire deposit. In a further 24% of cases the landlord was justified in withholding the deposit which, in many instances, did not cover his/her losses, while in 51% of cases the deposit was apportioned between the disputing parties.

A suggestion that all rental deposits should be forwarded to the PRTB is a disproportionate response to the problem in IPAV's view and would generate even more expensive unnecessary bureaucracy. It would, to all intents and purposes, be using a sledge hammer to crack a nut.

RECOMMENDATIONS

While a paper-based adjudication process will hopefully expedite the dispute resolution process nonetheless the PRTB should be empowered in given circumstances, to refer disputes relating to deposit retention up to a certain threshold to the Small Claims Court where they were dealt with in the past. This approach may well be necessary especially if, in a continuing economic downturn, there is a significant increased number of disputes lodged which will clog up an already overstretched dispute resolution process.

Moreover, this facility, if employed pragmatically and judiciously, would free up the Board to deal with the seriously fraught

cases. This modus operandi would enable the Board to give far greater protection to the rights of both landlords and tenants.

Equally problematical is the cumbersome overly bureaucratic registration system (RTA S 136), erroneously deemed essential for the functioning of the dispute resolution process and to facilitate research into the sector.

There is, by its very nature, much transience among tenants in the private rented sector. This is especially marked in the current economic climate where in the space of twelve months registration applications may have to be filed up to three times in relation to the same rented unit.

Five years on from the introduction of the RTA one-third of registration applications continue to be returned incomplete and a significant number of PRTB staff are tied up helping agents and landlords to complete unnecessarily detailed forms that require 11 or more mandatory boxes to be filled.

While an online registration system will help improve the process, there will be a significant number of landlords and agents who will choose to use the current manual system. In this scenario, a far more pragmatic solution would be to replace the requirement to register tenancies with a requirement to register rented units along the lines recommended by the Rented Housing Commission in July 2000 - Conclusions of Commission's Deliberations, Section 8.8.2, and p162.

It was envisaged that a requirement to register units would be no more frequent than four years. The rented properties could be registered with the PRTB for an appropriate fee to ensure it is adequately resourced.

A simplified system and the resulting savings on staff resources could then be directed to the core function of dispute resolution. For example, most landlord applications for dispute resolution in 2007 related to rent arrears, some very substantial.

Section 86 of the RTA should be amended to provide for emergency tribunals to fast track disputes in cases where tenants deliberately abuse the process and break the law by refusing to pay rent in contravention of the Act, while continuing to live in a dwelling for unacceptably extended periods.

The RTA is littered with references to the 'Notice of Termination' procedures which render the process very complicated. Even experienced legal practitioners have failed to adhere to the required procedures when drafting and serving such notices. The extensive cross referencing required to ensure a 'Notice of Termination' is valid makes it even more fraught with peril. The process of terminating a tenancy needs to be greatly simplified.

Furthermore, adjudicators /tribunals should have the power to order vexatious tenants to vacate a dwelling where the circumstances so warrant, even where a termination notice is invalidly served.

The recent €200 levy on rented units - while clearly unwelcome for investors and landlords - is accepted as a necessary evil in the current fiscal climate. However, IPAV hopes the local authorities will be sympathetic and be empowered to waive liability for this levy on property owners who now own units that cannot be let and are in some extreme cases facing grave hardship, having lost their jobs.

Economists believe that thousands of section-driven investment properties purchased in the boom will never be saleable again even when normal activity returns to the property market. It is also disappointing that the Minister did not accept an amendment to cap the levy so that it would amount to no more than €600 in older, converted pre '63 style houses that provide comfortable

accommodation for HSE assisted tenants, some with disabilities. The availability of affordable units housing the 30,000 single people on rent assistance has been dwindling steadily and will now contract further. Indeed, there is every likelihood that this category of tenant will be seriously disadvantaged in future in terms of their accommodation requirements because of current, short-sighted government policy.

IPAV is also concerned that the proposed introduction of a residential property tax will delay a recovery in the housing market. The property tax introduced in 1983 was inherently unfair and penalised urban dwellers, especially in Dublin. IPAV recommends, at the very minimum, that such a tax be postponed and, if introduced, that it be accompanied by a very significant reduction in transaction taxes.

Finally, in relation to the operation of the Building Energy Rating (BER), agents in Ireland have been made responsible for the production of energy rating certificates on properties that they are selling /letting but do not own. A recent survey of estate agents working in 14 European countries revealed that, not only was this obligation not imposed on agents but that in less than 10% of sales or lettings was there a reference to a BER. We feel that the obligations on agents should extend to no more than informing and reminding property owners of their obligations in relation to the BER. To demand more would be to cast the agent in an invidious and unfair position.

The Residential Tenancies Board is the regulatory authority for the private rented sector established under the Residential Tenancies Act 2004.



Notice to LANDLORDS

REGISTRATIONS

Residential tenancies must be registered with the Private Residential Tenancies Board (PRTB) within one month of the commencement of the tenancy. The current registration fee is €70, other than for applications made by the same person at the same time in respect of tenancies of dwellings comprised in the same property, where the fee is €300. Late registrations are subject to a double fee.

Registration is a legal requirement. Failure to register may result in a fine of up to €3,000 and / or up to 6 months imprisonment.

To register, contact the PRTB, your Local Authority or Citizens Information Centre for a registration form or download it from www.prtb.ie.

The website also contains answers to frequently asked questions, including information on the security of tenure provisions provided by Part 4 of the RTA 2004.

DISPUTES

The PRTB operates a supportive, user-friendly and accessible Dispute Resolution Service for both landlords and tenants who find themselves in dispute over aspects of tenancies. The PRTB's service is available nationwide.



For further information contact:
PRTB, Floor 2, O'Connell Bridge House, Dublin 2
Tel: (01) 6350600 Fax: (01) 6350601
E-mail: information@prtb.ie
www.prtb.ie

IPAV TO CONTINUE ITS CONTINUOUS PROFESSIONAL DEVELOPMENT (CPD) PROGRAMME

By Tim Ryan, Editor, the Property Professional

This autumn, IPAV is further developing its Continuous Professional Development courses with the continuation of the formalised points structure for members.

In Autumn 2008, the points system was introduced on a pilot basis and proved very successful.

Shortly IPAV will issue a CPD leaflet to every paid-up member. The leaflet will briefly explain the points structure and will again have an individual CPD form to be filled in each time the member attends a seminar.

Participation this year is again voluntary but it is expected that it will become compulsory, following the passing of new legislation later this year by the Houses of the Oireachtas.

In order to qualify, each member taking part will be required to have a minimum of 5 CPD points during the eight months from October 2009 to the end of May 2010. Those who successfully complete the programme will be awarded a Certificate.

There will be a total of four categories in the programme: A, B, C and D

A: Each IPAV Seminar attended by a member will carry 2 CPD points. Evidence of attendance must be signed by the member and counter-signed by an authorised IPAV person.

There will be three autumn seminars on relevant subjects in Cork (Tuesday, October 13), Galway (Tuesday, October 20) and Portlaoise (Tuesday, November 3). Details of the Seminars will be sent to members in due course, along with the explanatory leaflet and CPD form.

B: An event/seminar organised by a recognised professional body other than IPAV and attended by a member will carry 2 CPD points. Evidence of attendance must be signed by the member and counter-signed by the CEO of that body or by a person designated by the CEO.

C: Non-IPAV courses and private education must be verified by an authorised officer of that body or the Head of the relevant department of the educational institution.

The number of CPD hours allowed will be decided by IPAV's CEO in conjunction with the Education Advisory Committee.

D: All members may qualify for 1 CPD point for professional reading material. However, the material read must be listed on the form when being submitted to IPAV.

Mr McNamara said he wished to encourage as many members as possible to again take part in the project as further proof of the Institute's drive to be at the cutting edge of education.

"With regulation now just around the corner it is time for us to put our education programme for existing members on a more formal footing," he said. "CPD is now compulsory in virtually every profession and we are simply upgrading our seminars to fit the new environment."

WEEKEND LETTINGS COURSE

IPAV is organising a weekend course on aspects of lettings on the Friday evening, October 2 and Saturday, October 3.

This short course is designed to reflect the significant changes that have taken place in the market over the last number of years. It is aimed at those who are involved in the business as Property Managing Agents, Letting Agents and Property Professionals to make them aware of the dramatic changes in law and practice that may have a profound effect on their day to day activity.

Registration will take place on Friday evening at 6.00pm followed by the first lecture of the series. Lectures will continue all day Saturday from 10.00am – 4.00pm.

The course will cover the following areas:

1. The Property Services (Regulation) Bill, 2009. Details of the new Bill currently being debated in the Seanad will be outlined.
2. Operation of the Private Residential Tenancies Board (PRTB): The main activities of the board will be outlined including its brief and operation and the significance for the professional practitioner.
3. Taxation Issues: This module will focus on the current treatment of investment property and the legislative changes to revenue audits etc.

4. Commercial Lettings: This section will deal with significant changes in practice and procedure in the commercial sector in the context of changes in legislation.
5. Communication and Marketing: Best practice in the sector will be outlined and examples given.
6. New Standards for Private Rental Sector: This lecture will deal with most recent legislation on Standards in the Private Rented Sector.

Venue:

The course will be delivered at IPAV's Dublin office and the course will confer 3 CPD points to IPAV members. Certificates will be presented to successful participants.

Further information and an application form can be obtained by e-mailing info@ipav.ie or telephone 01 678 5685.





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PROPERTY BILL GETS FIRST SEANAD DEBATE

THE PROPERTY SERVICES (REGULATION) BILL, 2009, WHICH INTRODUCES REGULATIONS FOR AUCTIONEERS AND ESTATE AGENTS HAD ITS FIRST DEBATE IN THE SEANAD ON MAY 21. THE PRINCIPAL FEATURES OF THE BILL WERE CARRIED IN THE SUMMER ISSUE OF THE PROPERTY PROFESSIONAL. BELOW ARE SOME EXCERPTS FROM THE FIRST DEBATE. THE BILL WILL CONTINUE ITS PROGRESS THROUGH THE HOUSES OF THE OIREACTHAS IN THE AUTUMN.



Dermot Ahern

Dermot Ahern TD, Minister for Justice, Equality & Law Reform: The Bill provides for a comprehensive and streamlined legislative framework for the regulation of auctioneers, letting agents and property management agents. It will replace the current court-based system for regulating auctioneers and house agents with an updated system for the regulation of all property services providers.

The Bill seeks to give effect to the principal recommendations of the auctioneering-estate agency review group which reported in 2005. At its heart is a proposal to establish a new statutory body, the property services regulatory authority, to control and supervise providers of property services and to improve standards in the provision of those services. The Bill also provides for improved consumer protection by establishing a system for investigating and adjudicating on complaints relating to the provision of property services in addition to a property services compensation fund to compensate those who suffer financial loss as a result of dishonesty by property services providers.

Under the commencement provisions set out in section 1, it will be possible to introduce the Bill's provisions on a phased basis. Such a phased introduction will help to ensure a balanced workload for the authority.

Section 2 contains the important definitions that determine the scope of the Bill. I want to draw attention specifically to the definition of "property service" as the provision in the State of any of the following services: auction of property other than land; purchase or sale, by whatever means, of land; letting of land; and property management services. All auctioneers, letting agents and property management agents will, therefore, require a licence from the authority. This licensing requirement will apply both to the property services employer, for instance, an auctioneering company or partnership, and to individuals providing a property service in the course of employment or as an independent contractor.

If the property service is provided in the State, a licence will be required, regardless of whether the property concerned is located in the State. Part 2 of the Bill contains special provisions dealing with the provision of such property services by licensed providers from other EU member states. A limited number of exemptions to the licensing requirements are set out in section 3. These include the purchase or sale of land by a solicitor on behalf of a client in the course of and ancillary to the provision of legal services and the auction of property other than land for charitable purposes.

I draw specific attention to the main functions of the authority in section 10, which include the following: to operate a comprehensive licensing system covering auctioneers, letting agents and property management agents; to set and enforce standards for the granting of licences e.g. educational and training standards and levels of professional indemnity insurance, as well as standards to be observed in the provision of property services by licensees; to establish and administer a system of investigation and adjudication of complaints relating to the provision of property services; to promote increased consumer protection and public awareness of property services in general, and the cost to consumers, risks and benefits associated with the provision of such services; and to establish, maintain and administer the property services compensation fund.

This part also contains provisions on the charging of fees; it provides that the annual fees charged by the authority should be sufficient to meet the costs of administration of the Act. This is in line with the recommendation of the review group that the new regulatory structure should be funded through fee income generated by the authority for licences and other services.

Sections 30 to 34 contain details of the licensing system. Each application for a licence from an eligible person must be accompanied by references as to the applicant's character and competence, including details of education, training and experience, a certificate by an accountant that proper financial systems and controls are or will be in place for the protection of client moneys, evidence of availability to the applicant of the necessary level of professional indemnity insurance and the appropriate fee.

Applicants other than employees will also be required to furnish an up-to-date tax clearance certificate. Moreover, the legislation also permits the authority, if it considers it necessary in any particular case, to require the applicant to furnish additional information. When deciding whether to issue a licence, the authority will take into account the information provided by the applicant and, where appropriate, any information provided by the Garda Síochána under section 42. It will not issue a licence unless it is satisfied that the applicant is a fit and proper person to provide the property service concerned and complies with the other statutory requirements. A successful applicant must pay the appropriate contribution to the compensation fund before the licence will be issued by the authority.....

Senator Paul Coughlan: 'It is good to note that the two institutes, the Institute of Professional Auctioneers and Valuers and the Irish Auctioneers and Valuers Institute, generally welcome the provisions of this Bill. However, there are some areas where people in the business feel it is overly prescriptive, especially in a market which is currently under such stress.

Section 2 refers to relevant price range. It states that land valued for sale or letting by a licensee means a price range where the difference between the upper limit of such valuation and the lower limit of such valuation is not more than 10% of such lower limit. I suggest this is too narrow and overly prescriptive given the volatility of prices, both during the boom and in the current recession. I suggest the 10% should be omitted and the section rephrased to reflect a valuer's reasonable judgment given prevailing market conditions. In fairness to the Minister, he said he provided a little for an out in regard to market conditions. In any event, we can tease that out on Committee Stage.

Section 75(4)(a) refers to the establishment of a compensation fund over a four year period reaching a minimum of €5 million and maintained by the authority. This could cause hardship and could be a severe financial burden on some practitioners if it is not thought out properly. I suggest €2 million should be the target figure as experience in both institutes has shown that no more than €150,000 has been paid out over 25 years to clients as a result of dishonesty by agents. It should be noted that even in the current very difficult market conditions, there have been no claims on the compensation fund to date. We can tease out those matters on Committee Stage.

It is conceivable that people in the Republic could establish a company in Northern Ireland for the purpose of avoiding the legislative provisions of the Bill. The EU services directive is likely to present a major problem for the property services regulatory authority in that a company established across the Border in Northern Ireland, where it would be subject to no licensing requirement and where the PSRA remit would not extend, could operate in the Republic in competition with those complying with the new legislation and paying the substantial additional costs involved in same.....

Senator Jim Walsh: The Minister mentioned that the CEO of the property services regulatory authority has been designated already. What process was used to appoint that person? Was it done through an independent outside recruitment body? That should be part of what we are now inculcating into the public service system where there is to be open competition and where those who apply can be from either the public or the private sectors.

There is enough anecdotal evidence that many of the bodies and regulatory authorities we have established have often been manned and managed by people from the public service. These people may have

had some expertise in the area but had very limited experience with which to carry out the new regulatory function. We have seen serious failures in our regulatory system, certainly in the financial sector but also in others, and these continue. If the State feels it is desirable to establish a regulatory authority, there is an onus to ensure those we place in charge of such authorities are of the highest calibre and well equipped to function efficiently and effectively in that area. There should be no ring-fencing of the competition or of the engagement of personnel.....

Senator David Norris: They (the Institute of Chartered Surveyors) are querying whether a distinction should not be made between residential and commercial property as they believe this distinction is not made clear in the Bill. They wonder why in section 2, which deals with "advised market value" the Bill purports to give a new definition of this and in their opinion ignores a document known as the red book, which apparently is accepted internationally, on the Stock Exchange and so on. It gives an internationally accepted definition of the term, "market value". I am interested in finding out the reason the Minister of State chose to ignore what is, I am told, presumably on reliable grounds, an internationally accepted definition.

They argue that assessing the value of property is not and cannot be an exact science. There has to be a margin of error. I believe the Minister of State recognises that, but again I am very interested to hear his response. The final point relates to section 55, the idea that the vendor should be required to sell at the advised value, and I rather agree with them in that regard. I know what the Minister of State is getting at, namely, gazumping. That is effectively dealt with in other sections of the Bill. At an auction, the value of a property is the limit to which two people are prepared to bid. This measure may erode the market. That is a question mark and there may be a reason for it.....

Senator Shane Ross: This Bill is the culmination of much work done over a period of time and in that sense, it is welcome. Five or six years ago, Senator O'Toole and I pointed out the chaos that existed in the auctioneering world. This was not remedied by the fact that auctioneers and estate agents had their own regulating bodies. I know of the IAVI and the IPAV and there may be others. They added nothing apart from a fig leaf of protection for auctioneers. The situation was better when there was no regulation whatsoever because the IAVI and IPAV gave a semblance of

respectability to auctioneers and created the impression that they were being regulated by bodies which allowed them to go into the auctioneering jungle and do what they liked. They were clubs. They did virtually nothing to discipline their members and allowed them to run riot.....

Senator Dan Boyle: I have a preference for the system which operates in Scotland, that is, the closed bid system. Under that system once an agreement has been made to sell a property and several vendors have entered an interest in purchasing it, a third party receives sealed bids and a gazump price cannot be achieved. I am unsure whether that should be considered at this stage of the legislation, but perhaps it could be considered following an examination of the operation by the regulatory body in its first years of existence.

It is important to have such a regulatory authority, but questions arise about creating a new body when there are already questions about many existing State agencies and the role they play. For example, in establishing this new authority should we not consider the continued role or perhaps a merged role for the Private Residential Tenancies Board? Should we not ask questions about why that board is under the auspices of the Department of the Environment, Heritage and Local Government while this is under the auspices of the Department of Justice, Equality and Law Reform? It seems to me that we are in danger again of having complementary functions in similar agencies, with different Departments having responsibility for them.....

Senator Dominic Hannigan: I am pleased to see that the Bill makes an attempt to deal with the issue of gazumping. We all know of stories, the veracity of which cannot be checked, whereby when a buyer puts in an offer, another potential purchaser appears and makes a higher bid. The difficulty is that people do not know whether this other bidder is a real purchaser or a phantom bidder put in by a rogue estate agent to increase the sale price. It is difficult to tell if this practice is widespread, but there is some evidence that it has happened in the past and enough concern about the issue for it to give us reason to worry. A gentleman who visited my office in Ashbourne some months ago was convinced that when he put a bid on a property, a phantom bidder was put in place by the agent. This led to him having to pay at least an extra €20,000 on the purchase price, which represented approximately 10% of the cost of the property

TAX ISSUES ON PAYING RENTS TO NON-RESIDENT LANDLORDS

By Shay O'Brien, PKF Tax Consulting Ltd

Many readers may be surprised and alarmed to discover that special tax rules apply where one is paying rent to a non-resident landlord.

Tax residency rules in Ireland are quite complex but, very simply, you are a tax resident in Ireland when you spend either 183 days in Ireland in any tax year or 280 days between two years. When you become non-resident and are in receipt of rental income, unless you have a special tax collection agent appointed, the tenant is obliged to deduct tax on rent paid at the standard rate of tax (currently 20%).

EXAMPLE 1

Joe Blog has been living in the US for the last number of years and has a residential property rented in Ireland. The rent agreed per month is €2,000. Unless Joe Blog has a special tax collection agent appointed his tenant should deduct tax at 20% (€400) on the gross rent that is being paid per month. The net rent that should be paid into Joe Blog's account is €1,600 and not €2,000. The €400 should be paid over to the Revenue Commissioners as a matter of good practice each month. At the end of the tax year the tenant should provide Joe Blog with a special R185 Form, which is a Withholding Tax certificate and Joe Blog can then claim credit for the Income Tax deducted. Joe Blog would be taxable on the gross rent (€2,000) less any tax deductible expenses, and would receive a credit for the 20% tax deducted on his tax assessment. Joe Blog would be taxable on his rental income at the rate of 20% up to his standard 20% tax band and 41% thereafter.

Where a tenant is paying rent to a non-resident landlord the obligation to deduct the 20% withholding tax is on the tenant. Revenue may pursue the tenant for the 20% tax where this is not being deducted. Failure to comply with these special tax rules may leave the tenant exposed to unnecessary Income Tax. The issue above can be avoided where a non-resident landlord appoints a special collection agent who is essentially a representative acting on behalf of the non-resident landlord with the Revenue Commissioners.

There is a special Income Tax registration form for collection agents to be completed. The information to be included on the form includes the landlord's details, rental property details, collection agent details and advisor details. This declaration has to

be signed by the collection agent. A collection agent can be, for example, an accountancy firm, a relative of the landlord, etc. The Revenue Commissioners will then issue a special tax number to the collection agent and details of rental income and expenses must be included on the Tax Return form each year to the Revenue Commissioners under this tax number only.

Where a tenant is paying rent to a management company, the tenant is not obliged to deduct 20% tax on the rental income. However, the management company should ensure that a collection agent for tax purposes is appointed. This can either be the management company or another individual but it is vital a collection agent is in force.

There is a misconception in the market where people assume that because they are paying rent to a non-resident landlord, the non-resident landlord does not have to prepare and file Tax Returns to the Irish Revenue. This is incorrect. In fact, the Irish Revenue Commissioners do impose a tax charge on Irish sourced rental income. Therefore, even though a tenant could be paying rent to a landlord who is living abroad the landlord would still have to file an Irish Tax Return, regardless of which country he/she was resident in.

I would advise readers of this article who are managing properties for non resident landlords to familiarise themselves with the important tax rules that apply on payment of rent where the landlord is a non-resident. They should consider either appointing themselves as collection agents and ensure their clients are aware of the special tax residence rules or appoint a special third party collection agent. It is vital that Tax Returns are kept up-to-date and filed with the Revenue Commissioners. Problems could arise for an agent if they are, for example, paying out the rents and the landlord is not making the necessary Tax Returns to the Revenue Commissioners. A further problem could arise where the agent is not withholding any funds to discharge any potential tax bill. Agents may find themselves answering questions to the Revenue Commissioners in this regard.

Unfortunately, the obligation in respect of these special tax rules is on the person paying the rent to the non resident landlord and it is vital to ensure they are satisfied themselves as to whether or not the landlord is tax resident or not.

TIPS WHEN PAYING RENT TO NON-RESIDENT LANDLORDS

1. Always obtain a signed statement from the landlord confirming his/her tax residency.
2. Where you are paying rent to a landlord and you suspect that he/her may be non-resident, e.g. they give you a foreign bank account or the address on the lease is not an Irish address, you should then consider the implications of the special non-resident tax rules.
3. You must satisfy yourself where you are not deducting the 20% Withholding Tax that a collection agent is in force. If you have a doubt and even if the landlord has told you that there is a collection agent in force, you should obtain the collecting agent's tax number separately from the landlord. It would be advisable to verify this number with the Revenue Commissioners.

GENERAL MISCONCEPTIONS

1. The non-resident landlord does not have to file any Irish Tax Returns because he/she is tax resident in another country. As advised above this is incorrect.
2. The Landlord advises you that he/she has no tax to pay and does not need to appoint a collection agent. There is still a requirement to submit Tax Returns and in the absence of a collection agent appointment, the person paying the rent to the non resident landlord must deduct tax at 20%.

In summary, these special tax rules on non-resident Landlords may lead to a nasty surprise and tax exposure for those who have been simply paying over rental income each month to their non-resident landlord.

Shay O'Brien is a Tax Manager in PKF Tax Consulting Ltd and can be contacted on 01 4961444 or by email at s.obrien@pkf.ie.

PKF Tax Consulting Ltd has a special offer for September on the preparation of 2008 Tax Returns. They will reduce their tax fees by 25% on either the amount you are paying another accountancy firm or their normal fee charge (whichever is the lower).

PROPERTY IS STILL A GOOD CAREER OPTION



Despite the current economic downturn a career in the property industry is still a very worthwhile option, IPAV Chief Executive, Fintan McNamara has said.

As this year's Leaving Certificate students considered their options, he said they should be aware that a career in property is not just about buying and selling.

"Indeed it is far from this," he said. "It is a complex and varied collection of many different markets offering a challenging and rewarding career for those who are interested in it. Many graduates are enjoying rewarding careers in the rental sector, facility management and elsewhere."

Mr McNamara warned students that now was not the time to defer plans to pursue a career in the property industry.

"The modern-day student setting out on a career in property now finds him/herself in a similar predicament to any other student setting out on a professional career," he said. "He or she will require appropriate education and training. Recent legislation regarding estate agency practice in Ireland has seen to that! Therefore, it is imperative that students make adequate preparation by following an education programme that provides access to the many careers that the property business can offer."

"While the current sense of doom about the economy in general is palpable, that is not to say that the industry will not bounce back in the future," he added. "Indeed as the property industry follows a circular route, it will inevitably rise again in the medium term."

Mr McNamara added that land is a permanent asset and, unlike other natural resources, it does not disappear or run out. People need shelter and modern developed societies require all the buildings and services that go with them to satisfy their needs.

"The economic revolution of the past ten years will not be reversed and looking forward, the continued growth in the diversity and complexity of the market will provide opportunities for those who are in a position to respond," he said. "There will be no going back!"

That means the students must be ready for change, he added.

"But this is no time for the faint-hearted. Rather it is a time to have courage against adversity and to pursue opportunities which in future years will yield rewards."

Full details on a range of careers are available from IPAV by e-mailing info@ipav.ie.



IPAV EDUCATIONAL COURSES

Certificate in Auctioneering & Estate Agency (2 years)

Cork College of Commerce, Morrison's Island, Cork

Holders of the above Certificate may be eligible to progress to a

Diploma in Property Management & Valuation (1 year)

Cork College of Commerce, Morrison's Island, Cork.

Holders of the above Diploma may be eligible to progress to a

BSc(Hons) Real Estate (Management & Valuation) (1 year)

University of the West of England (UWE), Bristol

Diploma in Fine and Decorative Arts (1 year)

IPAV Headquarters, 129 Lower Baggot Street, Dublin 2

Certificate in Auctioneering & Estate Agency (2 years)

Lectures held two evenings per week

Institutes of Technology: Athlone, Cork and Dublin.

BSc(Hons) in Property Management (2/3 years)

By arrangement with the College of Estate Management (CEM) at Reading University IPAV diploma & certificate graduates may top up to degree level through their distance learning programme.

Certificate in Fine and Decorative Arts (1 year)

Lectures held one evening per week

IPAV Headquarters, 129 Lower Baggot Street, Dublin 2

Weekend Certificate Course for Property Managing Agents, Letting Agents, & Property Professionals

IPAV Headquarters, 129 Lower Baggot Street, Dublin 2

NEW LOCAL CHARGES BILL NOW IN FORCE

By Tim Ryan



John Gormley TD Minister for the Environment, Heritage and Local Government

The Local Government (Charges) Bill, which introduces a €200 charge on all non-principal private residential accommodation, passed through all stages of both Houses of the Oireachtas immediately prior to the summer recess.

The liability for charge arises mainly in respect of rental, holiday and vacant properties and the revenue stream will flow to county and city councils. Liability will arise for owners of the properties concerned at a point in time, being one day in each calendar year to be known as the

“liability date”. Failure to pay the charge within the relevant period will incur a late payment fee calculated at the rate of €20 for each month or part of a month that the charge remains unpaid.

Certain buildings are excluded from the definition of residential property and these include buildings used as dwellings and which are:

- of particular heritage value (section 282 of the TaxesConsolidation Act 1997 refers)
- newly constructed but unsold and unused as dwellings
- let by certain public authorities
- the subject of a shared ownership arrangement with a housing authority
- owned by voluntary housing bodies;
- the subject of a contractual arrangement with a housing authority (under the rental accommodation scheme) or the Health Service Executive, or leased to a housing authority; and
- liable for commercial rates (although it is considered that few such buildings that are also dwellings exist).

It should also be noted that, by virtue of section 2(2), a “residential property” which is let to a number of persons on the basis of a letting arrangement involving exclusive use of a bedroom for each person and joint use of common areas shall be liable for one charge only.

DEFINITION

The other definition that is fundamental to the liability for the charge is that of “owner”. The central thrust of the definition is that the owner is the person to whom rent on the building concerned is payable, or would be payable if it were to be rented.

Section 3 establishes the existence of the charge and provides that an owner of residential property on a liability date shall be liable for the charge and shall pay it to the local authority (city or county council) in whose area the property is situated. This section also provides that the amount of the charge shall be €200, and that the Minister may increase the charge in line with inflation and prescribe the liability date in respect of 2009 (July 31). March 31 will apply in subsequent years.

Section 3 also provides in subsection (7) that co-owners of property shall be jointly and severally liable for the charge and that payment of the charge by any one co-owner shall discharge the liability of all the co-owners.

Owners of principal private residences are exempt from the charge as are owners who occupy their property as their principal private residence but let rooms within it, provided that they qualify for relief under the relevant provisions of the Finance Acts. Residential properties owned by charities are also exempt.

Subsection (2) provides for a refund of the charge in circumstances where a person within the year previous to the relevant liability date had acquired a second property with the objective of it becoming his or her principal private residence and subsequently disposes of the original property within six months of the liability date.

Essentially, this provision is directed at someone who is moving house and owns

two residential properties for a relatively limited period. Subsection (3) provides that where a decree of divorce or a decree of judicial separation has been granted in respect of a marriage, a residential property owned by a spouse, but which is occupied as his or her only or main residence by the other spouse, is exempt.

Section 5 requires owners of residential property to declare their liability for the charge and to pay it to the appropriate local authority. The Minister is empowered to make regulations prescribing certain ancillary matters such as the time by which (after the liability date) payment falls due, and how the declaration and payment shall be made. Non compliance with the provisions of this section is an offence.



Section 6 establishes a "late payment fee" for late payment of a charge, calculated at €20 per month for each month after the charge falls due. A grace period of one month is allowed after the date on which payment falls due before the late payment fee takes effect.

Section 7 provides that an unpaid charge or an unpaid late payment fee will be a charge against the property in respect of which the liability arises and that, in the event of the sale of the property, it will remain a charge against the property for a period of 12 years.

Section 8 provides that a receipt will be given following payment of a charge and that a certificate will be provided to an owner, on request, to the effect that a charge has been paid in respect of a liability date.

CARE AND MANAGEMENT

Section 9 provides that charges and late payment fees payable to a local authority are placed under its "care and management" and that the collection of charges due and ancillary matters are functions of the relevant local authorities. Charges and late payment fees owing to a local authority may be recovered from persons concerned as a simple contract debt.

Section 10 enables local authorities to

delegate, with the exception of their power to prosecute, some or all of their functions under the Act to either or both the Local Government Computer Services Board and the Local Government Management Services Board. It is likely that certain functions of local authorities in relation to the collection of the charge can most efficiently be carried out by one agency as opposed to each local authority working on its own; an example is the design and operation of a web-site to facilitate payment of the charge.

The Minister can direct local authorities to delegate functions. Both Boards must perform the functions delegated to them in accordance with the terms under which the delegation was made. Local authorities may revoke delegations with the consent of the Minister. The powers in this section are executive functions.

THE PRTB

Section 11 deals with data sharing and exchange and provides that local authorities may request information from the Private Residential Tenancies Board (PRTB), the Electricity Supply Board (ESB) and the Revenue Commissioners to assist them in carrying out their functions under the Act. The purpose of this provision is to enable local authorities to have access to data to assist them in identifying properties that may be liable for the charge. In this regard,

the PRTB maintain a register of tenancies of private rental property, and the Revenue Commissioners hold data inter alia relating to property transactions.

The ESB holds data in relation to the amount of electricity used by domestic users, and some of this data may be useful in identifying properties which may be holiday homes or vacant and, therefore, liable for the charge.

In Budget 2009 the charge was projected to yield €40 million annually. In common with many new taxation measures, the actual amount of the yield will only be known in light of experience of collection of the charge.

Data is available in the Private Residential Properties Board in relation to some 200,000 tenancies entered into in respect of private residential properties and this should facilitate collection of the charge on these properties. Power is taken in the Bill to allow local authorities to access this data.

Steps have been taken to minimise the costs arising with implementation of the change both for those liable to pay it and for the local authorities implementing it. Payment will be accepted through a website and in local authorities.

Payment of the charge for 2009 is due by 30 September.

LANDLORDS AND AGENTS FACING DOUBLE REGISTRATION FEES



Landlords now face a potential double registration charge for rented properties following a key legislative change by the Minister for the Environment, Heritage & Local Government according to the Chief Executive of IPAV.

Fintan McNamara said that since the coming into force of the Residential Tenancies Act four years ago, at least on third of the monthly applications to the Private Residential Tenancies Board (PRTB) to register tenancies are returned to agents and landlords who omit, often inadvertently, to include all the mandatory details in what is a very lengthy application form.

Up to now applicants were not subject to a late fee of €140 once the initial form was submitted within 30 days of the tenancies being signed. However, following the recent legislative change by Minister Gormley to Section 135 (5) of the Act, a double fee will be applied immediately if there is any omission or error whatsoever.

"IPAV is calling on the Minister to reverse this decision immediately or allow the PRTB secretariat discretion in applying the late fee in extenuating cases," said Mr McNamara. "We are also asking that applicants be given one month to correct an incomplete form as very often the mistakes are made inadvertently or the information is simply not available to the landlord."

Mr McNamara said there should be some flexibility in administering the registration system as the vast majority of landlords were co-operating fully with the PRTB on a purely voluntary basis.

"This new rigid and inflexible approach by the Minister will do nothing to promote goodwill among all sides in helping to provide a more open and transparent system for all concerned," added Mr McNamara.

NEW POWERSCOURT GALLERY IN THE CENTRE OF DUBLIN

A NEW ART AND DESIGN ESTABLISHMENT, THE POWERSCOURT GALLERY, OPENED IN THE POWERSCOURT TOWNHOUSE CENTRE IN DUBLIN IN JUNE 2009. SARA DONALDSON MET THE GALLERY DIRECTOR, MARIA CORBETT, AND SPOKE WITH HER ABOUT HER JOURNEY TOWARDS THIS EXCITING AND BRAVE VENTURE.



Sara Donaldson

FROM STUDENT TO CURATOR

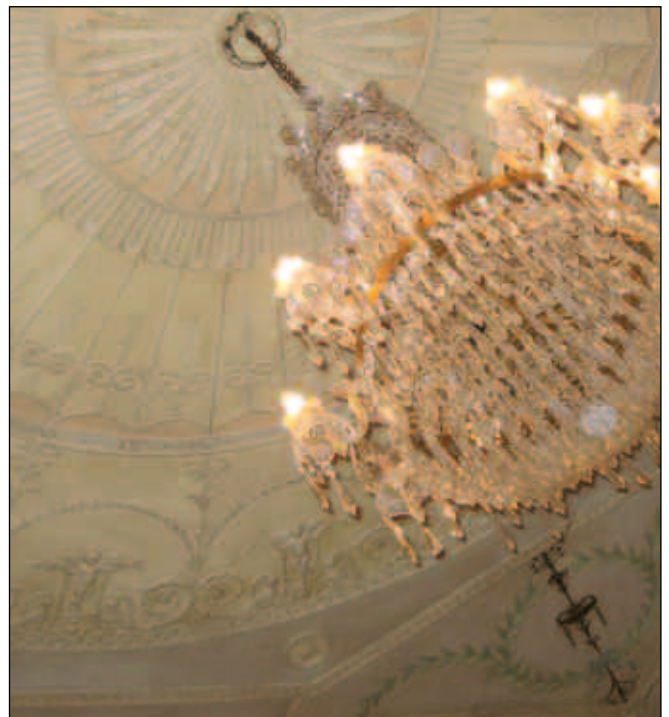
Maria Corbett considers art part of her identity, having completed a BA in History of Art and Sociology in UCD soon after which she took over responsibility for the exhibitions programme at the former Bank of Ireland Arts Centre in Foster Place. This position encouraged her to continue her studies at IPAV where she completed the Diploma in the Fine and Decorative Arts.

Maria embarked on the Diploma chiefly out of an interest in the sociological aspects of art and became fascinated by the study of art as a social document. Maria found that many of the IPAV lecturers are practitioners, whose hands-on experience truly brings their subjects to life. The site visits to town and country houses organised as part of the course allowed her to appreciate art and design in situ, in their original contexts - in her opinion the most beneficial way of learning about the society in which they were produced.

The IPAV Diploma led Maria to enrol in an MA in the History of Design and the Applied Arts at NCAD (the National College of Art and Design). What attracted her to this course was the emphasis placed on material culture as it seemed like a perfect compliment to how she had been thinking about art and design. Maria was appointed curator of the Bank of Ireland art collection at around the same time and although this was a huge workload to take on, the MA was in many ways a continuation of the IPAV Diploma, featuring some of the same guest lecturers and cross-over of topics.

As art curator at Bank of Ireland, Maria was responsible for a permanent collection of over 2,000 pieces, including paintings, furniture, silver, and tapestries, ranging in date from the 1800s to the contemporary. Her first task was to catalogue the entire collection, visit the artworks, measure and photograph them and ultimately create a database.

She was involved in the collecting, curating, moving, storing, and conservation of artworks and was called upon to provide artworks to bank premises undergoing renovation and to create art schemes for new buildings. This task often involved aspects of interior design, as well as selecting artworks for individual personalities or spaces. Maria found that, in general, abstract pieces work well in private spaces as they encourage a person to meditate, while figurative pieces and large artworks tend to work well in public spaces.



Chandelier and central ceiling panel in ballroom

The Bank's policy was to support and collect the work of younger Irish artists as a philanthropic pursuit. Rather than being built up retrospectively, the beauty of the collection is how it captured the spirit of the time in which it was purchased. Maria completed a re-evaluation of the collection in 2004 and, in 2005, she project managed the first public exhibition of the Bank's collection for twenty-five years in the Crawford Gallery, Cork on the occasion of Cork's status as European City of Culture. Following her time at Bank of Ireland, Maria travelled extensively, gaining a different perspective on art which helped to crystallise her vision for the Powerscourt Gallery.

POWERSCOURT TOWNHOUSE

Powerscourt Townhouse on South William Street is one of the most important Eighteenth Century mansions in Dublin. Built in the 1770s for Lord Powerscourt, Richard Wingfield, 3rd Viscount (1730-1788), it used granite quarried from his estate in Powerscourt, Enniskerry, County Wicklow. Wingfield had served as MP for County Wicklow (1761-1764) and would have used his townhouse for the six months of the year when he resided in Dublin during the 'Season'.

The time when the parliament sat was marked by balls and banquets, some of which Wingfield hosted. He spared no expense in furnishing his townhouse, resulting in a fine example of Palladian architecture (named after the architect Andrea Palladio). While the townhouse exterior, designed by Robert Mack, is rather austere, the interior is lavishly decorated and is unique in how its plasterwork shows the transition from the flamboyant Rococo to the more restrained Neoclassical styles under the one roof. The Neoclassical plasterwork was executed by stuccadore Michael Stapleton, the leading exponent of the Adam style in Ireland (named after the architect Robert Adam).

The ballroom was the most important and ornate room of the house. In addition to functioning as a room for dancing and entertaining, Lord Powerscourt hung his paintings here and created the room as a showcase for the taste and connoisseurship he acquired during his travels on the Continent (a journey popularly known as the Grand Tour).

The plasterwork on the ballroom ceiling is divided into decorative panels, the central one consisting of concentric circles surrounding an octagonal panel, from which a chandelier hangs. The outer edge of this area is surrounded by sphinxes and putti holding husk garlands. Such motifs were often inspired by antiquities uncovered during the excavations at Pompeii and Herculaneum during the mid-Eighteenth Century. There are also panels of dancing ladies, inspired by a Roman marble relief (now in the Louvre Museum, Paris and known as 'Les Danseurs'), a theme most appropriate for a ballroom.



Marie Corbett, Director of the Powerscourt Gallery

Michael Stapleton probably designed the joinery in this room - the door and window architraves, window shutters, overdoors, dado rails and skirting - all carved or embellished with mouldings of running acanthus leaves, urns, ribbons and husk garlands, which complement Stapleton's plasterwork.

A FINE AND DECORATIVE ARTS COURSE FOR YOU?

Applications are now being taken for this year's IPAV's Diploma and Certificate Courses in the Fine and Decorative Arts.

The Diploma course, run in association with the Irish Antique Dealers Association, is a full-time course which runs three days per week (Mon - Wed) for one academic year. This is the only full time course in the appreciation of fine and decorative arts in Ireland. Suitable for all age groups, it attracts students not only from Ireland but from many other parts of the world.

The Certificate course is part-time and runs one evening per week (Tuesday) from October to May.

Both courses are designed to provide an opportunity for students who are interested in the Fine and Decorative Arts to pursue their interest in a supervised and structured manner. For many it may lead to a rewarding career, while for others it may be the fulfilment of a personal ambition to develop and sustain knowledge picked up in a haphazard manner over the years.

The syllabus is a broad and flexible one, with the emphasis on identifying art objects in their historical context. Cataloguing will receive particular attention. Lecturers are drawn from the commercial art world as well as from the universities and art colleges. Topics covered include the History of Furniture, the History of Painting, the History of Architecture, the History of Silver and Art & Investment.

For Diploma students there are study trips during the year to cover the main museums, art galleries and some historic houses. Occasionally, field trips to collections and historic houses outside Dublin will be made for which a whole day will be necessary.

The Diploma course commences on Monday, October 12 and the Certificate course on the evening of Tuesday, October 13.

A new website www.fineartcourses.ie contains full details of the courses as well as application forms for download. Further information and application forms are also available from IPAV Head Office at 01 - 678 5685 or e-mail info@ipav.ie.



Kevin McAllister Student of the Year pictured at the Fine & Decorative Arts Award Ceremony May 2009 with John Shaw President IPAV and Fintan McNamara Chief Executive IPAV.

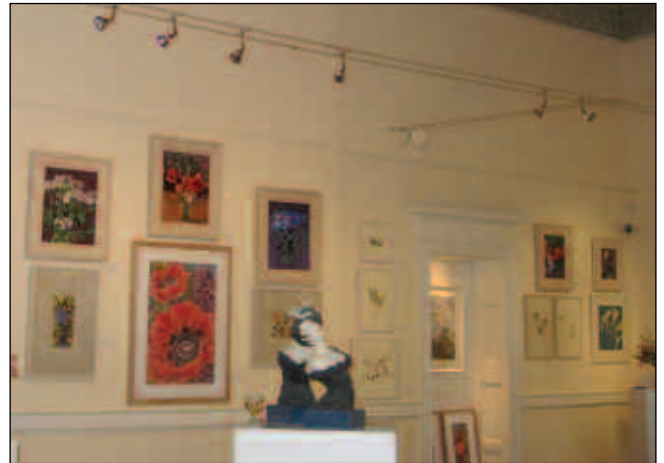


Two images from 'Powerscourt Flower Show' exhibition

THE POWERSCOURT GALLERY

In 2008 the Solomon Gallery closed, having occupied the ballroom of Powerscourt Townhouse for many years. In June 2009 Maria Corbett opened a new gallery in the ballroom which she regards as an ideal gallery space. Though not a typical 'white cube', the monumentality of the room handles art very well: it is attuned or accustomed to displaying art, a precedent which she considers a huge advantage. People expect to see art in this space, located in one of the most prestigious addresses in one of the most beautiful Georgian houses in Dublin. Such a setting makes it unique among the commercial art galleries operating in Ireland today.

Maria's background at Bank of Ireland provided her with an in-depth knowledge of the contemporary art scene. She is supported in her endeavours by Gallery Manager, Lindara Kiely, whose event management and marketing skills are complimentary to Maria's. Their ambition is to establish the Powerscourt Gallery as a cultural destination in Dublin, a fine example of Eighteenth Century plasterwork and interior architecture and a rare one in that it is open to the public. The Gallery collaborates not only with the artists represented but also with practitioners from other disciplines: the ballroom is used for music recitals, plays, poetry readings, lectures on art and life drawing sessions and classes, many of which are free to the public.



The Gallery's first exhibition entitled 'Calling Card' opened on 19 June, 2009. Maria is enthusiastic about the ten artists with whom she chose to showcase the Gallery for the first time: Alison Britton, Trevor Price, Turlough Rynne, Bríd óg Norrby, Ross Stewart, Yvette O'Connell, Jimmy T. Murakami, Alan Clarke, Frank Kiely and Ayelet Lalor.

These artists work in a variety of media from oil, acrylic, batik, print and watercolour to ceramics and sculpture. Nothing was allowed into the exhibition that Maria cannot stand over and in fact she has purchased the work of several of the artists featured for her own home. She feels their work is good value, high quality and noteworthy. Trevor Price, for example, is a UK-based artist whose work graces the cover of the Royal Society of Printmakers' 2009 exhibition catalogue, while Jimmy T. Murakami is a Japanese-Californian painter living and working in Ireland whose life is the subject of an Irish Arts Council-funded film, due for release in February 2010.

The Powerscourt Gallery sells the work of the artists it represents through exhibitions and targeted sales to collectors. Maria does not restrict herself to Irish artists, believing that art should be a representation of society and ours is a very multicultural one. She wants everything in the Powerscourt Gallery to be well crafted and interesting. Bearing in mind its location within a shopping centre, the artwork also needs to be accessible to a general shopping public.

Much of the art is affordable, from €85 for an unframed batik print to €5,000 for a large oil painting. Some of its customers are first-time art buyers, some already own art, but don't necessarily regard themselves as art aficionados or collectors. Maria refers to such customers as 'eclectic shoppers'. They might be setting up home for the first time or purchasing a wedding present for friends. Maria feels that today's newlyweds have often purchased everything they need for their home and for friends who are reluctant to give cash as a gift. An artwork is an ideal choice.

The Powerscourt Gallery is a fine art gallery and a design boutique. It sells sculpture which is a cross between craft and fine art, a medium which is currently becoming more collectable. Maria first noticed this phenomenon in North America, while in Ireland, its growing popularity is evidenced by the existence of the Crafts Council of Ireland, the National Craft Gallery and Kilkenny Design Craft Centre, all based in the Castle Yard Complex of Kilkenny Castle. There have also been several major craft fairs in the RDS of late, and their popularity could be due to the fact that craft tends to be figurative in subject. Maria makes a conscious effort to sell Irish design and craft from jewellers such as Lola Hynes and Seodra Bán, McGonigle glass and Moth to a Flame candles.

The Gallery's summer exhibition, entitled the 'Powerscourt Flower Show' (13 August - 18 September), was a botanically-themed show featuring the work of Jean Bardon, Bob Lynn, Doris Rohr, Mary Ronayne, Lynn Stringer and Alison Britton. Such themed exhibitions present the greatest scope for artists to submit work to and Maria feels such shows are appealing and interesting to the public and can help to demystify or democratise art. Each exhibition lasts for about six weeks because the space has so much 'traffic', it's important that visitors don't become jaded from seeing the same artworks whenever they pass through. The Gallery also aims to access a wide audience through its website, an essential tool, not just for selling but for customers wishing to reserve artworks or access wedding gift lists.

A BRAVE MOVE IN UNCERTAIN TIMES

Many might suggest that now is not the best time to open a commercial gallery and that doing so is a brave move in a bleak economic landscape. Maria believes that this is, in fact, a good time to embark on such a venture: this is an interesting, exciting time in Dublin, a time to take stock and identify in what direction the art industry, the city and its inhabitants are moving.

People are thinking more carefully about their spending habits, which may be no bad thing if one's business is selling high quality products. Ian Whyte of Whyte's Auctioneers has suggested that when property and stocks and shares become less attractive investment options, people may turn to art as an alternative. Maria agrees - if people are not moving house, they may renovate instead ('don't move, improve') and what better way to refresh one's home than with new artwork?

The 'Powerscourt Flower Show' tapped into just such a mindset. Those who bought shares during the boom may now have lost their investment. Conversely, those who invest in art rarely do so primarily for financial gain - the best reason to buy art is because you love it. You will always have artwork - it will continue to give pleasure for years to come. An investment in art is a tangible investment, the physical proof is in your home or office everyday, yet the payoff is untold. Maria Corbett wholeheartedly believes that an investment in art is an investment in beauty.

Much information on Powerscourt Townhouse was gleaned from the following report:

Julie Craig & Frank Keohane, Powerscourt Townhouse. An Historical Account, Architectural Appraisal, Conservation Assessment & Architectural Inventory for Clarendon Properties by Dublin Civic Trust, 2000.

Sara Donaldson has an M.Litt in the History of Art and an MA in the History of Design and the Applied Arts. She lectures in these subjects on the IPAV Diploma and Certificate Courses in the Fine and Decorative Arts and in the History of Art, Design, Costume and Fashion at Griffith College Dublin.





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MEET THE NORTH-WEST AUCTIONEER NOW IN THE FIFTH GENERATION IN THE PROFESSION



Tim Ryan

It's a mid-July afternoon and Donegal Town estate agent and IPAV National Council member Keith Anderson is in his shirt sleeves working in his office. While the recession is still biting, he has already shown a public house for sale to a potential client that morning and is getting ready to show a townhouse on the following day, a Saturday.

Sales have been slow but picked up in June and July when he completed a number of deals. He is anxious to try to get as many sales as possible through his books before the Autumn when he fears things may slow down again.

Keith Anderson's key message to the public is that the firm has been established since 1897. In fact, he is the fifth generation of the Andersons to work in the profession. Keith can trace back as far as his great grandfather, Alexander Anderson who practised in the late 1890's.

Alexander Anderson was succeeded by his son Alec who lived from 1875 to 1949.

"He teamed up with his brother-in-law and practised as Moore and Anderson for a few years before going back on his own," says Keith.

Alec was succeeded by his son George Anderson who was born in the first decade of the 1900s and died in 1959. The family always had a strong community spirit and George Anderson served as an independent member of Donegal County Council from 1949 to 1959, being elected chairman for a term.

George was succeeded by his son Robert (Bobby), Keith's father, who died in 2000 at the age of just

62. He, too, served as an independent member of Donegal County Council for eight years, topping the poll in 1967.

By now the family business was doing well, combining farming with a thriving auctioneering business.

"The business was run from home and I can remember as a child farming in the morning and then meeting clients and sorting out auctioneering in the afternoon," Keith recalls.

He tells the story of his grandfather having large furniture sales in Ballintra Village on the fair days.

"A well-known elderly man, Willie Harkin would walk through the town and ring a bell when the auction was about to commence," he says. "They were very different days!"

CATTLE SALES

His father also travelled to marts in the north-west three or four times a week, selling cattle. Through the cattle trade he developed contacts with farmers and secured land sales throughout the area as they arose.

Bobby also had a shareholding in Manorhamilton Mart where he sold cattle along with current IPAV Junior vice-President, Padraig Smith.

Fees were lucrative once a sale was secured. In 1963, for example, Bobby Anderson sold 365 acres and two houses in one lot locally for £33,000. The fees he received paid for the bungalow he built before getting married later the same year!



Keith Anderson at his office in Donegal Town.



Keith Anderson in his rally car

Keith G. Anderson was born in 1964 and went to school in King's Hospital, Dublin in the late 1970's. Having obtained his Leaving Certificate he studied Commerce at Rathmines College before returning to the family farm and auctioneering business.

"At the time my main interest was to get back into farming and auctioneering," he says. "In 1983 I was back at home and joined my father in farming in the morning and showing houses and making signs and so on in the afternoons. It was a very interesting time even though the property industry was much quieter in those days."

But he also developed a keen interest in sports which he retains to this day.

Up to a few years ago he played hooker with Donegal Town Rugby Club and still plays soccer most weeks. He is also a regular golfer and was also an enthusiastic rally participant, taking part in all major Irish rallies over the years. However, he reluctantly opted to retire from rallying one year ago (financial reasons!)

Keith also continued the family interest in politics and in 1999, stood for the Progressive Democrats for Donegal County Council. He survived to the eighth count but did not get elected due largely, he says, to the brevity of his campaign.

In the last local elections he resisted pressure from Fine Gael to stand as a candidate for Donegal County Council, due to business commitments. The lure of politics and serving the community of Donegal will continue to be a draw for Keith in the future but for the moment at least, developing the auctioneering business continues to be his first priority.

In 1993, the family purchased their present offices on Donegal Town's main street, next door to Magee's well-known retail outlet.

"We had been waiting five years for the right premises to come on stream," he says. "A solicitor Jack Sweeney, who owned the premises previously said he would give us first option when he retired. However, he died and we had to advertise the property for four months to ensure transparency but we finally bought it."

Over the years Keith has sold some famous houses. In the early 1990's he sold Middleton House in Mullingar, made famous previously by Barney Curley who once raffled it off.

THE PARADISE BAR

Another memorable sale was that of the Paradise Bar in Donegal Town which was sold by the Criminal Assets Bureau in 1998. Prior to the auction a man, who had been off the beer for a time but had broken out for the day, arrived in the office to enquire about a grocery shop in Dunkineely. He soon arrived at the pub auction in the Abbey Hotel which had attracted a good crowd due to CAB's involvement.

The would-be grocer started bidding and purchased the premises while still considerably under the weather! He had no deposit with him and had to go to a nearby bank where garda detectives waited anxiously outside for a positive outcome. After some considerable time he emerged with the necessary funds!

"This man had absolutely no experience of the bar trade," recalls Keith. "On the first night he opened my father asked for a glass of red wine and the man went straight to the fridge for it!"

In the recent boom years Anderson Auctioneers obtained a reputation for selling development land and secured many sizeable deals. These include 17 acres sold in Ballyshannon for €3.9 million, 20 acres (with just five zoned) in Rossnowlagh for €3.2 million and nine acres in Donegal Town for €6.7 million.

In another instance he sold 10 acres in Donegal Town, first for €1.65m, then later for €4.7m. The second purchaser sold it on again for €6.7 m. Today, Keith reckons its value is probably back close to the price received at the first sale.

The property fever gripped Donegal during the boom but not to the same extent as in other areas. However, Keith recalls the launch of a development of 11 houses in 2004 when a queue started to form at 4pm on the previous evening. By the following morning the queue had increased to 40. A further eight houses were released for sale and all sold within minutes. The queue – an amazing sight at the time – was filmed by RTE News and TG4.

While the current downturn has forced Keith Anderson to downsize for the present at least, the firm still enjoys a very high reputation in the north-west. He has confined his expertise to sales and valuations – copies of all valuations undertaken since 1965 – are stored in the office and available if required.

Today, Keith lives outside Donegal town with his wife, Kathleen and son, John, aged 3¹/₂.

And does Keith think John will continue the tradition and add yet a sixth generation of Andersons to the auctioneering profession?

"I'm not sure at all," he replies. "I think maybe he should become a teacher and take on some secure profession with a guaranteed income!"

We will have to wait and see.



An old farm sale poster in Keith Anderson's office

GOOD VALUE NOW TO BE HAD IN LONDON PROPERTIES

WHETHER OR NOT THE US AND UK MARKETS HAVE BOTTOMED OUT, THERE'S SOME RECORD VALUE TO BE HAD, AS SIMON MCDONNELL OF FINDLAY PROPERTY IN LONDON TELLS PETER CLUSKEY.



Peter Cluskey

Just as nobody wanted to call the top of the global property boom – even when it was apparent that prices had reached unsustainable levels and the bubble would inevitably burst – now nobody wants to call the bottom.

They could be right. Perhaps we haven't actually reached the bottom yet. Or perhaps we'll be dragging along the rocky repossession-strewn floor of what economists like to call a U-shaped recovery for another 12 months or more.

The lesson we should have learned is: nobody really knows.

On the other hand, if we're to read the auguries, there's little doubt that there is movement afoot, particularly in the US and the UK, traditionally key markets for Irish investors. Analysts who've been sifting for positive data are at last starting to find it.

Take America, which has been in recession since December 2007. According to latest figures from the US Commerce Department, new home construction rose 3.6 percent during June to the highest level in seven months – the second month in a row that housing starts have risen following a post-war low in April.

The figures have prompted a range of pretty typical expert reactions – from cautiously optimistic, to wary, to downright non-committal.

"These figures look like a genuine upward surprise", said Dean Maki of Barclays Capital, "and tend to support our view that housing construction activity has already bottomed out ..."



Simon McDonnell (centre) with colleagues, John Walsh (left) and John Paul Van Cauwelaert

William O'Donnell, Head Treasury Strategist at RBS Securities, was in the wary camp: "This is another piece of data", he responded, "for those seeing the recession ending soon ..."

While the independent Centre for Economics and Business Research in London, in typically academic mode, was the cagiest of them all. "It is too soon to call a bottom to the housing market in the US", it insisted.

Then there's the UK where, interestingly once again, latest figures from the Home Builders' Federation (HBF) were reported by the BBC in mid-July as showing "the first signs of an upturn in the housing market since 2006."

The HBF's optimism is based on a survey of its own members – who include most of Britain's major home builders – which found that 60 percent of those questioned had experienced an increase in sales compared to the same time last year.

HBF spokesman, Steve Turner, said that after an appalling 12 months during which around 250,000 construction jobs had been lost, the survey results were a welcome boost – adding that the biggest hurdle to recovery remained the unavailability of mortgages.

A VERY DIFFICULT YEAR

"It's been a very difficult year", said Turner, "but we are now starting to see a consistent set of modest but positive results in terms of numbers visiting new housing developments and numbers reserving. I think for the first time in months the industry is starting to feel more positive."

There is no doubt about it, the US and the UK are now, broadly speaking, buyers' markets. And in the UK, London, in particular, has become hugely attractive with particular value for eurozone buyers. For instance, the price of apartments in Central London has fallen even further than house prices, by as much as 25.8 percent.

The key to a successful investment, of course, is knowing where to buy, which is why Findlay Property – www.findprop.co.uk – which specializes in sourcing investment properties for Irish clients, is particularly enthusiastic, for example, about the long-awaited extension of the tube to South Hackney in East Central London.

"If you look at a tube map of Central London you'll see that this is the only area left that's not plugged into the network", Simon McDonnell (35), a director of Findlay Property told The Property Professional.

"People in London are extremely conscious of the availability of transport when they buy or rent. So when the new East London Line opens here in July 2010, we would anticipate an immediate increase in property values of around 10 percent."

Work on the new line was already well-advanced by the time the recession hit, and that, together with the fact that it's being built along the route of an old Victorian railway line, means it's one of the few infrastructure projects in the UK still on target.

"We've already been buying property on behalf of clients within walking distance of where the stops are going to be – and in our experience it's generating the same levels of interest you had with property around the LUAS line in Dublin."

South Hackney, says McDonnell, used to be one of the last areas of Central London still resisting gentrification, but that's gradually changing, particularly in neighbourhoods such as Shoreditch and London Fields.

WEST END

"It's within walking distance of The City and there's easy access to the West End, so the tube will put in place the element that's been missing. I often compare it to the area around Place de la République in Paris in terms of how it's been developing."

Three of the four directors of Findlay Property are Irish, Simon McDonnell, John Walsh and, unlikely though it seems, John Paul Van Cauwelaert. The fourth is a Scotsman, Alan Findlay.

The four set up the business in a small East End flat in 2001 and now operate from the more salubrious environs of Broadway Market – allegedly the area the BBC soap, *Eastenders*, was modelled on and now the heart of the East End's rejuvenation.

"We're not an estate agency", says McDonnell. "We're a property management company which sources property on behalf of its clients and then manages it for them afterwards. Obviously in recent years there's been huge Irish interest in overseas property – to the extent that almost 100 percent of our clients are Irish."

"Roughly one-third of our properties are ex-local authority, a third are luxury modern apartments, and a third are Victorian townhouses. So if someone rings us up and says he has €250,000 to spend and is looking for a rental yield of seven percent, we'll source the property for him."

Typically, a three-bedroom ex-local authority property can be bought for around €235,000. Findlay charges a two percent finder's fee, which could come to €5,000; refurbishment would cost another €5,000; stamp duty would add €2,500; solicitor's fees another €1,000 and furniture and white goods the final €2,000. That's €250,000 all in – the cheapest McDonnell would recommend.

"In London you can find a place for £120,000 but it will attract problems and end up giving you a heart attack", he insists. "And obviously some places represent better value than others, so it's important to have local expertise when you're buying."

OLYMPIC FACTOR

As to the "Olympic factor", the well-documented boost to property prices – at least during good economic times – before the Games come to town, which they will in London in 2012, McDonnell is not really convinced.



London Eye

"The Olympics are right on our doorstep, but I'm cautious about claiming too much for them. For me, the chief benefit will be the long-term one of improved infrastructure – and of course that's welcome."

As to whether it's the right time to buy, figures show that the rate at which London prices are declining is now starting to slow – the fall during Q1 2009 was only half that during Q4 2008.

At the same time interest is picking up, particularly among professional investors, some even from as far afield as South Africa, where property website, Realestatewab.co.za reported recently: "South African operators are aggressively punting London properties as a good investment bet ..."

The £450,000 to £650,000 price range for two-bedroom flats is particularly popular, says search agent, Adam Moorhouse. "The simple fact is that these would have cost £750,000 to £800,000 four years ago."

However, there's always a caveat, and this time it comes from Knight Frank's latest London Investment Index, published in June. It shows that while prices are beginning to claw their way back very slowly, rents in some areas are falling as a result of an increase in the number of properties available – because owners would rather try to rent them out than sell them.

"In the three-months to the end of June 2009, rents fell 1.9 percent in Central London and sales prices rose 3.7 percent", says Liam Bailey, Head of Research at Knight Frank.

Most London sub-markets have been hit by the rental falls, with the most expensive properties bearing the brunt, though there are already indications that the sharp growth in rental stock volumes is decreasing. Since early May, properties have been letting faster than they've been replaced.

"The lesson to be learned is that investment in London has not turned into a straightforward one-day bet just because capital values have fallen from their peak", warns Bailey.

"Investors will have to work more carefully at stock-picking. Because mortgages are tighter, they'll have to commit much more equity to purchases than they did 18 months ago. And they'll have to plan for longer-term more sustainable returns."

WELCOME TO THE WORLD OF APPROVED INVESTMENTS

By Liam Doyle, Financial Adviser

Mention the word “pension” and chances are most people will keel over with lethargy. It doesn’t tend to create much excitement at first glance. And yet it is one of the most exciting investment options you can ever avail of. What’s more there is a very strong relationship between the Property and Pension worlds.

We really have to break the exercise down into three broad activities:

1. Use of Tax Breaks for Contributions

Personal and company contributions

2. Selection of Investment Medium

from a range of different fund types

3. Maximisation of Maturity Benefits

tax free cash, guaranteed income for life and Approved Retirement Funds

The opportunities will vary according to whether you are an employee, a member of an existing pension plan, the owner of your own business, be it as a self-employed individual or the owner of a company and whether you have any employees.

This is one of the best deals you are ever likely to consider. Think of it this way. Would you like to

- ✓ Pay less Tax?
- ✓ Invest in a fund free from Government Taxes (whilst it remains invested)?
- ✓ Have Access to Tax Free Options and
- ✓ Generate Income Options when you need them most?

INVESTING FOR YOUR FUTURE

A rewarding profession should mean a rewarding lifestyle both during and after your active working years. The way to ensure that this is best achieved is by diverting part of your working income now to create a personal fund which you may access in retirement.

The way to create this fund is to take advantage of the generous tax reliefs and incentives provided by government for individuals who take out private pension plans.

HOW DO PRIVATE PENSION PLANS WORK?

The concept is reasonably straightforward. During your working career a portion of your gross income is invested before you pay income tax in a private pension fund in your name. The amount, which may be contributed each year with tax relief, is an age related % of your earning as set out in the following table.

Age	Allowable Income
Under 30	15%
30 to 39	20%
40 to 49	25%
50 to 54	30%
55 to 59	35%
60 plus	40%

Self-Employed

If you are self-employed then this portion of income may be paid to your pension account monthly or yearly depending on your preference and is a tax deductible expense from your gross profit and loss account.

EMPLOYEES

If you are an employee then you talk with your employer and agree whether or not your employer will pay pension contributions for you into your pension account. If your employer agrees to pay a monthly figure then you decide what additional amount you will pay yourself from your salary and the combined amount is then paid monthly into your account. The employer’s contribution is not treated as a benefit in kind so you do not pay additional tax on this amount. Also your own contribution is deducted from your gross salary rather than from your net salary so you save PAYE and PRSI on this amount.

If your employer does not agree to pay additional contributions for you then you simply decide yourself on the amount, which you will personally pay from your own salary and proceed with setting up the pension account on this basis. Again, you will be entitled to PAYE and PRSI relief on your own contributions.

DIRECTORS

Owner directors enjoy the same privileges as employees. However, when compared to say sole traders or partners, they can extract much higher levels from the business to be invested on their behalf.

Take the following table as an example. This table assumes that there are no existing funds in place. In other words, they are starting fresh from the ages indicated. The percentages shown are percentages of current salary:

NORMAL PENSION AGE 60

Current Age	Female		Male	
	Single	Married	Single	Married
30	61%	67%	54%	72%
40	92%	100%	81%	108%
50	183%	200%	163%	216%

Moreover, owner /directors (with 5% plus shareholding) can avail of additional options – when compared to employees – at the benefit age.

INVESTING YOUR FUNDS

When your pension fund is building up the monies are invested in funds where investment returns are exempt from income tax and capital gains tax. This means that investment growth is higher than in a non-pension fund where taxes would be payable on investment growth. In conjunction with your pension advisor you decide on the fund, or combination of funds, with which you feel most comfortable taking into account the level of investment risk you are prepared to accept.

DRAWING YOUR BENEFITS

At retirement age (from age 60 onwards) you may take a portion - usually 25% - of your private pension fund as a tax free lump sum (under current legislation). The balance of the fund is then invested to provide you with a monthly income for life or with a fund where you can decide what level of income you wish to drawdown each year. These decisions need only be made when you feel it is the right time to begin to draw benefits and your circumstances and those of your family at that time will point towards the optimum benefit mix to be selected.

WHAT TYPE OF PENSION PLAN?

Pension plans available effectively fall into two categories:

- Category A.** Self Employed individual or employee where the Employer does not contribute on his or her behalf - Pension type is Personal Pension Plan or PRSA (employee only).
- Category B.** Employee where employer contributes all or part of cost – Pension type is Employer Occupational Scheme or PRSA (employer and employee)

Your pension advisor will explain the differences between the plan types. The concept and basics are very similar. If your Employer agrees to pay on your behalf then it normally makes most sense to avail of this facility and join the plan which your Employer makes available. If your employer does not make a pension contribution facility available to you after six months service then you have a legal right to demand access to contribute to a standard PRSA contract via salary deduction facilities.

WHAT SHOULD YOU DO NOW?

It may help to think forward for a few moments and paint a picture of life in your late sixties. Could you live comfortably if your only income was the state contributory old age pension (€230 per week in today's terms).

What if your spouse or partner was no longer around and all financial responsibilities fell on your shoulders? Could you provide for capital purchases, home repairs, holidays, medical expenses or nursing home needs for a loved one?

If the answers are not clear then it makes sense to optimise your private pension plan funding now. If you are working for yourself or for someone else, then now is the time to consider your options. Even if you already have a pension you are still likely to benefit from knowing where you stand now. This will help you home in on the type of benefit you would like to have in the future.

And with the 31st October looming, you may even be able to secure a tax refund from your 2008 income.

Liam Doyle can be contacted at liam.doyle@fcd.canadalife.ie or telephone 087 947 1017.

A BSc WHILE YOU WORK IN LESS THAN TWO YEARS!

By Ben Elder, Director of Business Development, College of Estate Management, Reading University



In these difficult times it is a difficult decision to give up employment to seek further qualifications for your future. The College of Estate Management (CEM) can help you over this

problem with their specialist e-supported distance learning courses. Through CEM you can convert your IPAV Certificate or Diploma into a University of Reading BSc.

The CEM BSc allows you to retain your employment and advance your career at the same time. The scheme which has been operating successfully for a number of years provides IPAV Diploma holders in Property Management and Valuation with a maximum two years exemptions from the CEM delivered e-distance learning University of Reading BSc in Property Management. This leaves

candidates with less than two years further study to obtain the BSc. More limited exemptions are also available to IPAV holders of the Certificate in Auctioneering & Estate Agency.

Ben Elder, Director of Business Development at CEM said: "These exemptions are extremely generous and recognise the quality of candidates that hold a Diploma or Certificate obtained through IPAV. Any potential candidate who wishes to explore the options available to him/her as an individual are most welcome to call CEM's dedicated admissions team on 0044 1189214696 or email courses@cem.ac.uk".

CEM's course is competitively priced against other full time and part time options with tuition fees set at around £2,000 per year. CEM fees include all required learning materials including core text books and

access to the extensive resources on a dedicated Virtual Learning Environment. You are given a programme of when work has to be completed by, but beyond that you are free to organise your study time around your individual life style and commitments.

Three face-to-face teaching sessions are arranged in Reading every year which you are cordially invited to attend. IPAV students in the past have taken full advantage of these sessions to network-academically, professionally and socially!

The course starts in December each year with an applications deadline of 1st October. It costs nothing to apply and you can do so on-line at www.cem.ac.uk. So why not find out what you can achieve!

Ben Elder is at b.l.elder@cem.ac.uk

NEW BILL TO TACKLE APARTMENT COMPLEXES DEBATED

By Tim Ryan



Minister Dermot Ahern

The long-awaited Multi-Unit Developments Bill, 2009, which governs how apartment complexes are managed had its first Seanad debate on Tuesday, June 23.

Introducing the Bill, the Minister for Justice, Equality & Law Reform, Dermot Ahern, said it was described as “an Act to amend the law relating to the ownership and management of the common areas of multi-unit developments and to facilitate the fair, efficient and effective management of bodies responsible for the management of such common areas, and to provide for related matters”.

He said in their report the Law Reform Commission identified key issues to be addressed in new legislation. These included: when exactly the property management company is to be established and by whom; the timing of the transfer of ownership of common areas from the developer to the company; the mechanics of taking control of the company by the company members, that is the apartment owners; internal governance arrangements for owners’ management companies; the basis on which the annual service charge should be calculated and apportioned among members; the issue of whether — and if so, when — to establish a sinking fund; the problems arising when property management companies are struck off the

companies register because of non-compliance with company law provisions; and the lack of a mechanism for the resolution of disputes in the multi-unit development sector.

COMPLEX ISSUES

“These issues, now addressed in the Bill, are very complex,” he said. “In the preparation of the Bill it was necessary to engage in intensive discussions with several Departments, the Office of the Attorney General and relevant interests to ensure that all issues of concern in this area were being met.”

The Bill creates a completely new framework for multi-unit developments, he said. As far as possible its provisions had been designed to apply both to new and existing multi-unit developments.

A “multi-unit development” is defined as land on which there stands erected a building which, or a part of which, is divided into units of which not less than five are designed and intended for residential use, he said.

“I am aware that there are multi-unit developments with fewer than five units and that provision must also be made for them. For that reason section 1(3) provides that particular sections which are specified in the Schedule to the Bill will apply to developments with two, three or four apartments.”

COMMON AREAS

The “common areas” of a development were defined as areas such as access and side roads, architectural features, circulation areas, footpaths, internal common stairways, open spaces, parking areas, utility rooms and that portion of the roof or exterior of any building not intended to form or not forming part of an individual apartment.

“Section 2 is a key provision,” he continued. “The intention is to ensure that the ownership of the common areas of a development are transferred to the owners’ management company before any apartments are sold. This will prevent situations arising where a developer retains control of the common areas long after they should have been transferred to the control

of the apartment owners. The section provides that a unit in a new multi-unit development cannot be sold unless an owners’ management company has been established by the developer and ownership of relevant parts of the common areas have been transferred to it. Transfer of the common areas is subject to retention of the beneficial interest by the developer. The extinguishment of the retained beneficial interest upon completion of the development is provided for in Section 9.”

The Bill also deals with situations where some units in a development have been sold prior to enactment of the Bill but the development has not yet been completed and also where a development has been completed but transfer of the common areas has not yet taken place.

Section 3 provides that, in cases where some units in a development have already been sold prior to the coming into operation of this section, the developer must transfer ownership of the relevant parts of the common areas to the owners’ management company within six months. The transfer here is also subject to the retention by the developer of the beneficial interest, pending completion of the relevant common areas. In the case of completed developments the developer must transfer ownership of the common areas to the relevant owners’ management company within six months of the coming into operation of the legislation.

“In framing the Bill I was determined to ensure that the transfer of the common areas did not absolve a developer from obligations to complete a development,” he added. “Therefore, section 5 makes it clear that the transfer of ownership of common areas does not relieve a developer of his or her responsibility for completing the development in compliance with the Planning and Development Acts and the Building Control Acts.”

The full explanatory memorandum may be accessed by logging onto:

www.oireachtas.ie/documents/bills28/bills/2009/3209/b3209s-memo.pdf

BER CERTS AVAILABLE IN LESS THAN TEN PER CENT OF SALES ACROSS EUROPE



At the CEI Conference in Dublin Castle were (l-r): Sven R. Johns, IVD German; Fintan McNamara, Chief Executive IPAV; Housing Minister Michael Finneran and Pat Davitt, IPAV National Council.

A Building Energy Ratings Certificate (BER) is currently available in less than 10 % of property sales across the EU, according to a survey carried out by the Confederation of European Estate Agents.

Details of the survey of 14 countries, which were released at a Conference in Dublin Castle in May, hosted by IPAV, show that the cost of procuring a BER varies greatly throughout Europe, ranging from as little as €30 in Hungary to €500 in Austria and Portugal. In Ireland the costs average from €100 to €300, depending on the level of work required.

"The BER is available purely for information purposes and there is no legal requirement on either sellers or landlords to carry out structural alterations to the building on foot of a poor energy rating," said IPAV Chief Executive Fintan McNamara.

Reluctance on the part of both sellers and landlords to produce a BER can be explained by the expense involved, coupled with the disadvantage of registering low energy performance ratings, particularly in older housing stock, said Mr McNamara.

Furthermore, Real Estate agents in countries surveyed, apart from Ireland and the UK, have little or no responsibility in the production of the BER certificate. Generally, the responsibility rests with the property owner.

The BER is valid for 10 years in all countries surveyed except the UK where, in the case of sales, the certificate is valid for only three years but in the case of rentals is valid for the normal 10 year period.

National monuments and protected historical buildings are exempt from the legal requirement to produce a BER in all countries surveyed.



Pictured at the CEI Conference hosted by IPAV in Dublin Castle on May 22 last were (l-r): Michael Finneran TD, Minister for Housing; Manuel Negro, President CEI and Frans Burgering, CEPI.

RENTS NOW 'UP TO 20 PER CENT OFF PEAK'



Rents across the country have fallen by 15% to 20% from their peak, according to a recent report by property portal Daft.ie.

In its quarterly report on the rental market Daft.ie said rents have fallen by 5% in the last three months, with the average rent 17% lower than this time last year.

For about 18 months now rents have been falling across the country because of oversupply. At the beginning of last year the average rent in Dublin was €1,300. In July, that had fallen to €1,000. In Cork there has also been a 20% fall, with the average rent now below €850.

The biggest falls were in urban areas - in South County Dublin rents are on average 23% below their peak. In rural parts of the west of Ireland rents are 14% lower and in Kerry and Donegal the drop is 10%.

On average, Daft.ie says the higher a regional market's peak rent, the larger its percentage fall has been so far.

Prices are coming down because of competition between landlords for tenants. Also, according to Daft.ie, the increase in supply has far exceeded any increase in demand from would-be first-time buyers. They are staying in rented accommodation while house prices fall.

THREE TIMES 'STUDENT OF THE YEAR' SETS UP HIS OWN BUSINESS IN MULLINGAR

YOUNG MULLINGAR AUCTIONEER CHRISTOPHER TAAFFE WAS 'STUDENT OF THE YEAR' THREE TIMES WHEN HE STUDIED AT THE SENIOR COLLEGE, DÚN LAOGHAIRE, CORK COLLEGE OF COMMERCE AND THE UNIVERSITY OF THE WEST OF ENGLAND IN BRISTOL. HOWEVER, WHEN HE RETURNED FROM A LONG TRAVEL BREAK IN NOVEMBER, 2008 HE COULD NOT FIND A JOB. SO, FOLLOWING IN HIS PARENTS' FOOTSTEPS, HE SET UP HIS OWN BUSINESS IN HIS HOME TOWN. HE SPOKE TO TIM RYAN.



Chris Taaffe

Tell me a little about your early years?

I grew up in Mullingar and lived on Mount Street in the centre of town where my mum has a ladies fashion boutique called "Tatters". When I was about 18 we moved out of town where my parents bought a house beside Lough Owel on the outskirts of town – and they still live there today. My mum still has the shop in town and will be 26 years in business this Christmas. For national and secondary school I went to St. Marys C.B.S. in Mullingar. I met some of my closest friends there, many of whom I am still in contact with today. In 3rd year, three friends and myself set up a website for the town of Mullingar to advertise businesses and promote the town of Mullingar (as part of the Young Entrepreneurs Competition). We reached the national finals which were held in the O'Reilly Hall in UCD (where I would also in later years receive my certificate in Auctioneering and Estate Agency) and we came 4th overall on the day. At 14/15 it was a great experience for all of us and we made quite a bit of money out of it at the time!

How did you first get to think of doing an auctioneering course?

I always had an interest in business and at the time the property market was performing extremely well and it seemed like a very interesting profession to become involved in. I had done some research on the different courses available and went to a few open days and decided that the IPAV course was what I would like to do.

What colleges did you go to and what subjects did you enjoy? Have you any particular memories?

I studied for two years in the Senior College Dun Laoghaire where I obtained my Certificate in Auctioneering and Estate Agency, followed by one year in the College of Commerce in Cork where I obtained my Diploma and finally one year in the University of the West of England – Bristol where I received my degree in Real Estate (Valuation & Management).

I wasn't a very big fan of school as I found the broad range of subjects quite boring as I didn't see

where I would use them in later life. I enjoyed English, Maths and Business related subjects. I was an average student and received about 360 points in my Leaving Cert. It wasn't until I went to college that I began to enjoy subjects as I found they were much more focused and I could see myself putting the material I was learning into practice in the real world. My favourite subjects throughout my degree were Valuation, Building Studies and Law. I think this also had a lot to do with the lecturers as some of them made their lectures very engaging and were able to explain how a certain aspect of something would be applied in the real world.

After studying in Dublin, I moved to Cork with about 15 other students from the Dún Laoghaire class and joined up with the Cork students. This was a really great year and I made some great friends among the Cork group. As well as enjoying the academic side of things, both groups also enjoyed the social side of college so I think that also had a lot to do with why we all got along so well in Cork!

From Cork it was over to Bristol for our final year. Again we joined up with another group and despite not mixing too well with the English students at first, a "Reseach" trip to Düsseldorf in Germany for 4-5 days sorted all that out! That really was a great trip and to this day I still laugh when I think back about those few days in Germany.

UWE was quite a change from what we were used to in Ireland but we quickly adjusted and got on with what we had to do. The entire Irish group worked very hard and helped each other out wherever we could and in the end we all got on very well and got good degrees. Each year of the course was a further step forward but a lot of credit must be given to the lecturers in Dún Laoghaire and Cork as we were all really well prepared for the final year programme in UWE.

I really enjoyed all the subjects that were included in the programme over the four years and never saw the required work as a chore as I really had an interest in it and at times I was very surprised at



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some of my grades considering I was an average student in school. However, I was even more surprised when I was selected as “Student of the Year” for three years in a row! I couldn’t believe it the first or second time and when I also got it in Bristol I was over the moon!

What year did you qualify and where did you get your first experience? What was the market like at the time?

I completed my final exams in May/June 2006 and got my first job as an auctioneer with Duffy Properties in Mullingar. I will always be grateful to Gerry Duffy for giving me my first break. The experience and knowledge that I obtained there was invaluable and is still with me today. The market was performing very well at the time and before I knew it I was out valuing properties and conducting viewings.

I really enjoyed the job and loved being out on the road meeting new people every day. While residential sales was my main role, I also carried out a lot of mortgage valuations, commercial rent reviews and residential and commercial lettings, so the work was always varied and very interesting. After 18 months I decided to go travelling for a year with some friends from college. It was a tough decision at the time but I’m really glad I went travelling when I did. I covered about 12 countries including Thailand, Vietnam, Cambodia, Laos, Singapore, Australia, Fiji, New Zealand, Chile, Argentina and Brazil. It was a fantastic trip and I have some great memories.

WHAT PROMPTED YOU TO SET UP ON YOUR OWN PARTICULARLY AT A DOWNTURN? WHAT HELP DID WESTMEATH COUNTY ENTERPRISE BOARD GIVE YOU?

In early November 2008, I returned from my travels. The country was a different place to the one I left 11 months earlier. I was confident that I would get a job but unfortunately even with a very good degree the property industry had collapsed and the employers that were readily employing when I left college had put recruitment freezes in place. It was a very frustrating time as I had worked so hard for my degree and was unable to find a suitable job.

However, I was very grateful to my uncle Tom of Tom Birmingham Menswear who asked me to set up a “Sale Shop” for him to sell off excess stock over the Christmas period. The shop proved to be very successful and it was a great experience for me as I was running the shop myself and responsible for sales, staff and

merchandising all the stock. It was also during this time that I began thinking about what I wanted to do once this short term project was over. I began to think about the lettings market and thought that it might be an interesting venture to start up. Both my parents, Cecil and Catherine Taaffe, are self-employed and run their own businesses so I suppose it was always at the back of my mind that I might set up something myself (just maybe not when I was so young at 24!). I spoke to a few people about it and got great encouragement so I decided I would give it a try.

I met the Westmeath County Enterprise Board and got great help and advice, especially on little things that I would not have thought of. I also got a grant for my website www.mypropertymanager.ie which was a great help. I decided against renting out office space so I work from home and I rely on word of mouth and recommendations for business.

TELL ME A LITTLE ABOUT THE BUSINESS TODAY.

The market is slow at present and the rental market is much more difficult than it was two years ago. My main objectives from the outset were to provide a quality, value for money service and keep costs as low as possible as I did not want to invest a huge amount of capital into the business but I built it up gradually over time. To date, it has proven to be very successful and I am happy with the progress that the company has made. Long term I do not have major expansion plans as I want to keep the service I provide as personal as possible and provide a quality service to my clients.

My areas of expertise include residential lettings, private portfolio management and multi-unit block management.

What is the market like for renting/selling in Mullingar/Westmeath recently?

In Mullingar property is still selling, albeit at a slower rate as prospective purchasers have a lot more choice. It is also good to see that the banks are beginning to release capital again which hopefully will give the market a bit of a confidence boost. For those that are not in a position to obtain finance at present there is plenty of excellent quality properties for rent.

Rents have fallen in the past 12-18 months so it’s also good from a ‘value for money’ point of view. Long term I think the next couple of years will be tough for the property market but I think there are some positive signs emerging both nationally and abroad which will get things moving again.

Outside of work, what are your interests?

I’m a big rugby fan and played with Mullingar RFC at youth level and got trials for Leinster youths when I was 16. I stopped playing then for a few seasons and currently am struggling with an injury. As a result I was appointed as the 1st team manager of Mullingar RFC and we are about to kick off the season so I’m really looking forward to that challenge.

What are your future plans?

I am glad I’ve chosen this career path and I enjoy all the different aspects connected with the property world and am confident that business can only get better once this recession begins to recede.



(L – r): Sarah Jane Caplis (Cork), Chris Taaffe (Mullingar), Shane Walsh (Cork), Liam O’Leary (Cork), Ger Healy (Galway), Maria Eivers (Meath), Patrick Buckley (Cork), Ray Ryan (Mullingar), Barry Geoghegan (Monaghan), Rachel Treanor (Dublin), Marcus O’Shea – Hidden (Kerry)

HORSES FOR COURSES

By Peter Brady, Chairman IPAV Education Advisory Committee



Peter Brady

As C.S. Lewis once said, education is not about cutting down jungles but irrigating deserts – or words to that effect.

THE LEAVING CERTIFICATE

I am always amazed at the media frenzy surrounding the Leaving Certificate results at this time of the year. The stories abound – outstanding successes, college places, fees, careers, best choices, - the print media appears to have endless space to cover such issues.

With so many voices ringing in their ears, how can students choose a career that suits them? Very often the real story of the Leaving Certificate is not told. While it can be said that it (the Leaving) opens the door for students, the fact remains that they have to enter that open doorway.

HIGHER EDUCATION DROP OUT

For many (in excess of 50%+) that door shuts as quickly as it opens. Failure rates in higher education institutions are far greater than any recorded in the Leaving Certificate and this reality is one which many first year college students face. Not only are failure rates high, there is also a considerable amount of drop out due to wrong choices being made in the first instance.

Overall then the attrition rates in third level are high and faced with this fact, a new problem arises, namely that of retention. How to keep students in the loop is the question. I am afraid that this issue gives rise to a more significant one that many in the profession are aware of but fail to highlight – namely, the quality and standards of awards.

I do not wish to go there at this juncture, rather I would like to reflect on the issue of career choice.

CHOOSING A CAREER

When I consider my own career, I become aware of the fact that when I was a school leaver my understanding of what I wanted to be, like most others, was very vague. I was not visited by the career Genii to inform me of my destiny. I did not feel any burning desire to teach. Indeed the information available to my generation consisted of various pamphlets and, of course, the suggestion from the clergy who taught me - 'black might suit you!'

The point I wish to make at this juncture, dear reader, is: does all the advice that is offered to students through the media and the career service drown out personal choice? Is the education system trying to make silk purses out of sow's ears? Are there students in courses which are not suited to them or studying subjects that they cannot come to terms with?

All the incentives in the world will not turn a numerically challenged student into a first class mathematics graduate. And here I really shudder when I hear of making the teaching of subjects more interesting. Interesting entertaining? ... or maybe fun?

Stop the lights! Time to get real.

There are difficult subjects and courses. Not everyone can be a nuclear physicist or cardiac surgeon. Students have to come to terms with this reality and to peddle any more dope in this area is extremely unfair.

Career choices then are dictated in my opinion by the media and career advisers. Very often this does not relate to the issues of the personality or abilities of the student. Rather it plays to the notion of reward – this course will get you a good job!

PROPERTY PROFESSIONALS

And so to the point. The present economic climate has played havoc with courses in property. The collapse of the property market is the subject of media comment and speculation. In this exchange there appears to be no future and I am afraid there is a great imbalance in so far as the concern of the commentators is with the dramatic. In this scheme of things the property market is a wasteland. And this as previously remarked has led to a serious decline in demand for property courses.

The danger is that the market will not be served well in the event of the inevitable upturn. The great strides made in the education of property professionals in this country may well be undone. It is vital that the training of future professionals continues and whatever the forecast and speculation, prospective students should have no fear about choosing a career in property. After all, property is a permanent resource, shelter is a basic human need, buildings serve people and, as needs change, so do the environments in which humans live and work. Are there many other areas of work that can offer such potential?

Is a career in property worth considering? Definitely yes, I would say. I argue that society cannot ignore the challenge that is presented by the current economic crisis. The loss of expertise in an area that affects everyone – the provision and maintenance of housing, working and leisure environments defines what kind of society we are and aspire to be. Can we abandon the future development of the physical resources of this country because of an economic blip?

In this context then, I refer to the point made in this article about advice for school leavers - and remind you, dear reader, that information is no substitute for education.

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