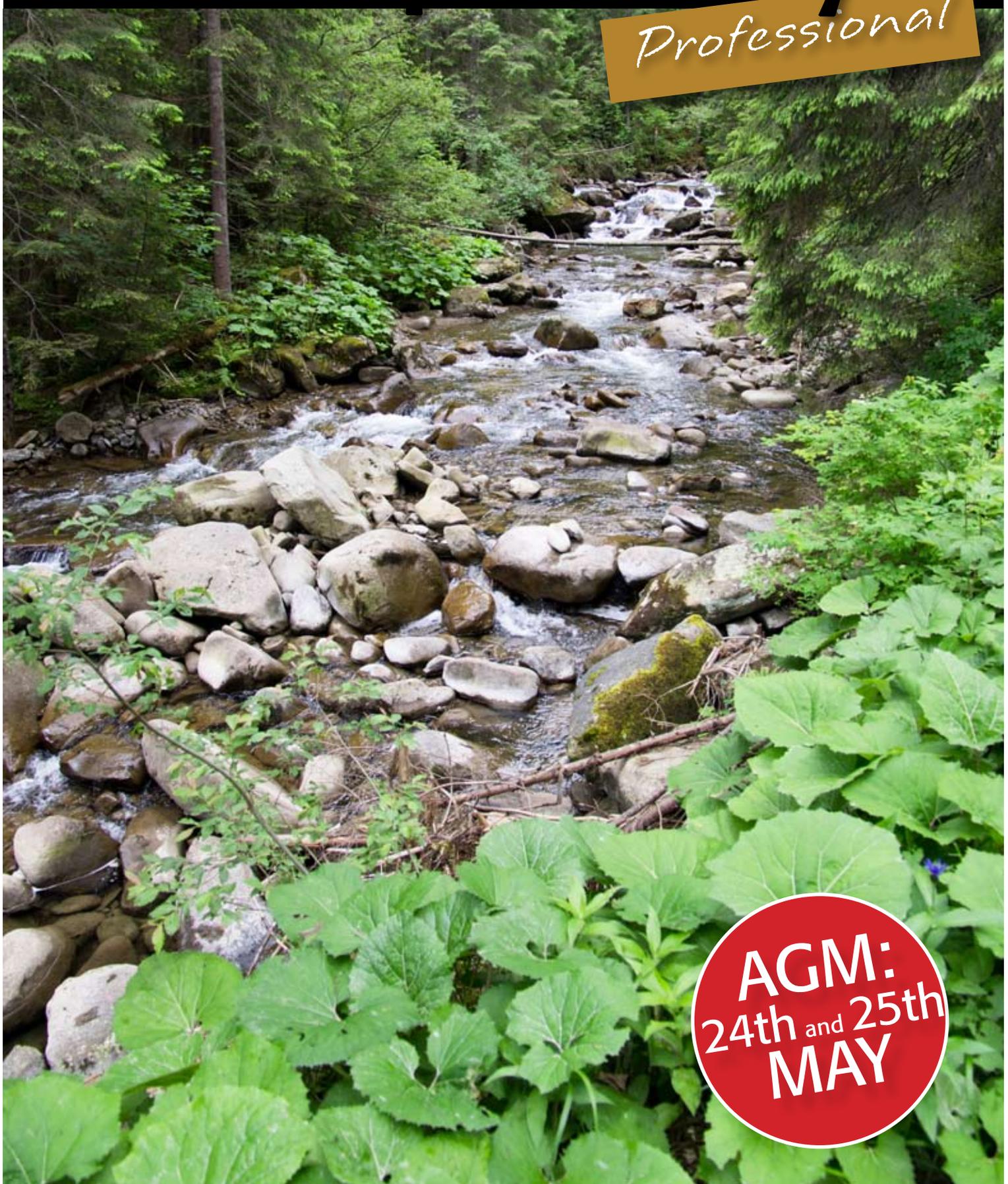


The magazine of the Institute of Professional Auctioneers & Valuers

# Property

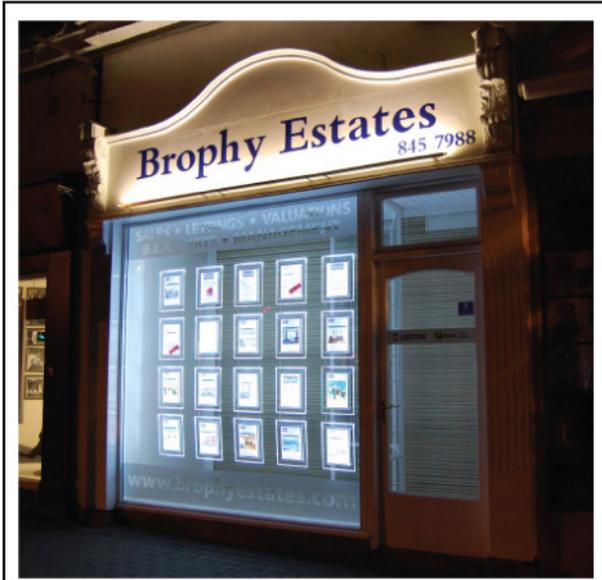
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Dear Member

Welcome to the Spring 2013 edition of the *Property Professional* magazine.

This issue is concerned with ongoing issues relevant to members. Most notable is the new Local Property Tax, or LPT, as it is commonly known. This is causing a great deal of confusion coming as it does, at a most inappropriate time for the property industry. Shay O'Brien of PKF Accountants and Tax Advisors has written a detailed article on the tax from an auctioneer's perspective and I think members will find it very useful.

As you are aware, IPAV has recently joined TEGoVA, which marks a major breakthrough for the Institute. TEGoVA is the European umbrella organisation of national valuers associations and shortly IPAV will become a national awarding body, thereby allowing it to confer 'REV' status on members. In this issue, Pat Davitt, Chairman of IPAV's Valuation Committee, answers some frequently asked questions about TEGoVA and its benefits for IPAV members.

In our member section in this issue, we feature two Cork members, Global Properties on Cook St and Ballincollig which recently celebrated 40 years in business and Choices on Washington St. which specialises in lettings and management in the southern capital.

The issue also contains articles on the new housing standards which came into force in February and a feature on Croatia, the latest country to join the EU on July 1 next.

Finally, the major date in IPAV's annual calendar looms once again. Friday, May 24th and Saturday, May 25th are the dates for IPAV's AGM and Annual Convention and advance details are contained in this issue. Full details will be sent to members in due course and I look forward to meeting as many of you as possible in Trim, Co. Meath.

In the meantime I would like to wish all readers a very Happy Easter.

Fintan McNamara  
Chief Executive

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# Message from the President

In the last issue of the *Property Professional* I raised the issue of the need for the Government to appoint a body with responsibility to monitor future trends in the property industry.

Over the past 30 years or so, successive governments have adopted an *ad hoc* approach to the industry and have interfered intermittently, with varying degrees of success and failure. This approach proved to have disastrous consequences as we all know. Hopefully lessons have been learned and the current and future governments must take measures to ensure we do not witness the same boom and bust cycle again.

Already the most recent figures from the CSO confirm that we are beginning to see the emergence of a two-tier property market. Figures released earlier this month showed property prices in Dublin increased but fell outside of the capital. However, the overall rate of price decline has slowed significantly and this trend is likely to continue.

In fact, recent trends in rents show there is already a clear shortage of accommodation in the central Dublin area and this shortage is likely to become more acute as the year progresses.

Now is an opportune time for the Government to adopt a cohesive policy on housing. There have, at last, been some recent positive indications. Recently, the Chairman of the National Assets Management Agency (NAMA) Frank Daly told the Association of European Journalists that there may be need for "an entity" at a national level to take a central, co-ordinating, policy development role in relation to the residential property market, particularly in terms of identifying the areas where future housing shortages are likely to arise and how such shortages might be addressed.

"One of the legacies of the boom is the regional mismatch between housing supply and demand: some parts of Ireland will be attempting to absorb excess supply for a long time to come whereas others are already showing signs of supply shortages, particularly parts of Dublin and some other cities", Mr Daly was quoted as saying. This is welcome news and I hope NAMA follows through on this commitment.

NAMA has also agreed to sponsor a major research programme by the Economic and Social Research Institute (ESRI) to produce, for the first time, comprehensive information on the residential property market in Ireland – such as the key factors influencing the availability and cost of housing over the medium and long term. Again this is more welcome news and IPAV will do whatever it can to help these initiatives. In fact I am always amazed at how governments have ignored bodies such as IPAV who have first-hand information on trends in the market place and are an obvious source of advice from the coalface of the industry.

One thing I feel that needs to be repeated over and over again is that in a modern, sophisticated society you cannot have a totally free market and some degree of monitoring and intervention is required from time to time. How you monitor the market in a professional and independent manner is the key issue right now.

All the indications are that we are currently at, or close to, the beginning of a new property cycle. It is now incumbent on the Government to appoint a body, comprised of experts from relevant fields throughout the property industry, to advise on the trends that occur particularly with regard to future supply and demand. This body could commission various reports and studies from expert bodies and individuals to augment its expertise in keeping careful tabs on the direction of the industry.

Let's hope the opportunity will not be missed as, otherwise, we may be faced with history repeating itself yet again.

*Liam O'Donnell*  
**President**

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# An Auctioneer's Guide to Local Property Tax (LPT) By Shay O'Brien

As Barack Obama's slogan was "Yes We Can" it appears from early soundings that the Revenue Commissioners slogan for LPT will be "Self Assessment".

Since Minister Noonan announced in December that a Local Property Tax (LPT) would be introduced, much debate has been confined to the Dail and the offices of the Department of Finance who were responsible for writing up the legislation on the LPT.

The matter of LPT will come to somewhat of a head in March of this year when Revenue Commissioners begin publishing estimates of LPT values and amounts payable.

## What are auctioneers expected to value?

For the purposes of the LPT auctioneers are required to value residential property and the definition of same is

*"any building or structure which is in use as, or is suitable for use as, a dwelling and includes any shed, outhouse, garage or other building or structure and any yard, garden or other land, appurtenant to or usually enjoyed with that building, save that so much of any such yard, garden or other land that exceeds 1 acre shall not be taken into account for the purposes of this definition".*

As is evident from the definition above, auctioneers will not only be expected to value a residential property i.e. the bricks and mortars of the property itself, but also will be required to value sheds, land up to 1 acre etc. With such a wide ranging definition it is sure to put pressure on many readers of this article to value a "residential property" within the meaning of the LPT Act 2012..

## What day in the year must an auctioneer value such property for the purposes of the LPT?

Auctioneers must value property on one specific day in the year which is 1 May 2013.

## What is the Revenue definition of "value" for the purposes of LPT?

The Revenue definition of "chargeable value"

*"means the price which the unencumbered fee simple of the property might reasonably be expected to fetch on a sale in the open market were that property to be sold on the valuation date in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property and with the benefit of any easement necessary to afford the same access to the property as would have existed prior to sale".*

The above causes great problems for readers in that one would argue a property is only worth what a purchaser is willing to pay. In the absence of demand for many properties, it will be a difficult task for auctioneers to put an accurate value under such circumstances.

## Key dates for LPT

- March/April – it has been confirmed that Revenue Commissioners will begin issuing returns and supporting documentation in the second week of March and all returns will be delivered to property owners by the 6th April.
- 1 May 2013 – this is the date residential property must be valued.
- 7 May 2013 – this is the due date if property owner completes paper LPT return.
- 28 May 2013 – this is the date LPT returns must be submitted on the Revenue online method of filing LPT Returns.
- 1 July 2013 – this is the date Revenue Commissioners will commence accepting payments for LPT.
- 15 July 2013 – this is the first date Revenue will take direct debit payments from.
- 21 July 2013 – this is single debit authority date if payment of the LPT is being made in full.

## What is the rate of LPT?

The rate of LPT will be 0.18% for properties up to a market value of €1 million and 0.25% on the portion of the value above €1 million.

## What valuation bands apply?

The following is an outline of the valuation bands for the purposes of the LPT, together with an outline of the charge for 2013 and the full year 2014. Many auctioneers, on viewing the table might be reminded of the old Stamp Duty thresholds and in the coming months much debate will concentrate on what band each person belongs to i.e. band 2, 3, 4 etc.

Property Valuation Bands & LPT Ready-Reckoner				
A	B	C	D	E
Valuation Band Number	*Valuation Band Range (€)	Mid-Point of Valuation Band (€)	LPT Charge in 2013 (half year charge) (€)	LPT Charge in 2014 (full year charge) (€)
01	0 – 100,000	50,000	45	90
02	100,001 – 150,000	125,000	112	225
03	150,001 – 200,000	175,000	157	315
04	200,001 – 250,000	225,000	202	405
05	250,001 – 300,000	275,000	247	495
06	300,001 – 350,000	325,000	292	585
07	350,001 – 400,000	375,000	337	675
08	400,001 – 450,000	425,000	382	765
09	450,001 – 500,000	475,000	427	855
10	500,001 – 550,000	525,000	472	945
11	550,001 – 600,000	575,000	517	1,035
12	600,001 – 650,000	625,000	562	1,125
13	650,001 – 700,000	675,000	607	1,215
14	700,001 – 750,000	725,000	652	1,305
15	750,001 – 800,000	775,000	697	1,395
16	800,001 – 850,000	825,000	742	1,485
17	850,001 – 900,000	875,000	787	1,575
18	900,001 – 950,000	925,000	832	1,665
19	950,001 – 1,000,000	975,000	877	1,755
20	Value greater than €1 m	Assessed on the actual value as follows: At 0.18% on the value up to €1 m At 0.25% on the portion above €1 m		

## Key points for auctioneers

- Auctioneers should be careful in valuing farm properties for the purpose of the LPT. In the context of Minister Noonan's response in Parliamentary Questions week commencing 25 January 2013 "in the case of a farmhouse any land used for farming purposes will not be included in a chargeable value of the farmhouse".
- For the purposes of the 1 acre test it was confirmed by the Revenue Commissioners that the land closest to the residential property itself would be taken for the purpose of the LPT.
- The value used at 1 May 2013 will be the value that must be used by a property owner for this year and the next 3 years.
- Sale of property – The Local Property Tax Amendment Act 2013 introduced an interesting section in relation to the documentation that the purchaser is required to obtain from the vendor. A penalty of €500 will be imposed if the purchaser fails to advise to Revenue of any undeclaration of LPT.
- Section 46 of the Local Property Act 2012 allows the Revenue Commissioners to request a statement of information from management and letting agents. Failure to comply with such a statement to the Revenue Commissioners will result in a penalty being imposed in the amount of €1,000. Therefore auctioneers should be careful in dealing with such request by Revenue Commissioners.

## Will valuations undertaken by recognised auctioneers and valuers be wholly accepted by Revenue Commissioners?

Following correspondence with the Revenue Commissioners, this writer was advised that a valuation by an auctioneer is just one of a number of valid means of valuing one's property along with using the valuation model that will be provided by the Revenue Commissioners and the property price register.

It is clear from this statement that the Revenue Commissioners will not wholly, therefore, accept a valuation provided by a recognised auctioneer to a property owner.

## Recommendations for auctioneers

1. It may be advisable for auctioneers to put a health warning on the valuations provided for the purposes of LPT.
2. It would be advisable for auctioneers when providing a valuation to put supporting documentation behind this valuation i.e. the methodology used and supporting documentation to arrive at the valuation i.e. recent properties up for sale etc. It appears that the onus will be on the property owners to prove to the Revenue Commissioners that they have properly valued residential property.
3. Auctioneers should read the Revenue guidelines for valuing properties and initially the Revenue Commissioners have advised owners to refer to the register of residential property sales ([www.propertypriceregister.ie](http://www.propertypriceregister.ie)).

## Key exemptions that auctioneers need to be aware of on LPT

1. First time buyers who purchase residential property between 1 January through to 31 December 2013.
2. A newly constructed property purchased from a builder or a developer from 1 January 2013 to 31 October 2016.
3. An exemption applies for properties situated in unfinished housing estates. Please note a list is available from the Department of the Environment which sets out the housing estates to be included on the exempt lists.

## What happens if the Revenue do not accept the valuation submitted?

Section 59 of the Local Property Act 2012 provides for a person aggrieved by a Revenue Commissioners assessment to appeal to the Appeal Commissioners within 30 days.

Following on from this Section 61 of the Local Property Act 2012 provides that an appeal to the Appeals Commissioners against an assessment and the decision of the Appeal Commissioners should be final and conclusive unless a case is required to be stated in relation to it for the opinion of the High Court on a point of law.

## Conclusion on what to expect

In the coming weeks many auctioneers may find a swarm of phone calls from concerned property owners looking for a property valuation. This will be particularly relevant in the context of property owners receiving LPT estimates which are likely to be very much different to the actual value of the property owned.

Auctioneers will find themselves with a very difficult task of valuing property accurately for the purposes of the Revenue Commissioners LPT Return and also find themselves as "judge" on the value that a property owner will submit as part of their LPT return.

While in the "Celtic Tiger" boom years it would have been an achievable task in the valuing property due to a demand for such property being active, Auctioneers in this writers view face the impossible job of valuing properties accurately for the purposes of the LPT.

When the LPT returns are submitted this writer believes that it is a fact that Revenue Commissioners will be checking why valuations differ in relation to property in similar areas. There could be some nervous years ahead for some auctioneers who would have provided valuations and who will be expected to back up these valuations in the event of a Revenue Commissioners check.

Overall it is going to be a very testing time in dealing with these matters and many auctioneers should expect a busy few months ahead. This may be mostly dealing with problems on the LPT.

*Shay O'Brien is the Tax Manager in PKF Tax Consulting Limited and can be contacted on 01-4961444 or by email [s.obrien@pkf.ie](mailto:s.obrien@pkf.ie)*





# IPAV joins European valuers' body TEGoVA

By Pat Davitt FIPAV



IPAV has secured a major breakthrough in recognition of its professional status by becoming the latest member to affiliate to TEGoVA, the European umbrella organisation of national valuers associations. Here IPAV's Pat Davitt answers some relevant questions on the move.

## 1. What or who is TEGoVA?

TEGoVA is a representative group of 48 European Valuer Associations from 28 countries with approximately 80,000 members.

## 2. Why is TEGoVA of relevance to IPAV members?

TEGoVA is immensely important for members as IPAV will become an awarding body of TEGoVA in May, allowing it to confer the "REV" status on members. IPAV will be the only body in Ireland able to confer this status on Valuers. In this way, IPAV members will be able to comply with the most recent Central Bank of Ireland recommendations to Irish Financial Institutions on Commercial Property Valuation Panels.

## 3. What is the "REV" Status?

The "REV" status is a guarantee that members are proficient in TEGoVA Minimum Educational Standards and hence can complete valuations to "Blue Book" standard.

## 4. How did IPAV come into contact with TEGoVA?

Over the past two years, IPAV has been examining the standards of the "Red Book" the "White Book" and the "Blue Book". Having discussed them, IPAV National Council decided to opt for European-wide standards and thus it was decided to seek membership of TEGoVA. Even though we also joined the International Valuation Standards Committee in London who use the "White Book", it is the European Standards of TEGoVA which we will be adopting for our members.

## 5. How does membership of TEGoVA work?

Membership of TEGoVA is only open to associations such as IPAV and is not open to individual members. Thus members of such associations can enjoy the benefits of TEGoVA as long as they are members of a relevant group or association. However, as soon as they resign they lose the TEGoVA benefits.

## 6. How does an IPAV member qualify for "REV" Status?

There are two main ways to qualify for "REV" status either through Education or through 'Grandfathering'. We believe approx 200 of

our members will apply for "REV" status through Grandfathering. The main requirements are:

- 10 years auctioneering experience
- Three years valuation experience
- Have the minimum educational standards of TEGoVA.

## 7. What are the minimum Educational Standards?

The Minimum Educational Standards are basically a good knowledge and experience of valuation work. IPAV will be running courses to give members approx 50 Hours of formal training to bring them to the TEGoVA Minimum Educational Standard as well as 20 hours CPD per year after.

## 8. Who monitors the educational standards?

IPAV will be setting up a valuation inspectorate which will monitor the educational standards and also the valuation work on an ongoing basis once members have been awarded the "REV" status. TEGoVA will also monitor them and will visit IPAV members' offices to examine valuations.

## 9. How much does it cost?

It is very difficult to determine at the moment. The only certain cost is the annual membership of TEGoVA which is €150. The education course will cost approx €500. This figure is not set in stone but is a best estimate.

## 10. What are the next steps?

IPAV is working on the educational courses at the moment and has recently asked interested members to register. We will be advising members in mid-April what the exact format will be. In May, as stated above, IPAV will become an awarding body within TEGoVA. It is expected that the first "REV" status will be awarded in November 2013.



# The Importance of the Central Bank

By Pat Davitt FIPAV

For most Auctioneers the Central Bank of Ireland is the furthest institution from their minds and generally speaking, they would have no direct interaction with it at all. So, it is with great surprise that the most recent Central Bank papers "*Valuation Processes in the Banking Crisis - Lessons Learned - Guiding the future*" have caused so much unease and concern to them.

To look at the history of what these papers are about we have to go back to the first draft paper issued by the Central Bank of Ireland in December 2011. This draft paper dealt with the forward valuation structure to be addressed and adhered to by the Irish Financial Institutions when employing Valuers to carry out Commercial Real Estate Valuations in the future.

It must be pointed out here it was with great disappointment and surprise from an IPAV point of view, that despite the Institute's membership of some 900 Auctioneers and Valuers nationwide, the Central Bank of Ireland never felt it necessary or warranted to consult such a large grouping before they decided on the very narrow recommendations it was proposing in its first draft paper. IPAV's main concern was the almost unbelievable conclusion that the only valuation standard to be adhered to, and that should be accepted by financial institutions in the future, was the Royal Institution of Chartered Surveyors (RICS) "Red Book".

Unfortunately, they never thought it of sufficient importance to investigate if there were other standards. IPAV felt this was monopolising the valuation work from financial institutions and felt very let down by the Central Bank which seemed in good faith to be striving to set standards, but without any consultation with IPAV, the only auctioneering body representing Auctioneers and Valuers jointly in Ireland.

IPAV immediately sought a meeting with the Central Bank and through subsequent meetings and correspondence eventually helped influence the Central Bank's final paper, again entitled "*Valuation Processes in the Banking Crisis - Lessons Learned - Guiding the future*" on 18th December 2012. The standards in this final paper are much clearer and are international valuation standards which cater for the reports supplied by IPAV members to the financial institutions.

The Central Bank paper states: "Examples of valuation standards that are consistent with the principle rules of international valuation standards and are considered to be appropriate practice include; the Royal Institution of Chartered Surveyors (RICS) "Red Book"; the European Group of Valuers Associations (TEGoVA) "European Valuation Standards Blue Book", and The International Valuation Standards Council's "International Valuation Standards White Book".

Neither IPAV or SCSi are actually mentioned in the Central Bank final paper of the 18th December 2012. IPAV accepts these standards and applauds the Central Bank of Ireland now for attempting to harmonise standards in the Valuation process.

## Important ingredient

Valuation is clearly a very important ingredient in the property market and it is to be welcomed that IPAV Valuers will now be using as standard the most up to date "2012 Seventh Edition" of European Valuation Standards in the "Blue Book". Providing they meet the TEGoVA Minimum Educational Standards, all IPAV members can become Recognised European Valuers (REV). TEGoVA is made up of 48 Valuer Organisations with approximately 80,000 members across 28 European Countries.

The Central Bank final paper also recommends many other practices including:

- Letters of Valuation Instruction clearly defining requirements and assumptions that should be confirmed in writing
- Conflicts of interest must be avoided – the Valuer's duty of care is to the credit institution/client. Credit institutions should require the Valuer to disclose any material involvement. Certain connected Valuers should not be used (where the Valuer has acquired the property for the borrower for example).
- Appointed Valuers must hold sufficient qualifications and credit institutions should review the Valuer's P.I. Insurance. This should have a direct link to the property valuation figure and include a term during which P.I. Insurance should be held after the valuation is written.
- Valuers should not be appointed purely on the basis that they are customers of the bank and consideration should be given to the fact that no single Valuer undertakes more than 33% of all valuation reports.
- Credit Institutions should report concerns in relation to non-ethical behaviour to the Valuer's appropriate professional body.

The paper states: "This paper applies to all Credit Institutions regulated by the Central Bank of Ireland. While this paper has the status of guidance, the Central Bank considers that the guidelines and recommendations contained in it represent appropriate process for credit institutions in considering property security valuations. As such, the Central Bank would consider material deviation from this guidance as contrary to good practice. The Central Bank will, as a matter of course, scrutinise the application of these guidelines as part of its on-going supervision".

To improve standards, the Central Bank of Ireland has played its part. IPAV is playing its part. The Irish financial institutions should now play their part. They need to immediately change their Valuer instruction letters to cater for the Central Bank recommendations of "International Valuation as Best Practice". All their branch managers must believe that the day of only a "Red Book" valuation is gone and accept the examples of valuations that are consistent with the Central Bank of Ireland final paper. This may help to stop these property bubbles happening again.

- *Patrick Davitt is a Fellow of the Institute of Professional Auctioneers and Valuers (IPAV) and Chairman of its Valuation Committee.*



# NAMA to sponsor research on the property market



NAMA Chairman Frank Daly

NAMA, the National Asset Management Company, has agreed to sponsor a major research programme by the Economic and Social Research Institute (ESRI) to produce, for the first time, comprehensive information on the residential property market in Ireland – such as the key factors influencing the availability and cost of housing over the medium and long term. This project is intended to benefit people buying houses, investors and the construction industry.

It is understood that the research will involve consultation with all the key stakeholders, including auctioneers and estate agents. The announcement was made by NAMA Chairman Frank Daly when he addressed the Association of European Journalists (AEJ) in Dublin recently.

Mr Daly also stated that there may be need for an entity at a national level to take a central, co-ordinating, policy development role in relation to the residential property market, particularly in terms of identifying the areas where future housing shortages are likely to arise and how such shortages might be addressed.

*"One of the legacies of the boom is the regional mismatch between housing supply and demand: some parts of Ireland will be attempting to absorb excess supply for a long time to come whereas others are already showing signs of supply shortages, particularly parts of Dublin and some other cities",* he said.

Mr Daly also announced plans for the development of significant additional office accommodation within the Dublin Central Business District, particularly focused on the Docklands, in response to the on-going expansion of the country's key financial services sector and the development of new business and



technology hubs in line with Government enterprise creation policy.

NAMA is also evaluating residential projects where demand exists in Dublin and in other major growth centres throughout the country.

On the liquidation of the IBRC, formerly Anglo-Irish Bank and Irish Nationwide Building Society, Mr Daly also referred to the legislation recently passed by the Oireachtas to appoint Special Liquidators to IBRC and direct the Agency to acquire the unsold residual element of the IBRC loan portfolio later this year.

*"This new portfolio will significantly increase NAMA's workload",* he said. *"Potentially, depending on the scale of loan transfers, the size of our balance sheet could increase by close to 50%".*

Mr Daly said NAMA will not have much visibility on the portfolio to be acquired until the Special Liquidators complete the valuation and sale process for IBRC's loans. The valuation and sales process is scheduled to be completed in late August. *"The prospective acquisition of the residual IBRC portfolio represents a major challenge for NAMA. As with our original portfolio, we will be guided in that challenge by our primary commercial objective – which is to obtain the best achievable return for the Irish taxpayer."*

Mr Daly said NAMA has pursued the taxpayer's interest diligently in its work to date on the existing loan portfolio and that it will do the same in respect of every IBRC loan it acquires.

*"We have sought to be hard-nosed but fair in our dealings with debtors and that will not change".*

Advertorial See ad on page 3



## Why Overseas Property Buyers Lose Money

With property price reductions since 2008 reaching as much as 70%, it is little wonder that the Irish market is attracting attention from overseas buyers. In this time of few successful mortgage approvals, a large proportion of sales are from cash buyers so the need for currency exchange arises.

In direct response to this demand, over the course of the last six months Smart Currency Exchange have partnered with estate agents and auctioneers across the country in order to provide a currency exchange service that will save their clients'

money, consequently increasing their budgets, add value to their business – as well as a healthy commission.

Smart work by securing customers better exchange rates when making international payments, up to 4% more advantageous than that of the high street banks - which can be a huge saving on a property purchase. Incredibly many people are still not aware of the high cost of using their high street bank. They may however, be aware of the frustrations of dealing with their bank.

This is another area where currency exchange specialists like Smart are quite different; they excel at offering excellent customer service.

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*"Several months ago Alex Willson, Ireland Account Manager at Smart Currency Exchange brought to my attention that it made sense for us to establish a mutually beneficial partnership. Recommending a trusted service that saves my clients money adds another string to our bow and in a short space of time, has added significant value to my business".*

### IPAV DNG Michael Boland

*"Initially I was cautious about utilising the services of Smart Currency Exchange as I hadn't encountered anything similar in Ireland. However upon the recommendation of a fellow agent my initial reluctances were quickly eradicated and now I don't hesitate to recommend Smart to my clients".*

**Meet me at** the IPAV AGM on 24 & 25 May 2013 in Knightsbrook Hotel & Golf Resort, Dublin Road, Trim, Co. Meath

# Revenue to address Annual Convention 2013 – May 24th and 25th

A special presentation by the Revenue Commissioners on the new Local Property Tax (LPT) will be one of the highlights of IPAV's Annual Convention which takes place in Knightsbrook Hotel, Spa & Golf Resort, Trim County Meath on the weekend of May 24th and 25th. Situated less than 50 kms from Dublin and close to the M3 and M4, it is hoped that there will be a large turnout of members for the weekend.

Auctioneers will have a key role to play in valuing properties for the new LPT and the presentation by Revenue will attempt to answer many questions which have arisen. There will be an opportunity for Questions and Answers

Saturday afternoon speakers at the Convention will also include well-known KBC economist Austin Hughes who will give an update analysis on the current state of the property industry and likely future trends. And there will be a presentation on the property environment including issues surrounding the BER Certification by Tom Halpin of the Sustainable Energy Authority of Ireland (SEAI). There will also be short presentations on

TEGoVA and from a representative of the US National Association of Realtors (NAR).

The Guest Speaker for IPAV's Annual Dinner will be Matt Dempsey, the recently retired editor of the Irish Farmers Journal. Matt is regarded by many as an inspirational figure in Irish farming and rural life and was just the third editor of the Irish Farmers Journal, having taken over from Paddy O'Keeffe in 1988 and during his time the board of the Journal purchased both the Irish Field and the Irish Catholic. Matt, who started his journalism career in RTÉ in the 1970s, was the first producer of agricultural programmes.

The weekend will start off on the Friday afternoon of May 24th with the annual golf outing once again kindly sponsored by the Irish Examiner newspaper. This year the competition will be played on the impressive Knightsbrook Golf Club designed by the former Ryder Cup Legend, Christy O'Connor Jr. The Golf Club is beside the hotel, where Marguerite Stafford and her team will be on hand to meet and greet players.

On Friday night there will be an informal get-together with a buffet and an opportunity to

dance or just sing along with the entertainment. During the evening the golf prizes will be presented to the lucky winners.

On Saturday morning the Annual General Meeting of IPAV will take place where a full report on the year's activities and accounts will be presented. After lunch members will gather for the Convention itself. On Saturday evening there will be the traditional drinks reception where there will be an opportunity for photographs and to meet old friends and make new ones. The reception will be followed by the Convention Dinner with Guest Speaker Matt Dempsey. After dinner entertainment will follow with the popular Navan Swing Band. IPAV is keenly aware of the current economic situation and is determined to keep the cost to members as low as possible.



*Matt Dempsey*

## Knightsbrook Golf Club

### Christy O'Connor Jr. Designed Championship Golf Course'

Located on the outskirts of the picturesque Heritage Town of Trim, Co Meath and only 25 minutes from the M50, Knightsbrook Golf Club, is the latest golfing gem designed by former Ryder Cup Legend, Christy O'Connor Jr. to adorn the Irish countryside. Knightsbrook is fast becoming a popular venue for Society & Corporate Golf Days as well as Residential Golf & Leisure Breaks. Excellent facilities, convenient location, and friendly staff are on hand to ensure that your golf event is a success from start to finish.

Knightsbrook has already established itself as one of the premier golf resorts in Ireland and will host the Junior Solheim Cup in 2011.

#### Golf Facilities include:

- 18 Hole Championship Golf Course Designed by Ryder Cup Player Christy O'Connor Jr
- 7200 Yard Parkland Course – Men's Par 72 / Ladies Par 74
- Golf Course Designed & Built to USGA Specifications



## Knightsbrook Hotel, Spa and Golf Resort



When it comes to hotels in Meath, or indeed hotels in Trim, the luxurious family-run Knightsbrook Hotel, Spa and Golf Resort is a guaranteed-to-impress first choice. This prestigious lifestyle development offers arguably some of the best four-star hotel accommodation in Meath, underpinned by a superb and subtle combination of elegant luxury and modern sophistication.

Arguably one of the very best conference venues in Meath, Knightsbrook Hotel offers hotel conference facilities, as well as banqueting spaces that can accommodate up to 1100 delegates at any given time. Combined with an 18-hole championship golf course and fully equipped Health Club and The River Spa for the ultimate in pampering indulgence, these facilities truly provide the perfect conferencing destination.

#### Leisure Facilities:

The leisure facilities include Cardiovascular and Weight Machines, a fully equipped Gymnasium, a 17 metre indoor pool & children's pool, a Steam Room and Sauna, Jacuzzi and Children's Playroom

In the Thermal Span the unique collection of cool, warm and hot speciality cabins are designed to offer intense relaxation while gently restoring vitality and balance to the body and mind-literally. This sublimely relaxing experience take the visitor through varying degrees of heat by way of steam and dry air and differences in temperature and humidity to suit every individual's likes and needs. Salt and aromatherapy essence inhalation just adds to the true Thermal Spa experience, cleansing the lungs and respiratory system, softening hair and skin, brightening the eyes and general complexion while detoxifying and rejuvenating



# Housing standards Regulations present onerous obligations for all Landlords

By Noel Larkin, Chartered Building Surveyor

To some it may seem strange that there has been so much recent media coverage around Regulations, which first came into force in February 2009. The recent attention has come about because full implementation of the Articles, contained in the Housing (Standards for Rented Houses) Regulations 2008 and (Amendment) Regulations 2009, which had originally been deferred for existing tenancies, came into force on 1st February 2013.

The final implementation of the Regulations may mark the end of the traditional bed-sit, but for landlords, their obligations will continue.

Whilst there are specific exemptions, the Regulations apply to all residential accommodation let as a dwelling for rent including rented local authority housing.

The consequence of the Regulations is to bring to an end the era of the traditional bed-sits and similar low cost accommodation. So broad is the scope that there are many modern units, which may not fully comply with the Regulations. Surveyors involved in the letting, management and inspection of rented residential property should familiarise themselves with the details of the Regulations.

To summarise, some of the more onerous requirements for landlords are outlined below;

## Accommodation size and layout

Under Article 6 of the regulations, each unit must be provided with independent toilet and bath / shower facilities within the habitable area of the house/unit. Clearly traditional bed sits will require considerable review possibly including structural alteration in order to comply.

Article 8 sets out minimum requirements for the provision of kitchen / utility spaces and equipment such as fridge and freezer, clothes dryer, 4 ring hob and a cooker extract. There are many units, old and new which will not comply. Some units will simply require novel solutions

to accommodate the facilities set out, but some will also require alterations to increase the size of kitchen / utility spaces.

## Ventilation

We are all aware of cases where the absence of ventilation has led to loss of life. Article 9 of the Regulations requires the provision of "adequate" ventilation. The level of ventilation necessary in any room will be determined by the use of the room, number of occupants etc. I am of the opinion that the level of ventilation required is, at a minimum, the standard required by modern Building Regulations.

It is well known that "hit and miss type" wall vent are difficult to control and as such are often blocked by tenants, but under Article 9 it is the responsibility of the Landlord to ensure that ventilation is maintained. This presents obvious practical problems for landlords. The provision of a properly considered method of providing ventilation should ensure that the system is not interfered with thus making it easier for the landlord to meet his obligations.

## Heating and Lighting

The word "adequate" reappears with respect to the provision of natural light in habitable rooms. The rule of thumb here, dictates that the size of a window in a habitable room should not be less than 20% of the floor area of the room. I have seen many units where this standard would not be achieved. In certain circumstances window size would need to be increased further where they are heavily shaded.

There is also a requirement to provide "adequate" levels of artificial light in common areas. I have walked through many common areas, which were far from adequately lit.

Where heating is concerned the main problem is that each unit must have independent control over the heating in that unit. There are many buildings, which would rely on a single boiler, and control is solely at the discretion of the landlord. Where this is the case, new

controls will need to be provided. In some cases, the extent of amendment may be significant and depending on the age and configuration of the system, replacement of the entire might be economically justifiable.

Liability for the safety and maintenance of electrical and gas supplies and associated equipment lies with the landlord.

## Fire Safety

The Fire Services Act is the primary legislation governing the safety of buildings in relation to fire safety. However, there are specific additional measures in these Regulations such as the need for a fire blanket in each kitchen, a requirement to have smoke detectors etc. The wording of the regulations in relation to fire alarms is such that a standard off the shelf battery operated detector is unlikely to comply as battery operated units must have a 10 year battery life.

Perhaps the more onerous requirement and that likely to provide the most practical difficulty is the requirement that common areas in a multi unit development be provided with emergency lighting. Therefore, under these Regulations, a landlord who lets an apartment in a larger development is responsible to ensure that the common areas are provided with emergency lighting. The question arises as to what the landlord is supposed to do if the Owners Management Company will not co-operate?

Given the extent of internal alterations that would be required to comply with these regulations, it is not surprising that we have heard of some landlords having sought to re-classify multi let buildings as Hostels. This might be considered to take advantage of the fact that houses let as holiday accommodation are exempt from these Regulations. There are any number of areas where clarification would be required before using this approach. One of the more obvious questions is if it is reasonable to argue that the same tenant, renewing their occupancy on a weekly basis, can be considered to be on holiday? I doubt it.

*Continued on page 11*

# New rented housing rules to end low cost budget rental accommodation

By Fintan McNamara, CEO, IPAV

The Irish private rented sector is the most regulated in Europe. The first major piece of legislation in recent years was the Housing Miscellaneous Provisions Act, 1992. This was followed by the failed 1996 Registration of Rented Housing Units, the 1998 Equal Status Act, the 2000 Litter Pollution Act and the Residential Tenancies Act, 2004. Landlords, despite the considerable expense involved, have broadly complied with these measures but the application of the most recent housing standards applying from February 2013 are likely to cause severe hardship to students and people on low fixed incomes as well as older single people who like to live in the comparative safety of the inner suburbs in cities like Dublin, Cork, Limerick and Waterford.

There is absolutely no dispute about the necessity of fire safety standards, adequate cooking, heating, food storage facilities and washing facilities in all rented properties but the latest regulations are by international standards the most stringent. The traditional single unit of accommodation (bedsit) in European cities, like budget hotels is a godsend

to both young and old who may be temporarily or permanently short on cash. The standards while broadly welcome go too far in the following areas.

The cooking and food storage facilities required under Article 8 are way beyond the needs of single people living in this budget-type accommodation and would be more than adequate for a family in a large apartment or four bedroomed house.

## Shared bathrooms

Up to this point not more than four units of accommodation (bedsits) could share a bathroom but now not only is sharing banned but to comply with Article 6, hugely expensive structural work has to be undertaken to provide an adjacent bathroom within the confines of the rented unit. In protected buildings, where thousands of these units are located, it will be impossible to comply with the new rules without breaking the regulation designed to preserve listed buildings. The end result will be that thousands of people will have to leave their comfortable and adequately equipped accommodation

and move into hostels or source more expensive apartments. This will be particularly hard on older people living for years in the inner suburbs close to the public amenities they currently enjoy.

An oil/gas-fired centrally heated house does not meet the heating requirements prescribed by the new regulations. In order to comply there must be a permanently fixed electric heater in the accommodation. Yet electric heaters attract a more inferior energy rating (BER) than oil or gas fired central heating. Clearly, in drafting these regulations, one arm of government was unaware of the other and those who drafted the regulations failed to foresee the consequences. It is surely commonsense at this point to delay enforcement except in situations where the accommodation is clearly below acceptable standards. This will provide the opportunity to carry out a thorough review of Articles 6 and 8 and, on this occasion, take into account the views of both providers and users of these low cost budget accommodation units.

*Continued from page 10*

It is clear that many landlords, mainly but not exclusively those involved with older stock will be forced to put capital investment and more proactive maintenance management into their portfolios to comply with these Regulations.

In most cases, landlords will be in a position to make minor changes to the layout of kitchens and to make minor amendments to services. In some cases minor building works will be required.

There are however a considerable number of buildings, which will require "Material Alteration" in order to comply. A Material Alteration is generally considered to be works involving a change, which has an effect on compliance with Part A (Structure) or Part B (Fire) of the Building Regulations. The implication of a Material Alteration taking place is that Planning Permission, A Fire Safety Certificate and a

Disability Access Certificate (DAC) will all be required. The most recent version of Part M of the Building Regulations (Access for Disabled People) will be particularly challenging in some cases.

To complicate matters further, many older buildings, due to their type and date of construction may be designated as "Protected Structures" in which case, compliance with modern Building Regulations can be difficult due to the competing aims to provide modern standards whilst also maintaining historic building fabric. It is possible that alternative uses may need to be found for certain buildings, possibly reversion to a single dwelling house.

It would be prudent for landlords to take professional advice to assess whether their portfolio complies with the Regulations and to identify the extent of any upgrading required. In practice those undertaking

the inspections should be familiar with these regulations and applicable, planning, fire safety and Building Regulations. For some buildings experience in dealing with practical building conservation would clearly also be an advantage.

In order to ensure compliance with the Regulations, the preparation and implementation of a Planned Maintenance Programme will help to ensure that the landlord meets his obligations in respect of ongoing maintenance. The preparation of such a plan and keeping records concerning the maintenance actions may be of valuable assistance in proving that Regulations have been complied with to the full particularly if the Local Authority requests proof of compliance.

The shelter of pre '63 has eroded. Perhaps this is long overdue.

*Noel Larkin MCSI MRICS is a Chartered Building Surveyor, [www.nla.ie](http://www.nla.ie)*



# Well-known Cork firm celebrates 40 years in business

Cork City estate agents Global Properties recently celebrated 40 years in business. Tim Ryan spoke to its founder member, Richard Nagle FIPAV about the company.



Tim Ryan

Cork auctioneering and estate agency firm Global Properties Ltd is one of the city's best known family firms. Founded in 1972 by Richard Nagle it has grown and developed, mirroring the ebbs and flows of economic life in the city and beyond. Today, the firm continues to thrive having survived the worst recession in living memory and continues to offer a comprehensive service to its many clients.

Richard Nagle was not a likely candidate for a career in the property industry. A native of Macroom in West Cork and educated at the local De La Salle College, he went straight from school into Cork County Council where he worked for eight years before moving to Irish Shell for three years. While a young teenager at school he quickly developed a liking for sport and played football for his College Club and County and subsequently became a selector, coach and administrator with the G.A.A. His sporting connections were to pay huge dividends in his later business life.

*"But from very early on, I had a yearning for the property industry," he says. "Even while working I was dabbling in property by purchasing a property here and there, renovating it and selling it on. It was something I enjoyed very much from the start."*

## Took the plunge

Although married with a young family, in 1972 he took the plunge to leave a permanent, pensionable job and set up an auctioneering and estate agency practice in the heart of Cork city. *"The manager of my local Provincial bank branch had confidence in me and loaned me the necessary finance to get up and running,"* he recalls.

At the time Cork still had major industries such as Ford and Dunlops but these were soon to close with major economic consequences for the city. But already there were signs of other green shoots in the city with the arrival of the first of the giant pharmaceutical companies in the deep water port at Ringaskiddy.

Richard Nagle also faced another major challenge. The existing auctioneering and estate agency business in the city was controlled by a number of large conservative firms based mostly along the South Mall and on the Grand Parade.

*"These were very traditional large business firms which, like, many others at the time, did not welcome competition and proved major stumbling blocks to making progress,"* says Richard.

However, the young, wily West Cork man was not for turning and quickly started to rack up his first sales. His first ever sale was a bungalow on its own grounds in Carrigtwohill which sold for £3,450, a sale which he will never forget.

Meanwhile, business opportunities were opening up on other fronts. Ireland joined the then European Economic Community (EEC) in 1972 and early beneficiaries were members of the farming community.

*"Farmers had new confidence at the time and started to buy pieces of land,"* says Richard. *"I was lucky to have connections in this area and I built up an expertise there too."*

His first land sale achieved a price of £275 per acre but this was set to rise quickly as the agricultural sector quickly availed of new markets across Europe.

One year prior to the time Richard Nagle founded Global Properties, IPAV had been set up by a group of estate agents. In the late 70's Richard was introduced to Liam O'Donnell and he became a member in the early 1980s.

*"At the time Liam was trying to get an education course going and I knew of the then Cork School of Commerce,"* says Richard. *"We met the Principal and after many months of often tortuous negotiations, the Certificate course got going. This was a major breakthrough for the Institute and it completely changed IPAV's profile in Cork and beyond. Course Director Peter Brady came on board and the course grew and developed beyond our wildest expectations."*

## In touch with IPAV

Since then Richard Nagle has maintained a close interest in educational developments at IPAV and very much welcomes the recent securing of a Level 6 course and the affiliation with the



Richard Nagle F.I.P.A.V



European Valuers group, TEGoVA. He was elected onto IPAV's National Council as a Munster representative in 1990 and served as President in 2004/5. His election as President of IPAV was a huge honour both for himself and his family and was a year he enjoyed enormously.

Back at Global Properties, an intense credit squeeze in the 1980s slowed down growth but it was soon benefitting from the huge jobs growth at the new pharmaceutical plants in Ringaskiddy. Factories like these and others saw the emergence of satellite towns around Cork and Richard Nagle quickly capitalised on this by opening branch offices. The first was in Midleton where there was a thriving property market and this was followed by Ballincollig (1999) and Mallow (2002).

Looking back Richard Nagle says it is difficult now to appreciate the vibrancy of the market at that time. He recalls advertising a New Development in Pope's Hill close to Cork City Centre and the evening before the houses were to be released off plans a queue of people who wanted to purchase began to form outside his office. He had to give them numbers and send them home but during the night more people queued and at opening time there was a long queue of purchasers. During the course of the morning they sold all 63 houses in the estate.

Employee numbers grew in line with the growth and expansion of the firm. In 1989, his son Barry Nagle joined the firm and today runs the firm's Cork office on Cook St. In 1994, another son, Con, joined the firm from the Bank of Ireland. Con has a Master's degree in Economics from UCC and has written a book on "Selling Your Home" published by O'Brien Press. At peak, Global Properties employed a staff of 20, many of whom were top achievers from IPAV's courses at Cork College of Commerce. However, the recent recession saw many of these first class estate agents leave Cork and some are now working in places such as Australia and Canada.

Today, Global Properties has consolidated in line with the property economy and is well poised to meet the challenges of the economy when it emerges from recession. Already, Richard Nagle says there is a shortage of houses for young people in parts of Cork.

Employment is strong in the area but with very little building of new houses industry will find it difficult to attract the necessary

new people it needs to develop, says Richard. "NAMA has a part to play in housing going forward. It should make funds available to medium sized builders who would build 40/50 houses per year in areas of need," he says. "This would help to kick-start the industry and banks must start lending and become risk takers again. Until this happens we will continue to have stagnation."

### Sport and business

Looking back at his lifetime in business, Richard Nagle cannot overemphasize the importance of sport and the business it generates. "I would obviously get business from people associated with my own and neighbouring clubs but often keen rivals on the sporting pitch would ring me up and say: 'I'd like to test out your sales skills and get you sell a property for me'. The connections reaped huge benefit for me."

He even recalls once meeting the well-known developer the late Dan McInerney for the first time. "I was meeting him at a site and really did not know who he was. But when he opened the boot of his car I saw a hurley and boots. I had my gear in my car so we got a sliotar and had a puck around on the site! It was quite amazing!"

Today, Richard Nagle is still a very active member of his local club, Eire Og which is close to Ovens. While a small club in relative terms, it currently boasts two members of the Cork Senior Football squad, Daniel Goulding and Ciarán Sheehan.

Meanwhile, as Global Properties celebrates over 40 years in business, Richard Nagle has taken a back step and leaves most of the day-to-day running of the business to his sons Barry and Con. But for the present he maintains a keen interest in all aspects of the property industry and in his contribution to IPAV's ongoing development.

"Over the years since I first joined IPAV, it has grown and transformed itself immensely, I would like to think that in that development I played a small role and in that way helped the careers of many people who have had, and continue to have, rewarding careers in the industry."



Barry, Con and Richard Nagle

# Property Lettings Seminar



Aisling Duggan and Jean O'Donovan of Trading Places, Washing St. Cork were at the Property Lettings Refresher Day in IPAV Head Office on February 9.



Andrea Toner, Heffernan Estates, Waterford; Jayne Keohane, DNG Creedon Auctioneers, Douglas, Cork; Lisa O'Donoghue, Broe Auctioneers, Clondalkin and David Ennis, Ennis Gough Property, Ferrybank Waterford at the Property Lettings Refresher course.



Danny McEvoy, McEvoy & Associates, Celbridge, Co. Kildare; Declan Woods, Declan Woods Auctioneers & Estate Agents, College St, Co. Cavan; Michael Boland, DNG Michael Boland, Ballina, Co. Mayo and Desmond Daly, Desmond Daly Property Options, Kanturk, Co. Cork at the Property Lettings Refresher day.



Pictured at the Refresher Day were Charlene Patton (left), Charlene Patton Auctioneers, Stranolor, Co. Donegal and Claire Dennehy, Blarney, Co. Cork.



Chatting at the Refresher Day Seminar were Anne Liston, Liston Auctioneers, Newcastlewest, Co. Limerick and Damien Ryan, Property Manager, Supermacs, Galway.



Shay O'Brien, Tax Manager, PFK, Harold's Cross, Dublin 6w addressing the Refresher Day Seminar.

# Are there real signs of green shoots in the Irish economy?



Is economic recovery finally taking hold, or is it still only doom and gloom? Positive Economist Susan Hayes has some advice for estate agents.



It might look like good exports and positive balance of payment news on the one hand but the mortgage crisis is in stalemate on the other. As the Positive Economist, I'd like to focus on what actionable insights can be gathered from economy news.

Firstly, our balance of payments was 100% higher in Q3 of 2012 than the same period in 2011. During the boom, this economic indicator was negative, even when our exports were soaring but now more indigenous exports by domestic companies, as well as a much larger stock of Foreign Direct Investment (FDI) means that the money from Irish exports actually stays in Ireland to help invigorate an economy much in need of it. This is set to continue as the Irish Exporters Association expects another 5% growth in exports this year. These revenues are filtering into the labour figures with Enterprise Ireland announcing their client companies had created 3804 new jobs. Our hard-won competitiveness, reflected in a 31% productivity growth in manufacturing above the levels of Q1 2008, continues to be attractive to FDI. The IDA reported net creation of 6,570 jobs through Foreign Direct Investment alone, proof that multinationals don't come to Ireland for tax or recession arbitrage only.

Heartening as those (particularly international) good news stories are, our economy still needs a lot of work. Lack of lending is a big concern, and one that directly affects auctioneers. In October Permanent TSB announced it had €1.74 billion in excess of the amount it is required to hold in accordance with European Banking Authority regulations and there are similar reports from Bank of Ireland and AIB.

Notwithstanding their healthier balance sheets, banks might remain overly pedantic

about to whom they offer mortgages, considering the extent of the current mortgage crisis. There are at the moment, according to Central Bank figures, 19,541 mortgages that are over 720 days in arrears. Realistically, these mortgages aren't going to be paid back. If your situation is such that you are two years in arrears, history tells us that it's impossible to catch up.

Then there are 39,000 mortgages in less than 90 days arrears. The Central Bank tells us that 44% of mortgages that fall into 90 day-arrears return to performance. There is a total of 11.3% of the mortgage landscape in the dangerous category of over 90 day arrears. In total, 100,000 mortgages are in need of some form of intervention and 65,000 mortgages have already been restructured.

## Creative thinking

That is a heavy concern, but while we won't be able to single-handedly convince banks to lend, there are things we can do. Some creative thinking about who buys from you will yield interesting insights. How about contacting former customers? This would seem counterintuitive, since they have already bought a house from you and they are already finding it difficult enough to keep up with their mortgage. But this is exactly where you can help: some of them might be thinking of trading down for a smaller, cheaper house, in order to tackle the burden of negative equity they are struggling with.

Then those people who already own a house might not want to buy another, but they might know people who are poised to become homeowners. Would-be home buyers might be turned down by banks but not all of them are. And some

home buyers who were already turned down might have adjusted their sights accordingly and might be getting ready to settle for a more affordable home.

Finally, Foreign Direct Investment and the uptake in indigenous companies selling their goods abroad are not just satisfying figures in our exports results: both directly translate into more jobs and people relocating, either to Ireland from overseas, or to go where companies are locating and hiring within Ireland. Those companies might be interested in either buying property or letting their employees know about available property in the area they are coming to. Attractive housing options are a major asset when a HR director is trying to convince an employee to relocate, or wooing a prospective recruit. If there aren't any large companies in your area, take a look at the ConnectIreland initiative (visit [www.connectireland.com](http://www.connectireland.com) for more details) –contact anybody that you know abroad (a cousin in Sydney or a friend in Canada) and ask them if they know of any companies that are expanding into Europe. If you introduce them to ConnectIreland who will subsequently do all the work, you will earn €1,500 per job created and the average reward is €50,000 tax free. This is a very real opportunity for all members of the Irish community and can boost your own business also.

Susan Hayes writes about the Irish economy, finance and entrepreneurship at [thepositiveeconomist.com](http://thepositiveeconomist.com). Her new book, *The Savvy Woman's Guide to Financial Freedom*, is available now.





*The audience at the Portlaoise Seminar*

### Record turnout for Portlaoise Seminar

There was a record turnout of over 200 IPAV members for a Seminar on the evening of Wednesday, March 6th at the Heritage Hotel, Portlaoise, Co. Laois.

Topic for the evening was the new PRS Letters of Engagement for members and National Council member Pat Davitt gave a comprehensive presentation on all aspects. Property Regulator Tom Lynch was also present and answered a number of questions from the floor.

There was a huge response from the floor to the many issues raised and further similar seminars are scheduled.

*(Pictures courtesy of IPAV member Brian Dempsey.)*



*Barry & John Murphy of Barry Murphy Auctioneers, Parnell St., Waterford at the Seminar*



*Pictured at the Portlaoise Seminar were (l – r): Fintan McNamara, CEO, IPAV; Liam O'Donnell, IPAV President; Patrick Davitt, speaker and Tom Lynch, CEO, Property Services Regulatory Authority.*



*Noel Corcoran, Tipperary Town, makes a point*



*John and Paul Lappin, Property Team Lappin Estates, Fairview, Dublin 3 at the Seminar*



*Kenneth Acton, Foster St., Galway with Michael and Philip Mullery, Prospect Hill, Galway*



*Eamon Scanlon, Ballymote, Sligo asks a question also*



*Pat Carroll, Carroll Auctioneers, Kilmallock, Co. Limerick asks a question*



*Frank Chambers, Newport, Co. Mayo makes a point from the floor.*



*Marian Rose of Marian Rose Properties, Douglas, Cork asks a question*



# Housing Minister to consult Dept of Justice on anti-social behaviour



Housing Minister Jan O'Sullivan is to consult the Department of Justice to improve co-ordination on the issue of anti-social behaviour in rented dwellings. The Minister confirmed that anti-social behaviour is a major problem when she replied to a debate on the Private Tenancies Residential (Amendment) Bill in the Dáil recently.

"As many Deputies noted, the experience of anti-social behaviour can be terrible for those affected," she said. "I am familiar with it in my constituency and it was described very well by a number of Deputies. While action to deal with anti-social behaviour is primarily a matter for the Garda Síochána, in the case of private rented dwellings landlords are responsible for enforcing the obligations that apply to their tenants under the Residential Tenancies Act. The Act prohibits a tenant in a private residential tenancy from engaging in anti-social behaviour in or in the vicinity of a dwelling to which the Act applies and allows a landlord to terminate any tenancy where the tenant is engaging in or allowing others to engage in such behaviour, subject to a notice period of only seven days in the case of serious anti-social behaviour or 28 days in the case of less serious but persistent behaviour."

The Minister said the Residential Tenancies Act also provides that a third party affected by anti-social behaviour may, subject to certain conditions, take a case to the Private Residential Tenancies Board against a landlord who has failed to enforce tenant obligations.

"The effectiveness of these provisions was clearly demonstrated in a recent case taken in Cork against the landlord of two properties, the tenants of which were found to be engaging in anti-social behaviour," she said. "A group of 13 residents took a case to the Private Residential Tenancies Board and was awarded combined damages of almost €30,000 against the landlord for his failure to address the behaviour of his tenants. I commend the residents in Bishopscourt in Cork who took this action."

While keeping in mind that the punishment of anti-social behaviour must be a matter for the courts and Garda Síochána and any comprehensive solution to the problem must apply equally across all types of housing tenure, she said she will examine ways to further strengthen provisions regarding anti-social behaviour prior to Committee Stage.

## Slow and bureaucratic

Speaking during the debate Deputy Tom Hayes (FG, Tipp. South) said third parties can bring complaints to the PRTB but the process of adjudication and appeals is too slow and bureaucratic and the penalties are too weak.

"Generally, the Garda will not act unless a criminal offence has been committed but many offences could be prevented if gardaí had powers to act when complaints are made to them in the



first place," he said. "Many older people cannot sleep at night because of noise and nuisance created by unruly tenants. In this day and age, it is not good enough, particularly for the elderly, who have paid for their houses and worked hard all their lives. In the times we live, people feel vulnerable at night because of the number of incidences of break-ins and robberies throughout the country."

He said the Ministers for Justice and Equality and the Environment, Community and Local Government and the Minister of State with responsibility for Housing needed to tackle this issue.

Deputy Derek Nolan (Lab., Galway West) said the current system does not work because the enforcement of the anti-social behaviour laws in the Residential Tenancies Act is difficult and is being implemented poorly by the PRTB, and the laws are simply not capable of being enforced properly by that kind of body.

## Powerless to help

"With many of the issues I get as a local representative, I feel I can help, do something and advocate, but this the one issue that occurs repeatedly and where I feel utterly powerless to help," he said. "People who have neighbours who cause them misery come in to me. These people are enduring behaviour that is sometimes minor but which accumulates, has a grinding effect on them, affects their mental and physical health, community relations and the vibrancy of the neighbourhood, and that completely undermines the quality of life, not only in that person's home but in the entire neighbourhood, and it can all be because of one tenant or one house in that area."

Deputy Jerry Buttimer (FG, Cork South Central) said he acknowledged the difficulties that the PRTB encounters. He said he had been a party to hearings with the PRTB and had found the work of staff dealing with investigations very comprehensive.

"While waiting times for hearings are lengthy and people do not often get the outcomes they want and are disappointed on other occasions, the PRTB makes decisive judgments," he said. "While I am often critical of the board, it provides a service and is an important part of our housing agencies."

# Northern Ireland tenancy deposit scheme to avoid disputes between tenants and landlords

Northern Ireland is to have its first Tenancy Deposit Scheme in a move to avoid disputes over deposits between tenants and landlords. A similar scheme is planned to be introduced in the Republic by Housing Minister Jan O'Sullivan later this year.

The Northern Ireland scheme will involve a third party holding onto the cash and mediating in disagreements, bringing NI into line with England and Wales. The scheme, for private rentals, has been introduced by Social Development Minister Nelson McCausland. It has been criticised by the Landlords Association as being too bureaucratic. However, it has been welcomed by student leaders as "a victory for students and other tenants". The NI Assembly approved legislation for the independent third party scheme to protect tenant's deposits from 1 April.

## Assurances

Minister McCausland has appointed four administrators to operate the new scheme. He said: "This scheme will provide

assurances for tenants and protection for landlords, helping to minimise long drawn-out legal proceedings and disputes. Tenants across Northern Ireland in the private rental sector can now be afforded the same protection as those in Great Britain. This is a positive development for the private rental sector".

He said schemes such as this had been very successful in the rest of the UK adding that he was keen that the private rental sector was seen as a "good option for tenants".

"Return of tenant deposits is an issue I hear of time and time again and I'm pleased that Northern Ireland citizens can now be reassured their money is safe," he said. "The new scheme will encourage a more professional approach to tenancy deposit practice, minimise disputes and go some way to improving the sector's reputation as a desirable option."

## Very onerous

However, Declan Boyle of the Landlords Association said he was not happy with

the new plan. "It's very onerous and the penalties here are going to be more severe than in the UK, for whatever reason," he said.

As part of the scheme, housing benefits will be paid directly to landlords. Adrienne Peltz, president of the National Union of Students and Union of Students in Ireland (NUS-USI) said her organisation had campaigned for the introduction of the scheme.

"We hear horror stories of students and other people who have rented a house and at the end of the contract have left it in excellent condition but have had their deposit withheld by an unscrupulous landlord. The vast majority of landlords behave in an impeccable manner and care about the welfare of their tenants, so I am sure that they will welcome these developments. This scheme will safeguard their good reputations and help prevent bad landlords from tarnishing the image of their industry," Ms Peltz added.

# Four Landlords receive criminal convictions and fines of €46,000 for not registering with the PRTB

The Private Residential Tenancies Board (PRTB) has recently secured criminal convictions against two further Landlords who failed to register their tenancies, despite a number of Statutory Notices and warning letters instructing them to do so. The two Landlords only registered their tenancies after they were served with court summons. However, the Judge was satisfied that they had been given plenty of opportunities to register before the summons were issued. He, therefore, fined them a total of €22,000 in fines and costs. This follows closely on two further criminal convictions earlier in January where two other Landlords were fined a total of €24,300. The Board has disclosed that it will be bringing 22 other unregistered Landlords to Court in the coming weeks.

The PRTB has begun an intensive campaign of identifying unregistered landlords by close co-operation with other public sector bodies and the use of recently developed software. Landlords who are given every opportunity to comply with their registration obligations face the real prospect of prosecution if they fail to register their tenancies. The landlords prosecuted by the Board in January were identified with the assistance of the Department of Social Protection, as they appeared on the Rent Supplement database. All of the landlords in question had been contacted by the

PRTB in relation to their failure to register and were given an opportunity to comply with the legislation.

The Court also noted that the Defendants in both cases had been given every opportunity to comply with registration requirements, both by the PRTB and by Eversheds, the PRTB's solicitors, prior to the commencement of the prosecutions.

The Board has disclosed that further cases will be brought before the Courts throughout 2013 for failing to register tenancies with them. The Private Residential Tenancies Board (PRTB) confirmed that they issued over 43,000 letters in 2012 notifying Landlords of their registration requirement. In instances where landlords have not acted upon these notifications the PRTB is now moving to prosecute. Landlords are legally obliged to register all tenancies with the Board. The Registration fee is €90 per tenancy and a late fee applies if not registered within one month of tenancy commencing. A landlord, if convicted under the Residential Tenancies Act 2004 for failing to comply with a notice, faces a fine of up to €4,000 and/or six months imprisonment, along with a daily fine of €250 for a continuing offence.

Letters in respect of these cases were issued on foot of referrals received from the Department of Social Protection under data exchange. The referrals

related to information from the Rent Supplement Application Database.

"The Department of Social Protection update the PRTB each quarter with the names of landlords whose tenants are in receipts of Rent Supplement. We upload that information and using software developed for this purpose, run a comparison with the PRTB Register of Tenancies to identify where the Landlord in question is not registered with us" said PRTB Director Anne Marie Caulfield. "The PRTB is also accessing information provided by each of the Local Authorities, the Local Government Management Agency, elected representatives, and members of the public. The PRTB register is available on-line at [www.prtb.ie](http://www.prtb.ie). Anyone can log on and check to see if a rented premises has been registered, as required by law".

Established under the Residential Tenancies Act, 2004, the PRTB is a self financing statutory agency whose functions include maintaining a register of all private rented accommodation and the provision of a dispute resolution service, replacing the Courts for the majority of Landlord and Tenant Disputes. The PRTB registration fees also fund Local Authority inspections of rental accommodation to enforce minimum standards.



# Making the most of the property market in Cork

Well known Cork estate agency and property management company Choices on Cork's Washington Street was set up in 1993 by John Maher-Loughnane and his wife Ann. *Property Professional* editor Tim Ryan spoke to him.



*Tim: Tell me about the firm*

**John:** In 1993 after working in the property market in the UK for 16 years myself, Ann my wife and our three children returned to Ireland. We saw great potential in the letting and management market. In the UK, Ann was in charge of the day-to-day running of an estate agent company and I, as a civil engineer, had experience in block management reporting on building issues, valuations and dilapidations. It was with our combined experience in the property market that we decided to start a company. Choices has four departments: Lettings, Management, Block Management and a Maintenance Division. We have 20 staff in total and we have just promoted a staff member, Cormac Aherne as a Director. As an advertising tool, Choices has a fleet of five cars with decals.

*Tim: Tell me a little about yourself*

**John:** I qualified as a civil engineer in 1971 and later worked for design and build companies in London on various projects from high rise office blocks/apartment blocks to restoration of old buildings, for example, the Victoria and Albert Museum and 10th century churches. I have a love of old buildings and while on holiday will always search out these sites. I have a great interest in sailing - I sailed in the Arc world race in 2005 and sailed dual-handed across the Atlantic. Rugby would be my next passion.

*Tim: Why did you choose Cork City as Location?*

**John:** Cork is our home town and, luckily for us, when we returned home it was having a boom in building and refurbishing apt blocks. There was no other company offering what we wanted to bring to the market.

*Tim: What is the current market like for sales in Cork City?*

**John:** Speaking with my rental and management hat on, my experience from the thousands of tenants and perspective buyers is that they are in no hurry as yet for the reasons that firstly, a large percentage feel they have time as the market at

best has bottomed out and, secondly, the lack of confidence in job security makes them reluctant to make such a serious commitment right now. Thirdly, the younger generation are more transient now than in the past. Having said all that, we had three sales deposits taken in February by mid-month.

*Tim: What is the current rental market like in the city?*

**John:** The market in Cork City is especially strong right now and in the suburbs it is also healthy.

*Tim: What types of property are most in demand?*

**John:** There is always a strong demand for city centre apartments. We have several multi-national, pharmaceutical and IT companies which definitely keep our rentals buoyant and because these companies are spread throughout Cork, it has the positive effect of having demand for all types of property across the board.

*Tim: How big is the rental market and what percentage is for students?*

**John:** The rental market in Cork is growing even all through the recession. Dublin tenants have enjoyed apartment living and have had an abundance of high quality accommodation for several decades. It is only in the past 15 years that Cork has really taken to this idea of city dwelling with the biggest difference being the quality of the new apartments. Up to then, the rental stock would have been of a lesser standard. The student market is quite robust. First year students now tend to rent in college campuses unlike mature students who rent in city centre or quieter areas.

*Tim: Are there a lot of anti-social problems with students?*

**John:** As many students have no previous experience in the rental market it has been our experience that by giving the right information and guidance, a lot of potential problems are averted. Clarity as to what is expected of them is also very important. It is also crucial for the Landlord or Managing agent to monitor the tenancy. Personally, we have found the ratio of problems is no higher with students than with other tenants.

*Tim: Do you find the management side very demanding and time consuming?*

**John:** There is absolutely no question but that the managing side is very demanding. A very clear supportive and proactive approach is needed. Without the right team it would be extremely difficult. We have a 24/7 emergency call out service and because we have our own maintenance team, our panel of excellent contractors with whom we have had a solid relationship for several years, it makes this viable.

*Tim: What is your view of the advent of the Property Services Regulatory Authority?*



**John:** In the long run the Property Services Regulatory Authority will be a good step forward. Ultimately, it will be of great benefit to professional companies as it will wipe out rogue companies .

**Tim:** *Do you think regulating property managers as well as sales and letting agents is good for the industry.*

**John:** Without a doubt our industry has been dogged for years by rogue traders and still is. Regulation can only have a positive result and give confidence to all our potential clients.

**Tim:** *How have you found the PRTB? Is it better or worse than the courts system for solving disputes?*

We have found it difficult to work with and do not feel it actually has found its feet yet. We in Choices feel it has not worked as everyone hoped. There is a lack of clarity and guidance (feedback from both tenants and landlords). Also, if tenants fail to give a forwarding address the system grinds to a halt.

**Tim:** *Are Landlords tending to exit property if they can in the downturn?*

**John:** From our portfolio, no. Of course some are but we expected the number to be higher. Many of our landlords bought their properties fifteen to twenty years ago. The average price then was £40,000 to £60,000. Even with a maximum drop of 60% in value, they are still in quite a solid position. For landlords who bought in 2007 or 2008, the market is a much tougher place. As landlords become more experienced they will take the longer view on investment as they do in the UK and Europe.

**Tim:** *Is there good value in the buy-to-let sector now?*

For cash buyers and those investors with a high deposit, the buy-to-rent market could see a decent return on their investment. Obviously, the old adage of "location, location, location" applies. With the lack of substantial building in recent years and the continued population growth family houses are a good choice. With interest rates so low currently, a landlord in the buy-to-let

sector could double the return he would get from the banks.

**Tim:** *What are the benefits of being a member of IPAV?*

**John:** Being a member of IPAV gives a company status and gives clients a sense of security. Recently the assistance we got from the Institute when applying for our new licence with the Regulatory Authority was substantial. The IPAV in house magazine, The Property Professional we also find very informative. Our fleet of cars also carry the IPAV logo. We do this because we feel it confers strength and professionalism on the firm.

**Tim:** *Are there areas where you would like to see IPAV expand its services to members?*

**John:** I would like to see, where possible, IPAV courses and lectures run outside Dublin.

**Tim:** *What is your view of markets for 2013?*

**John:** I feel in Cork there is an air of quiet optimism and determination to move forward which I believe is of huge importance in moving us all out of this recession. House prices I believe are close to the bottom of this current cycle. I do not see how any strong growth can be achieved until the financial institutions start releasing funds for strategic development on infrastructure and housing in a more structured way. Buyers are still waiting for a clear directive from the Government.

**Tim:** *What advice would you give the Government in relation to the property industry?*

**John:** If the property industry is to start moving again the Government is going to have to stop knee-jerk policies and laws and follow through with structural policy as they do in all our European neighbouring countries. I could go in with a long list but here are a few examples:

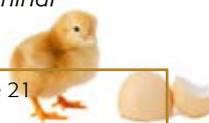
- A. We need proper planning and by-laws.
- B. We need Local Authority Building Inspectors for ALL construction projects.
- C. We need Property Taxes like Rates to be applied to the end-user of property i.e. owner occupier, tenants etc. who use the services.
- D. We need to build more high rise properties where there is already a good infrastructure.



*Michael A. O'Leary and Sinéad O'Leary, Property Team O'Leary, South Main St., Wexford at the IPAV Portlaoise Seminar on March 6th*



*IPAV Senior Vice-President Ronald Duff at the Seminar*



# Croatia – the EU's new Member State

Croatia joins the EU in July and, despite a faltering economy, is expecting a strong renewal of interest in investment property along its Adriatic coastline, and especially in hugely popular Dubrovnik, writes Peter Cluskey.



It sounds almost like the old days before the West's financial markets, Ireland's banks and property market and then the entire Eurozone, went to rack and ruin. A new country in Central Europe is about to join the EU, it has a magnificent coastline that's well on its way to becoming an international tourism hotspot – and property prices are already on the up.

If the words you've just read seem more than a tad unlikely, it may be that you're still suffering from financial post-traumatic stress syndrome. Or it could be that you're now a whole lot wiser and more sceptical than you were before the Lehman Brothers collapse in 2008. One way or another, on July 1 next, Croatia will become the 28th member state of the European Union.

Accession has not been without its critics or its difficulties. Some believe even the inclusion in the Union of Romania and Bulgaria in 2007 was a step too far in terms of size. Some say Turkey should have been embraced by now, while others maintain its cultural differences with the West will always run too deep. As to Croatia, its particular ghosts relate to the break-up of the former Yugoslavia.

## Ante Gotovina

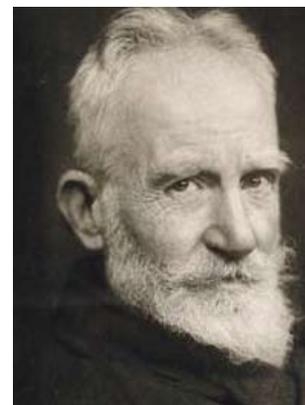
The main stumbling block was Croatia's mysterious failure for several years to arrest fugitive general, Ante Gotovina, who was wanted by the International Criminal Tribunal for the Former Yugoslavia in The Hague for war crimes and crimes against humanity during the country's war of independence in the mid-Nineties. Eventually its political leaders were told: no general, no EU.

Then remarkably, after years in hiding, Gotovina was arrested in a dramatic swoop by special forces on the island of Tenerife in December 2005, and extradited to The Hague – only to be cleared of all charges and released by the UN court just a few



*The yachting Marina in Dubrovnik*

*George Bernard Shaw*



months ago, on November 16. His triumphant return improved the national mood in Croatia no end.

On July 1 the mood will improve again. The economy has been in the doldrums, but business organizations in the capital, Zagreb, are confidently expecting the fillip that comes with fledgling EU membership, when countries previously on the outside are suddenly free to trade on equal terms with the stronger economies of Western Europe.

In common with the rest of Europe and the west, Croatia's economic performance in recent years has been pretty dismal. In 2012 the European Commission initially forecast a decline in the economy of 1.2 percent, which was worsened just a few months later to 1.9 percent.

Similarly, there were hopes that this year might see a return to growth of around 0.8 percent - but that's been replaced in the past few days with a prediction of another lost year.

There is though light at the end of the tunnel. Given the benefits of accession, Brussels expects an element of optimism and stability to lead to growth of 1.4 percent in 2014 – to be fuelled from then on by growing exports and an attractive Adriatic coast property market which will be far easier to access for foreign buyers.

We've been here before. In 2006, just before the global economic collapse, Croatia and neighbouring Montenegro were on the verge of a property boom. The beautiful Croatian resort of Dubrovnik and the Bay of Kotor in Montenegro had become magnets for European investors who were being priced out of more mainstream locations. Once the crash came though, they were left in the property equivalent of suspended animation.

## World Heritage site

Luckily for the Croatians, however, Dubrovnik, a UNESCO World Heritage site with a dramatic fortified Old Town, has continued to grow in popularity as an atmospheric, friendly, value-for-money holiday resort. German holiday giant, TUI, says it will be one of its most popular destinations on the Mediterranean this year.

Believe it or not, as far back as 1929 George Bernard Shaw raved about Dubrovnik, describing it as "the pearl of the Adriatic" and "paradise on earth".

In terms of investment, there are several big pluses for Dubrovnik:

- The temperatures are perfect. In Winter, they rarely drop below 10 Celsius and most days are sunny. In Summer the high 20s Celsius are the norm, sometimes higher.
- The busiest time of year is during the marathon Summer festival from July 10 to August 25 which packs the streets and ensures every rentable corner for miles around is fully booked. More than 10,000 people attended the festival's opening last year.
- It's a popular year-round destination for cruise ships which means it's no longer one of those destinations that closes down for half the year.
- An elaborate new golf course is currently being developed on Mount Srd, which is 412 metres above Dubrovnik and is famously served by a cable car which was bombed during the war in 1991 and only replaced in 2010.

Given that tourism interest, Croatia and Dubrovnik were good investments in principle in 2006 and will be good investments again after July 1, or preferably – for those who like to be ahead of the buying curve - even now.

One buyer who's already taken the plunge is Ajdin Kolonic, a risk assessment manager with ABN-ANRO in Amsterdam, who was the first investor to buy at Dubrovnik Sun Gardens, developed around the exclusive Radisson Blu Resort and Spa Hotel which opened in July 2009, 12 kilometres north of Dubrovnik itself.

"I had some money that I wanted to invest and I saw this as a good opportunity", says Kolonic, who bought a one-bedroom apartment with views onto the gardens and over the Adriatic.

So far it's been as successful as he expected. "The rental returns have easily covered my annual outgoings. I've also stayed there more than I thought I would because I really like the get-away-from-it-all location and the facilities."

The development is quite large with 207 one- and two-bedroom apartments ranging in size from a modest 44 square metres to a more roomy 111 square metres. Prices range from €170,000 to €608,000, with management fees at €103 per square metre per year.

"The majority of our buyers have been cash-rich and time-poor and have had some sort of affinity with Croatia or with the Adriatic", says Julian Houchin, Commercial Director of the developers, iO Adria, based in London, which has been building up a portfolio of properties in the region since 2006.

"Owners are encouraged not to use their properties for more than 35 days in the peak season from June to September. But, in fact, clever owners don't use their properties in the peak season at all because it significantly improves their rental return."

Dubrovnik Sun Gardens is currently the flagship development on the Dubrovnik coast, but there's plenty of great value right along the water, in the Old Town, and in smaller villages such as Orasac, Cavtat and Zaton. Maybe it's time to get curious again.



## A wide choice of properties

Even four or five years ago, Croatia had a reputation as a difficult place for foreigners to buy property. It was bureaucratic, tangled up in red tape and far from transparent. All that changed for the better though in February 2009 when EU nationals were allowed to buy on the same terms as local people.

In theory it's reasonably simple. You sign a pre-sale contract which has the full details of both buyer and seller, as well as an agreed completion date for the purchase. At the same time you pay a 10 percent deposit to secure the property.

Completion usually takes place three to six weeks later when both sides sign in a Croatian notary's office. You can expect to pay notary and lawyer's fees amounting to around 1.5 percent of the purchase price, in total. And, for obvious reasons, it's advisable to use an English-speaking lawyer.

Dubrovnik is a good bet but there are plenty of other coastal locations.

For instance, in Petrcane, north along the coast from Dubrovnik, €195,000 will buy you a 75-square-metre two-bedroom apartment, with a sea view, two parking spaces and access to the garden or a terrace. The development has its own access to the beach, just a stone's throw away.

In the chic resort of Orasac, 15 km from Dubrovnik, a 140-square-metre two-bed duplex apartment just 200 metres from the beach is on the market for €260,000. It was built in 2008, has oak floors in the living room, and great views over the impeccably clean sea and the Elaphite Islands.

There's plenty on offer at the lower to medium ends of the market, but in case you missed the economic downturn altogether and still have substantial wads of cash burning a hole in your pocket, you can buy a property comprising two luxury houses in Ploce for €4.25 million. Between them they have seven bedrooms, and share a swimming pool, a gym and a terraced garden.

In Dubrovnik's old town itself, properties are hard to come by. As a result, prospective buyers are usually waiting to pounce and prices can be high. However, a two-bed apartment where you can install the frills yourself can typically be picked up for between €170,000 and €200,000.

Prices hereabouts are still usually negotiable given the destructive impact of the economic crisis. However, that may not last much longer.

"Most vendors will consider dropping their prices, maybe by five or 10 percent, but that won't last forever", says estate agent, Michael Grimm of international realtors, Engel & Völkers.

"In a year or two's time, prices will begin to rise again as the economy improves and purchasers develop confidence in Croatia as a fully paid-up member of the EU. In terms of demand, I'm seeing the start of that already."

# Greater harmonisation of European estate agency practices on the way

By Fintan McNamara, CEO, IPAV



**ipav** | Institute of Professional Auctioneers & Valuers

Greater harmonisation in the practices of auctioneers and estate agents across Europe is on the cards following the imminent merger of two European-wide representative bodies. CEPI (Conseil Européen des Professions Immobilières) and CEI (Confédération Européenne de L'Immobilier) are to merge shortly following agreement after three years of talks.

Ireland has three professional bodies which will form part of the new structure. These are the IPAV, the Society of Chartered Surveyors Ireland (SCSI) and the Irish Property Facility Managers Association (IPFMA).

The new single body will form a powerful lobby group in Brussels to promote the interest of both estate agents and property managers. It will have an annual budget of close to half a million euro and will have a secretariat and a CEO based in Brussels. Currently some of the larger countries such as Germany, Italy and France have representation in both bodies and pay substantial fees but with the advent of the new merged body, those fees will drop considerably. However, some of the smaller bodies in the East European countries will be faced with significant fee increases but these will be phased in over three years to encourage all associations to remain part of the new body. Overall, the new arrangements will impact on 39 organisations in 23 countries. It is expected that negotiations will be finalised by the summer.

Over the last three years there has been a great deal of contact cooperation between the pan-European bodies in the areas of education and in developing a common platform to set standards to be adopted by estate agents across Europe. The changes will bring considerable benefits to both property managers and estate agents - and ultimately the consumers - as well as ensuring the industry has a strong voice in Brussels.

Currently the requirements to practise as an estate agent vary greatly throughout Europe. In several countries, particularly in Eastern Europe where the property market flourished during the

boom, there are no formal educational requirements to practise as an estate agent or property manager. Organisations which have been set up in countries such as Slovakia, Bulgaria and Romania to promote standards in the industry are clamouring for state regulation. Industry practices in these countries which shed the communist yoke some 20 odd years ago are not unlike the way the industry operated in Ireland 40 years ago.

The opposite is the case in the Scandinavian countries where a University degree or equivalent is a prerequisite to practising as an estate agent. In some Nordic countries agents not only undertake sales but also carry out conveyancing work. Agents in the UK do not require a licence to practise but instead they are obliged to register with the Board of Fair Trade. They also have an Ombudsman system to investigate complaints against property professionals.

In Portugal a licence application costs approximately €1,000 but once obtained, is valid for three years. In other countries such as France once a licence is obtained, it is valid for 10 years. Ireland saw the coming into effect of the Property Services Regulatory Authority (PSRA) in Summer of last year. It is now responsible for the issuing of all licences to property professionals which must be renewed on an annual basis.

Commission rates vary greatly from country to country across Europe. For example, in the Scandinavian countries, the UK and the Netherlands commission rates are close to 2 %. However, in countries such as Germany, France and Austria the rates can be as high as 6 % with both the purchaser and the seller obliged to contribute to the commission fee. This practice once operated in Ireland but was outlawed by the Auctioneers and House Agents Act, 1973.

The new pan European association will attempt to harmonize practices in the industry throughout Europe and this should be to the benefit of all in the years to come.

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# Property Transactions in other Member States of the EU

Continuing our EU-related series to mark Ireland's Presidency of the EU, lawyer Siobhan Duffy of Your Europe Advice considers the rules where a property has been bought or leased in another country in the European Union.

Purchasing or Leasing a Property in another Member State of the European Union

Have you ever been approached by a client for advice on purchasing a property in France or Spain or Greece or any other country in the European Union?

Transfers of real property are not regulated under EU law. Such transfers, whether of freeholds or leaseholds remain subject to the domestic laws of the country where the property is situated. If a person decides to purchase, lease or sell real property, for example, a house or apartment or land in another country in the EU, the transaction is regulated by the laws of the country where the property is situated. Independent professional advice should always be obtained relating to the legal, financial and taxation aspects of the purchase, lease or sale in the country where the property is situated.

Have you recently received enquiries about how to deal with a property transaction in another EU country which has gone horribly wrong?

Such enquiries are made with depressing frequency. If a problem arises in relation to the property, for example, the apartment is unfinished or does not exist or the land does not have planning permission when the purchaser understood that it would, such matters can only be resolved by reliance on the legal system in the country where the property is situated.

James purchased an investment property in a development in the south of Portugal. The property has never been completed. The development is unfinished. Services have not been installed. James seeks your advice as to how he can obtain redress.

In such a situation, James should be advised to contact a lawyer in Portugal with competence in property law. If James is uncomfortable with this prospect as he does not speak Portuguese, he should be advised that there are a few lawyers in Ireland who are either competent in Portuguese law or have contacts with Portuguese offices who may be able to assist. However, it is critical that James is aware that if there is to be any resolution in his case, it can only be obtained under Portuguese law.

## Discriminatory Taxation

While EU law does not regulate the lease or purchase of property in any Member State, if there is an issue where the Irish owner of a property is subject to a higher tax burden simply because he is non-resident, then this is a matter which is regulated by EU law. In a case decided by the Court of Justice of the EU in 2011, in which the Commission brought Greece before the Court, the Court found that Greek tax legislation which granted an exemption from the tax payable on the purchase of a first



residential property only to persons residing in Greece was contrary to EU law.

The Court found that although the tax exemption applied irrespective of the nationality of the purchaser of property, the requirement that a person be resident in Greece in order to be eligible for the tax exemption was likely to operate particularly to the detriment of persons who were not Greek nationals – the reason being that, in most cases, those were the persons whose residence was outside Greece.

In a similar vein, under Spanish law, capital gains from the sale of a permanent residence are exempt from tax if the proceeds are used to acquire another permanent residence. However, this provision only applies to Spanish residents, thereby discriminating against non-residents. The Commission believes that the provision is contrary to EU law. Accordingly, in September 2012, the Commission formally requested Spain to amend its tax provisions to end the discrimination against non-Spanish nationals who will be more widely affected by the provision. If Spain has not complied with the request, the Commission may decide to refer the case to the Court of Justice of the EU.

Jane is an Irish citizen who sold her home in Ireland and moved to Spain on her retirement. After a period of eight years in Spain, Jane has decided to return to Ireland and has sold her Spanish property. Jane is aware that if she was a Spanish citizen, she would be entitled to a tax exemption on the proceeds of the sale but as an Irish citizen, she has been refused and has been advised that she is liable for the tax.

In this case Jane could be advised to refer the matter to SOLVIT. SOLVIT is an on-line problem solving network in which EU Member States work together to solve without legal proceedings problems caused by the misapplication of Internal Market law by public authorities. There is a SOLVIT centre in every



European Union Member State (as well as in Norway, Iceland and Liechtenstein). SOLVIT Centres can help with handling complaints from both citizens and businesses. They are part of the national administration and are committed to providing real solutions to problems within ten weeks. Using SOLVIT is free of charge. In this case, Jane should contact the Irish SOLVIT centre which will accept her complaint and then will refer it to the Spanish SOLVIT centre to try to resolve the matter successfully. It may be that Jane will have to await the outcome of the proceedings by the European Commission against Spain on the issue of exemption of tax for Spanish residents before her case can be satisfactorily dealt with.

## Succession

One aspect of purchasing a property in another country which many people do not consider seriously until it is often too late, is that of succession. What happens to the property when the owner dies? Can the foreign property be included with the Irish holdings for the purpose of administration? Can the entire estate be administered under Irish law without having to engage in separate proceedings in the country where the foreign property is situated? Who is to inherit? What share of assets must go to children or spouses? What are the tax arrangements?

Succession law varies considerably from one EU country to another. The rules of succession in France or Spain or Bulgaria do not mirror those in Ireland. The administration of foreign real property on the death of the owner has proven to be a nightmare for many. A major step to facilitate cross border successions was the adoption on 4 July 2012 of a new European Union Regulation (EU) No 650/2012, which will make it easier for European citizens to manage the legal aspects of an international will or

succession. Following a transition period, most of these new rules will apply to successions from 17 August 2015. Unfortunately, neither Ireland, the UK nor Denmark have signed up to this Regulation. However, Irish citizens who hold property in Member States other than the UK or Denmark should be able to benefit from the Regulation when it comes into force. The new rules should represent a considerable improvement compared to the current situation. The succession process should become faster, easier and cheaper.

The new rules will make life easier for heirs, legatees and other interested parties. They will speed up succession procedures in cross-border situations and will make it easier and less costly for heirs and legatees as well as for persons entitled to reserved shares to take possession of their respective parts of the estate. Once they start applying the rules will ensure that:

- the succession to the estate of a deceased person will be dealt with as a whole irrespective of the nature or the location of the assets,
- one single authority will be in charge of the succession, and
- one single law will apply to the succession.

The basic rule will be that the law applicable to the succession will be the law of the State of the deceased's habitual residence at the time of death. If a person wants to plan his succession otherwise, he can choose the law of a State of which he is a national.

Should you or a client have any questions on your rights in transactions involving property in the EU, you can post your question to Your Europe Advice on the following website: [http://europa.eu/youreurope/advice/enquiry\\_en.htm](http://europa.eu/youreurope/advice/enquiry_en.htm).

# Councils may pursue householders for levies unpaid by developers

Local authorities are examining development schemes to see if almost €300 million in unpaid levies can be passed on to householders. The move follows recent newspaper reports that Wicklow County Council is pursuing homeowners near Avoca for sums of up to €4,800 after the developer failed to pay.

While the move has caused distress to householders, many of whom question the validity of the move, Wicklow County Council has proven successful at recouping outstanding levies.

A recent audit by chief planner Des O'Brien revealed 98 per cent of all levies due in the last 10 years had been paid, leaving an outstanding amount of €2.5million. Mr O'Brien said the council was pursuing householders and developers for the outstanding contributions.

Levies imposed as a condition of planning permission are generally required to be

paid before construction work begins, or at least on a phased basis, with a significant up-front payment. Wicklow council used to inspect each site to ascertain if construction had begun but in recent times had adopted a more cost-effective approach using Google Earth and other searches.

The Council's press agent issued a statement to *The Irish Times* saying development levies were "a charge on the property itself, not on an individual or a developer", and there was "an obligation to pay these contributions". The Department of Environment said the question of levies was a matter for the planning authority itself.

But a spokesman noted that it did not believe Wicklow was "first off the block in this regard". Dublin City Council said its policy was not to pursue householders but it was pursuing developers for outstanding

levies. Other councils including Fingal and Dún Laoghaire-Rathdown said they were unable to be definitive about their approaches to the issue but they were doubtful if the charges were passed on to householders in the event of default by developers.

Cork City Council was owed €9.2 million in development levies as of January 1st, 2012. Fine Gael councillor Jim Corr said the City Council, like many others, was watching what was happening in Wicklow "with interest".

Since the Planning and Development Act 2000, which overhauled development contributions, such funding has become increasingly important to local authorities. Contributions are mostly levied for use of roads, water and waste services, among others.

# In the Dáil.....

The following is a selection of written Dáil replies to TDs in the new Dáil on topics of interest to auctioneers and estate agents:

## Local Property Tax

**Deputy Michael McGrath** (*FF, Cork South Central*) asked the Minister for Finance if he will review the plans for the implementation of the local property tax to take ability to pay into account in view of the problems in the economy including mortgage arrears, unemployment and weak disposable income.

**Minister Michael Noonan:** In designing the local property tax, the interdepartmental expert group chaired by Dr. Don Thornhill, the Thornhill group, had due regard to issues such as ability to pay and considered the provision of waivers or deferrals for households unable to pay the tax or where a payment requirement would cause hardship. For individuals on low incomes or those whose only income source is from the Department of Social Protection, the Finance (Local Property Tax) Act 2012 provides for the possibility of deferring the local property tax, LPT, charge in certain cases.

To qualify for a deferral, the residential property must be occupied as a sole or main residence. The income thresholds for a full deferral will be €15,000 for a single person and €25,000 for a couple, whether married persons, civil partners or cohabitants. A person may claim a deferral if their income will not "as can reasonably be foreseen at the liability date" exceed these thresholds in that year.

An increased income threshold applies in the case of properties occupied as a sole or main residence and subject to a mortgage. In such cases, the gross income thresholds may be increased by 80% of the mortgage interest payments. A deferral option in qualifying cases in this regard will apply until the end of 2017 and will assist individuals currently in mortgage distress. A deferral of up to 50% of the LPT liability will be possible where the gross income of the liable person does not exceed €25,000 for a single person or €35,000 for married persons, civil partners or cohabitants. A deferral of 50% of the LPT will also be available where gross income does not exceed the above thresholds, that is €25,000 single, €35,000 couple, as

increased by 80% of the gross mortgage interest payments that a liable person expects to make by the end of the year for which the gross income is being estimated. This type of deferral will also be available until 31 December 2017.

Where a liable person no longer satisfies the necessary conditions, amounts deferred prior to the date on which eligibility ceased may continue to be deferred. Interest of circa 4% per annum will apply to any amounts deferred. The deferred amount, including interest, will attach to the property and will have to be paid before the property is sold or transferred.

The thresholds were based on the recommendations of the Thornhill group. The Government accepted the income thresholds for a full deferral and adapted the income thresholds for a partial deferral so that they are €10,000 rather than €5,000 above the thresholds for a full deferral.

To determine whether deferral applies for 2013, a person is required to estimate on 1 May 2013 what his or her total gross income for 2013 will be. Gross income from all sources consists of total income before any deductions, allowances or reliefs that may be taken off for income tax purposes and includes income that is exempt from income tax and income from the Department of Social Protection but excludes child benefit.

I appreciate that some property owners may find themselves unable to pay local property tax but do not qualify for a deferral under the existing legislation. For this reason, the Finance (Local Property Tax) (Amendment) Bill 2013 provides that a person who has entered into an insolvency arrangement under the Personal Insolvency Act 2012 may apply for deferral of the LPT that is due during the period for which the insolvency arrangement is in effect. The 2013 Bill also provides that a person who suffers both an unexpected and unavoidable significant financial loss or expense, as a result of which he or she is unable to pay their LPT without causing financial hardship,

may apply for full or partial deferral. Claims for this type of deferral will require full disclosure of the person's financial circumstances, supporting documentation and any other information required by Revenue. Following an examination of the information provided, Revenue will determine whether deferral should be granted. The detail of how this type of deferral will operate and the criteria that will be used to determine eligibility will be set out in guidelines due to be published by the Revenue Commissioners shortly.

Details of the deferral arrangements are available on Revenue's website [www.revenue.ie](http://www.revenue.ie), where the commissioners have recently published a useful guide to local property tax. This will be revised to take account of the provisions in the Finance (Local Property Tax) (Amendment) Bill 2013. It should be noted, however, that the provisions contained in the 2013 Bill are subject to its enactment

## Pyrite Issues

**Deputy Dessie Ellis** (*SF, Dublin North-West*) asked the Minister for the Environment, Community and Local Government the current position regarding the development of primary legislation for dealing with the levies required to resolve the problems being experienced by families in pyrite contaminated homes; when a fully appointed resolution board will be in place; and if it will include a representative of the Pyrite Action Group in order to best address these continuing problems causing much hardship and concerns to the persons affected.

**Minister Phil Hogan:** I recently received Government approval for the imposition of a levy on both the quarrying and insurance sectors, as recommended by the independent pyrite panel. Preparing the necessary primary legislation, in conjunction with the Office of the Attorney General, is now under way and a priority for the Department. I intend to bring proposals to Government in this regard in the coming weeks. It is my intention that the Bill will be published and enacted in the shortest possible timeframe.



I previously announced the appointment of Mr. John O'Connor, formerly chairman of An Bord Pleanála, as chairman of the Pyrite Resolution Board, the establishment of which was also a recommendation of the pyrite panel. I am also appointing to the board Paul Forde, joint managing director of DBFL Consulting Engineers; Sean Balfe, a structural engineer with the National Standards Authority of Ireland; and Caroline Gill, a former Insurance Ombudsman of Ireland and deputy Financial Services Ombudsman. I will also appoint a representative of the entity being established by the construction sector to undertake a remediation programme as the final member of the board. The board will thus have membership with the particular range of skills and experience necessary to oversee the successful operation of the remediation scheme and to ensure the public interest, and the interest of the affected homeowners, is well served. Given the focussed nature of its particular role, I do not propose to include a representative from the Pyrite Action Group on the board. I am, however, confident the board will have the requisite mix of skills and experience, including in regard to consumer protection, to ensure an efficient and effective remediation process is delivered to all affected homeowners.

## Septic Tank Registration Scheme

**Deputy Barry Cowen** (*FF, Laois/Offaly*) asked the Minister for the Environment, Community and Local Government the total registration figures for waste water treatment systems to date broken down by county; his plans for those homes that have not registered and the expected date of the Environmental Protection Agency National Inspection Plan publication.

**Minister Phil Hogan:** The Water Services (Amendment) Act 2012 requires householders whose properties are

served by on-site wastewater treatment systems to register their system with their local authority. The deadline for householders to register was 1 February. At the passing of that deadline, 373,954 applications in respect of the on-site wastewater treatment systems by owners who registered online, by post or in person at their local authority offices had been processed and approximately 25,000 additional registration applications were awaiting processing by the bureau operated by the Local Government Management Agency. The table below sets out details of the number of processed registrations for each county and city council by 1 February 2013.

My Department will in the coming weeks discuss with the local authorities the approach to be taken in respect of unregistered systems. The Water Services (Amendment) Act 2012 provides that the Environmental Protection Agency, EPA, will make a national inspection plan for domestic wastewater treatment systems. I expect that the plan will be published shortly and that inspections will commence in the middle of this year.

## Commercial Rates Calculations

**Deputy Thomas Pringle** (*Ind., Donegal South-West*) asked the Minister for the Environment, Community and Local Government if, in the interests of the economic difficulties that small retail businesses in town centres are experiencing if he will consider bringing forward legislation that will allow for local authorities to implement a differential rates system that would see retailers being billed according to their turnover and their ability to pay.

**Minister Phil Hogan:** Local authorities are under a statutory obligation to levy rates on any property used for commercial purposes in accordance with the details entered in the valuation lists prepared

by the independent commissioner of valuation under the Valuation Act 2001.

The Commissioner for Valuation has sole responsibility for all valuation matters, including the most appropriate method of valuation. The levying and collection of rates are matters for each individual local authority.

It is important to acknowledge that commercial rates, as a local tax, and the rating system generally are deeply embedded in the local government system. A large body of case law is well established and local authorities and rate payers are, in the main, very familiar with and generally accepting of the operation and practice of the rating system. Rates are also a stable source of financing for local government which is not affected unduly by short-term changes in economic circumstances.

A property-based tax such as rates has a distinct advantage over any tax based on profits or incomes as it is generally found to be easy to collect and difficult to evade. A system having regard to economic factors on an ongoing basis would create uncertainty by providing for continuous change to the valuation base. Such a system would not provide a stable basis for funding local government and would require significant additional resources to operate.

I am conscious that local authorities have exercised restraint in setting their annual rates on valuation, ARV, in recent years and the average change of ARV across the 88 local authorities has shown a decrease - admittedly small - in each of the last three years. I have asked local authorities to continue to exercise restraint or, where possible, to reduce commercial rates and local charges for 2013.



*IPAV Junior Vice-President Keith Anderson listens while Property Regulator Tom Lynch answers a question at the IPAV Seminar*



*Martin and Jennifer O'Mahony, Property Team O'Mahony Auctioneers, Goatstown, Dublin at the IPAV Seminar on March 6th*



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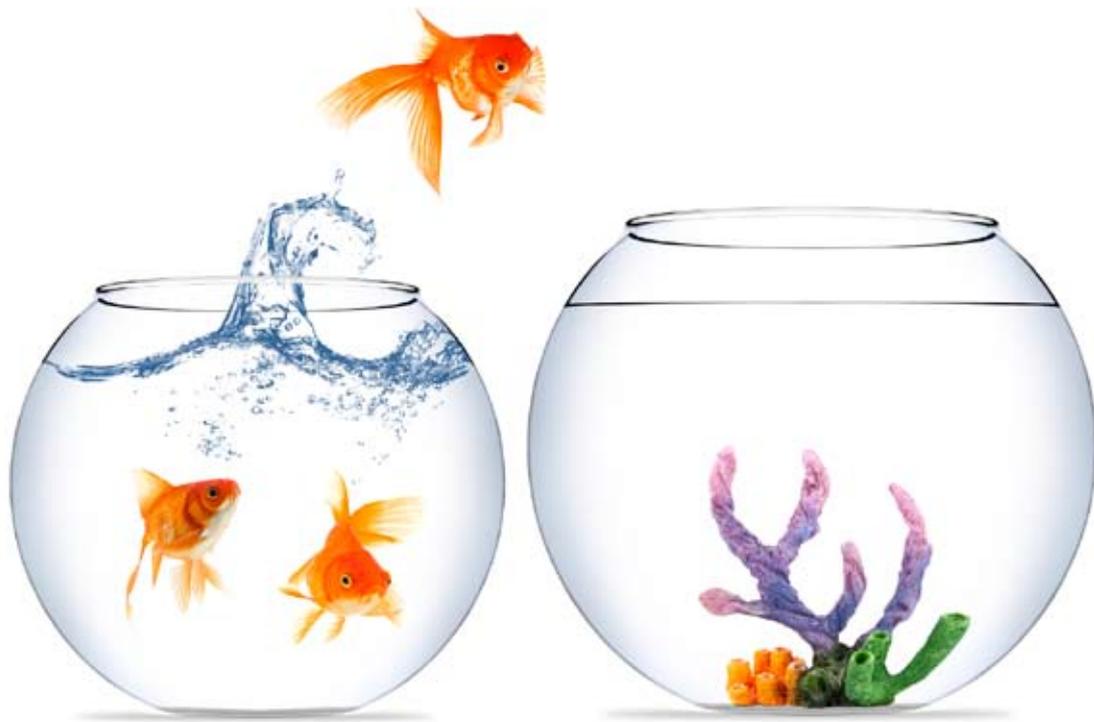
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