



MUD 2015 IS IT WORKING?

APARTMENT OWNERS NETWORK

FEB 2015

Introduction

- Where are we now 4 years on?
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- Is MUD an effective road-map
- General Provisions
- Developers/NAMA/Receivers
- Section 3, does anyone care?



Section 3

Transfers at the outset of development

- What happens in practice?
- New Era of development, might Section 3 apply
- Costs associated with complying
- Any incentives to comply?

Sections 6,7,8

- ▶ Section 6:–OMC must join in transfer
- ▶ Section 7:– Developer must complete in accordance with Planning and Building Regs but no time limit!
- ▶ Section 8:– Ownership=Membership of OMC
- ▶ Some useful aspects for OMC's in debt recovery and general admin.

Section 12,13,14 & 15

- 12:- if 60% vote to transfer common areas then it must happen.
- 13:-Read with section 8, allows emergency entry
- 14&15:- One unit = one vote. Weighted voting can only remain with Circuit Court Approval. Different for “Mixed Use”. It must be fair and equitable. Hard to define and would require work.

Section 16



- No more Directors for Life
- Directorships/Officers can only be for max 3 years at one time.
- They can retire/resign on 3 years and be re-appointed/re-elected.

Section 17 AGM

- ▶ MUD requires that ten days prior to the AGM a report must be sent to the members which will include
 - ▶ Income and expenditure
 - ▶ Assets and liabilities
 - ▶ The sinking fund
 - ▶ Service charge amount for the year end i.e. the year that has passed.
 - ▶ The projected service charge amount for the forthcoming year.
 - ▶ Planned expenditure. This really means planned capital expenditure i.e. that expenditure above and beyond normal expenditure.
 - ▶ A fire safety statement
 - ▶ A statement of the director's interests i.e. connected interests, whether the OMC had any financial dealings with any of the directors and/or their related interests i.e. if they had a gardening company that provided gardening services to the OMC.

Section 18 Service Charge

- 60% v 75%
- The stalemate!
- The service charge has to be approved at the meeting however if there is any amendments to be made to how the service charge is to be set 60% of those present and voting at the meeting.
- Clearly proxies could arise in relation to that however in order to not allow the service charge as proposed by the directors more than 75% of those present and voting would have to vote against it.

Section 19–21 & 22 Sinking Fund

- Everyone must have one.
- Developer must contribute
- The contribution can be part of service charge – does not have to be charged separately.
- Service Charge is now just a simple “contract debt”.
- Need only prove ownership.
- Change in Jurisdiction – less than €15,000

Section 23 House Rules

- Must be consistent with the lease e.g. wooden floors
- Must be approved at General Meeting by simple majority
- Everyone on site should have a copy, tenants too and deemed bound by same
- OMC can recover costs (repairs etc.) by simple “contract debt” for breach of the house rules

Section 24 The Catch All Fixer

- Basic connection to development, owner/occupier, adjoining land owner, tenant Commercial or otherwise.
- **Condition precedent is that you must try mediation.**
- The section is intended to Hoover up anything that was not anticipated, very broadly drafted. Allows for Judicial Interpretation.
- Could be Roulette like in application

Section 25–27

- Section 25:– if you have no connection or OMC. If the OMC is struck off or dissolved
- Section 26:– Always the Circuit Court
- Section 27:– appointment of mediators and Court Directed Mediation
- Mediation Report

Section 30 & 31

- 30:– Application to restore in the Circuit Court with 6 years conditional on the common areas having already been transferred
- 31:–Warranties and Benefits of developer insure to the benefit of OMC
- Importance of Schedule 3
- Survey

What could be done now?



- Access: MUD needs to be more accessible to the stakeholders
- Apartments account for 10.9% of all housing stock in Ireland
- Urban phenomenon 50% built since 2001
- 32.4% of Dublin housing is apartment
- Circa 177,587 apartments 2011
- Ministerial Regulations, the next step

The LRC and Workplace conflict a model?

- Panel of State Appointed mediators
- Simple Online form, small staff
- Move toward mediation quickly
- Cost effective
- Reduce legal input
- Technical Expertise



CONCLUSION

- MUD has not worked as intended
- It is better than it was, a bad map is better than no map
- Opportunities now in new economic cycle
- Reasons to be optimistic???

