

## Crisis looms for under-funded owners' management companies

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About 11% of people in Ireland live in apartments, duplexes or houses in so-called multi-unit developments. This figure is set to increase as cities' populations grow and become more dense and land becomes more expensive.

Homes in these developments are bought on long leaseholds — up to 999 years — and require an owners' management company to run the scheme. The company comprises the owners of the development's properties. It has two functions: to be the legal owner of the unit and common area leaseholds. It is also responsible for managing and maintaining the common areas.

As part of this maintenance, owners pay an annual service charge to the management company. Using the money collected, it usually employs a professional property management firm to maintain the common areas and facilities, such as parking and lifts.

There are several problems with this system that should be addressed. First, there is no accurate count of the number of owners' management companies in Ireland. All are listed with the Companies Registration Office, but their specific function as owners' management companies has been recorded only since 2014, so it is difficult to identify all of them.

Second, whereas all owners are members of the management company, it also needs a board of directors. This is a voluntary position and, depending on the issues within the development, it can be time-consuming and occasionally mean dealing with contentious issues. Getting owners to act as directors is therefore often a problem. When management companies can get directors, it is vital to have informed ones who will act in the best interests of the scheme as a whole and not just themselves.

Third, the biggest challenge many management companies face is getting owners to pay the annual service charge. Owner-occupiers are more likely to pay than investors. When owners do not pay, a vicious circle begins in which there is less money to spend maintaining the development, which leads to a decline in standards, which in turn means owners refuse to pay as they see the development's deterioration.

The longer this goes on, the less maintenance takes place and the more work is required, so the higher the annual service charge becomes. This leads to even more defaulting on payment.

Owners of stand-alone houses in developments can be reluctant to pay service charges when they perceive the bulk of expenditure to be on apartment blocks. Ground-floor apartment owners sometimes balk at paying a service charge to maintain lifts.

Owners' management companies are required by law to have a sinking fund in order to be prepared for future large-scale expenditure. In typical Irish fashion, however, it is not compulsory to contribute to the sinking fund — there is merely a recommended amount of €200 per annum per unit.

When service charges are not paid, the sinking fund has to be used to pay for day-to-day maintenance or building defects. When significant spending is needed — for example, on a new roof — the fund is depleted or non-existent.

Given the age of many of our apartment developments, the next five years will see many of them need the replacement of expensive items such as lifts. Many sinking funds are less solvent than they ought to be. What will happen in apartment blocks with no lifts — or dangerous ones — and how will that affect their value? The statute of limitations means that when service charges are not paid for more than six years, they become unrecoverable. Unpaid charges get attached to the property, thus being recoverable only when the property is sold. In other jurisdictions, non-payment of service charges can result in the management company taking possession of a property.

The perceived transient nature of apartment living does not help, as renters are not part of the management company. It is also difficult to get arm's-length investors involved.

The Multi-Units Development Act of 2009 that governs the management companies needs urgent revision. At the very least there should be a national register of these companies, and a method of ensuring compliance with service charges, as well as assistance with debt recovery.

The sector faces a crisis in the next few years, as things come to a head, with empty coffers and significant expenditure looming.