

Managing Apartment Developments



**A guide for Apartment
owners and voluntary
directors of Apartment
Owners Management
Companies**

Foreword

Apartment blocks and apartment management companies are now common in Ireland, but management of them is often inadequate. Apartment developments deteriorate when not actively managed, and owners suffer in terms of quality of life and return on their investment. Owners regularly complain about high service charges and lack of value for money. Anti-social behavior, inadequate standards of cleaning and repairs, and illegal dumping are some of the many symptoms of mis-managed developments. Poor information and a difficult working relationship are common among management companies, managing agents, owners, and developers; and these contribute to the increasing problem. This report addresses the concerns and highlights the best practices to follow; as well as the costs, pitfalls and worst practices to be avoided in managing an apartment development.

The information was compiled by an apartment owner and voluntary director of an apartment Owners Management Company (OMC) with the input of many other directors and owners. It aims to give practical, independent information to owners who volunteer to manage their apartment developments; and for apartment owners who want to understand and influence how their annual service charges are spent.

About the author

Like many people, I bought my apartment in Dublin during the boom years without fully appreciating the importance of the Owners Management Company (OMC) to value of my apartment, and my quality of life there. In the 5 years after buying the apartment we have succeeded in turning the development around from near bankruptcy with an endless list of problems, to a well maintained development with relatively healthy finances and a good management structure.

I am an accountant, and I do not work in the property management industry. My aim is simply to highlight the problems and provide information which may help apartment owners. The views expressed are my own and the reader is free to agree or disagree. This report was compiled from the experiences of people in the sector; it does not constitute financial, legal or other professional advice. Appropriate professional advice should be sought for individual circumstances.

This report was compiled with the assistance of the Apartment Owners Network (www.apartmentowners.ie), apartment owners, and directors of owners' management companies.

I hope you find the contents useful. If you have any questions or comments please feel free to drop me an email.

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1. Introduction

To help assess the difficulties encountered in the sector, directors of Apartment Owners Management Companies (OMC's) and apartment owners representing 27 apartment developments containing nearly 4,000 apartments responded to a survey conducted for this report. The annual accounts of 27 OMC's were also examined. Many concerns were expressed, particularly around standards of management and value for money.

Owners' concerns

- Many attribute problems to the continued involvement of the developer, and inability of owners to get control of their OMC.
- Value for money and service levels received from the Managing Agent was a recurring concern. Many indicated that money is wasted, and accountability is poor.
- 70% believed their apartment development did not have an adequate sinking fund.

There are valid reasons why owners are not happy with how their apartment developments are managed. On average the annual service charge paid by apartment owners to the OMC is €1,746 (this will vary depending on number and size of apartments, number of lifts etc.), and owners often don't see value for this. Suggestions of money being wasted and poor services are common because the OMC (which should represent owners) and the managing agent rarely do enough to (1) manage the development and its finances efficiently, and (2) demonstrate to owners that they are getting value for money.

The OMC and particularly its finances are crucial to a successful apartment community. If the OMC is not managed effectively, it will fail; or at best it will waste your money while your apartment development deteriorates along with the rental yield and the value of your apartment. For owner occupiers the stakes are even higher; your quality of life is dependent on a successful apartment community, which in turn is dependent on the OMC. If the OMC does not keep the common areas clean, safe and well maintained; the desirability of the address will decrease, and in turn rents will decrease. In turn, owners will consider the service charges a waste of money so may stop paying, so the problems get worse as the money dries up. This downward spiral must be avoided.

In a worst case scenario where the OMC is bankrupt, electricity bills are not paid so common area lighting is cut off and the building is not insured or maintained. A failed OMC can also mean that owners are legally prevented from selling their apartments.

Apartment owners are members of the OMC (with some exceptions where the developer is involved), so can influence how the development is managed. It should be managed by volunteer owners for the mutual benefit of all owners in the development. If management is effective, owners and residents will become more positive about the development, debt collection will become easier so more money is available to fund further improvements, and the development becomes a better place to live.

There is no doubt that some unscrupulous developers, managing agents, and even OMC directors contribute to the problems. Apartment owners frequently complain of developers not completing developments to a satisfactory standard or drafting the legal documents to prevent owners from having meaningful input for years after they buy their apartments. Similarly there is a widely held view that managing agents don't act in the best interests of the owners, waste money by not shopping around for best value, or even accept 'kickbacks' from suppliers for giving them business. These are difficult to prove, but there are examples of agents receiving undisclosed commissions for arranging insurance. Owners need simple but effective mechanisms to prevent bad practices and ensure value for money is achieved.

The OMC annual audited accounts and AGM should help, but it is important to understand what an audit is, and more importantly what an audit is not. An audit is an opinion as to whether the financial statements give "a true and fair view" based on an examination on a test basis of evidence (invoices etc.) to support amounts in the accounts. An audit does not ensure owners get value for money or prevent money from being wasted, and to an inexperienced eye, accounts often don't show the full picture. Similarly the AGM should be a forum where owners can get assurance that money is spent wisely, but these often give little insight; and in some cases are not held at all.

The solution starts with owners taking control, but developers often continue to control the OMC long after the apartments are sold, so owners struggle to influence the management of the development. Managing agents may provide inadequate services or owner-directors may fail to understand their responsibilities, or lack information to make the best decisions. The upcoming Multi-Unit Developments Bill will help owners to take control of their apartment development, so it is crucial that owners are adequately prepared to be able to effectively manage their apartment development. At a minimum, OMC owner directors must be actively involved and:

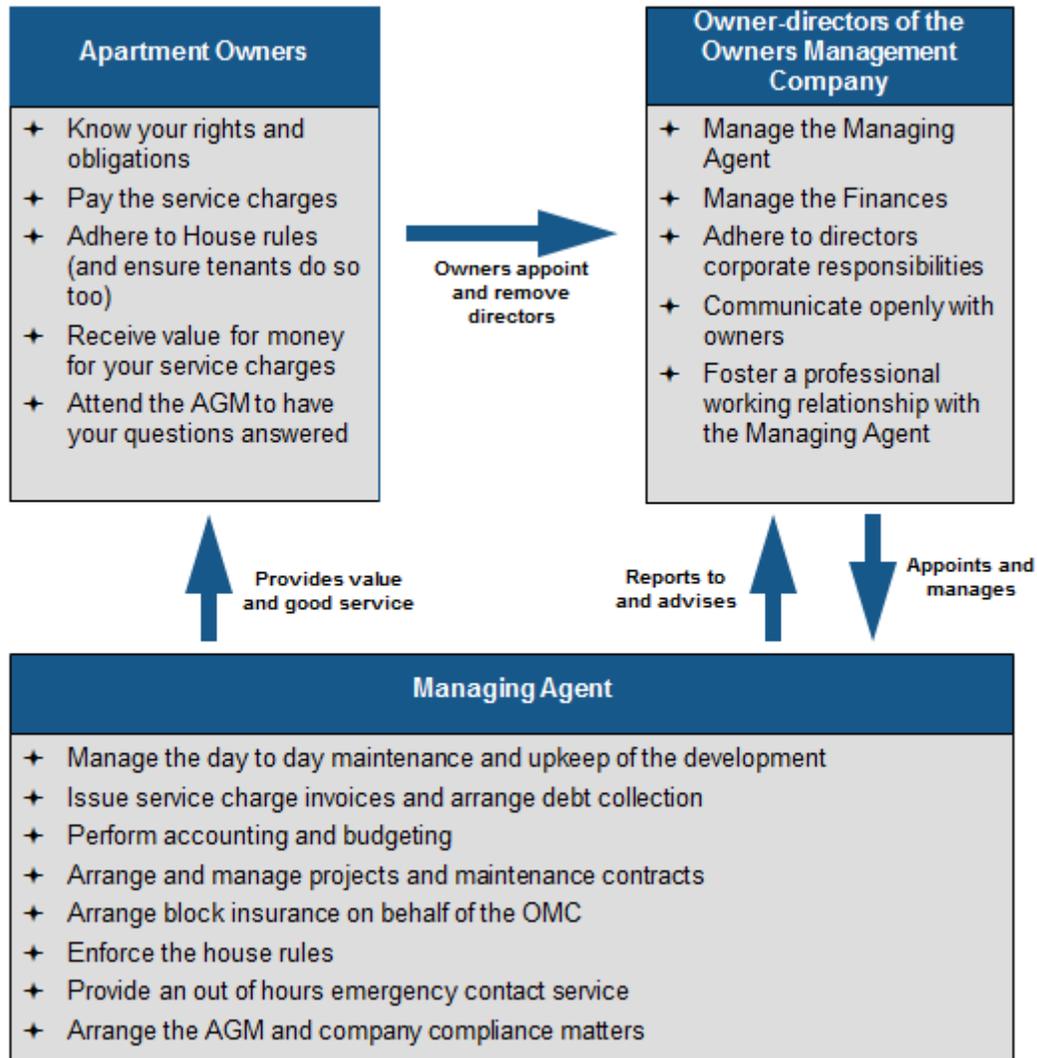
- Manage the Managing Agent
- Manage the Finances, and
- Communicate regularly and effectively with owners

The subsequent sections outline the best practices and highlight the worst practices in the sector; and set out how you can ensure your development prospers rather than declines. This report focuses on Managing Apartment Developments, so the terminology and detail assumes that the reader has some knowledge of the fundamentals of apartment ownership.

More information on the fundamentals of apartment ownership is available in Appendix II and on the internet at www.apartmentowners.ie and www.consumerproperty.ie.

2. The Management Structure

The rights and responsibilities of the parties involved in the management of an apartment development should look like this:



For the structure to work, the OMC must be a strong representative organisation for owners, actively managed by voluntary directors who are apartment owners. These owner-directors are usually not paid. The Managing Agent is an external business, and is paid to manage the day to day activities under the direction of the OMC directors. The power lies ultimately with the owners; they appoint the OMC owner-directors who in turn appoint and remove the Managing Agent.

Some developments are self-managed, which means there is no managing agent, and the owner-directors perform the functions of the agent. Section 7 contains more information on this structure.

In developments with problems, the symptoms are often a poor sinking fund, anti-social behavior issues, inadequate maintenance and repairs, failure to upgrade facilities or enhance gardens etc. In these developments there is often a culture of blame, whereby the three parties blame the others for the problems with a development. In truth, all three parties share some blame – there's plenty to go around! More than any other form of living, an apartment development needs a community spirit where owners work together to find solutions.

Here are some insights from the research.

Feedback

- 1. Most were dissatisfied with the service from their Managing Agent, but only 27% have changed managing agents in the last three years.*
- 2. On the categories of services provided by Managing Agents, agents scored worst on security / enforcement of the house rules, with 68% having a negative view of the agents' performance. Managing Agents scored best on cleaning / waste disposal, with only 28% having a negative view of their performance (although only 28% rated them positively on this category, with the remainder falling into the 'average' category). On all other services, consistently about half rated the agent negatively, and less than 20% rated them positively (the remainder rated them as 'average').*
- 3. On the issues of biggest concern, Control of Costs / Financial Management was ranked highest. In addition, 70% felt that their sinking fund was inadequate. Half of the annual accounts examined had **no** sinking fund with another 30% having a minimal fund. This is perhaps recognition that the very tangible issues of security, cleaning, maintenance etc. cannot be addressed without healthy finances.*
- 4. Appetite for information in the sector is high. 92% felt that independent information on the costs of running similar apartment developments would be very beneficial. 88% felt that comparisons of service and value provided by Managing Agents would be very beneficial. There is no facility for sharing such information between OMC's.*
- 5. Only 35% follow best practice of requiring at least two signatures on all cheque payments, with at least one being an OMC director. Many allow the Managing Agent alone to sign cheques. This is one of the many poor practices common in the sector.*
- 6. About a quarter of developments have a full time caretaker. Caretakers are only affordable in larger developments (a good caretaker is a big advantage, but getting and managing a good caretaker can be challenging).*

One encouraging factor in the feedback was a recognition that if owners control the OMC and contribute constructively to its management, all owners will benefit. The recurring themes of this report are the key to success: Manage the Managing Agent, Manage the finances, and communicate effectively with owners.

Poor practices are common, so identifying and eliminating the worst practices is the first step to turning an apartment development around.

3. Worst Practices

The first step towards getting an apartment development on the right path is to identify and remove any barriers which prevent owners from controlling the Owners Management Company (OMC). The key to controlling the OMC is getting control of the cheque book. Problems often arise due to a developer's control over the development and its finances, a poor Managing Agent, or an OMC where owners are not sufficiently involved and spending is not adequately monitored.

3.1 The Developer

Owners in relatively new developments often find that the directors of the OMC have been appointed by the developer (the developer establishes the company and appoints the first directors, so he controls the company). Owners are often not involved in the management of the development in the early years, and the developer has complete control over how the owners' service charges are spent. In the survey, 36% of developments were still controlled by the developer. Issues encountered may include:

- The building is not completed to a satisfactory standard. A snag list has not been prepared, or has been prepared but faults are not being rectified. Responses from the builder/developer are inadequate.
- The developer has not vested (whereby ownership of the common areas are transferred to the OMC). Owners have no input to management of the development.
- Owners are paying service charges to the OMC, but are concerned that the money is used by the developer to cover costs that should be paid by the builder or developer (e.g. rectifying building defects or snag items).
- The developer is not paying service charges on unsold units. This causes financial difficulties for the OMC and essential services suffer.
- The managing agent appointed by the developer is not providing an adequate service. Owners cannot force improvement in performance or replace the agent as the developer controls the OMC.
- Accounts are not available and/or AGM is not held. Owners have no organisation or platform to campaign for issues of mutual interest.
- The developer is in financial difficulties and may go into liquidation, or NAMA is involved. There is uncertainty regarding unsold units and the common areas.

This period is crucial and often painful for apartment owners. The process whereby power is transferred from the developer to owners is governed by various agreements and legislation, so owners may need to take legal advice to ensure that this phase happens as quickly and painlessly as possible. It is not possible to give specific advice here as the situation in each apartment development is different.

However, the solution will always require owners to act together in a constructive way. Owners should make it their first priority to appoint owner-directors to the board of the OMC. This will provide owners with a platform through which they can act together to force the developer to resolve issues - through the courts if necessary.

All companies must hold an AGM within 18 months of being established. Owners usually become members of the OMC by virtue of their lease, so each owner should have a vote at an AGM. With sufficient advance planning by owners, and with sufficient units sold (and therefore votes), owners should be able to appoint and remove directors at an AGM. However this is dependent on the individual circumstances so legal advice should be sought.

In addition, there is legislation before the Dail currently, called the Multi-Unit Developments Bill (or MUD bill), which if enacted in its current form should help to ensure that developers do not control OMC's after six months of the enactment of the bill.

If you don't have any information on how your development is managed:

- Ask the managing agent if the developer has vested (where ownership of the common areas is transferred to the OMC), and if apartment owners are directors of the OMC.*
- Tell the agent you want to get involved, and ask for details of the next AGM. Ask if owners have a vote at the AGM (the answer should be yes).*
- Ask for a copy of the Memorandum and Articles of Association, and the most recent audited accounts (or get them on www.cro.ie). These, along with your lease, contain information on your rights as a member of the company, and information on the financial position of the company.*

The managing agent should freely give this information to owners. Owners are members of the company (with some rare exceptions) so have legal rights to certain information from the secretary of the OMC. You can write to the secretary (you can get their contact details from the last annual return (form B1) which can be downloaded from www.cro.ie) to obtain information such as a list of members (apartment owners) – this is particularly useful if you want to form an owners committee. If you are being obstructed in obtaining information that you are entitled to, you should act with other owners, so try to organise an owners committee and meet with a solicitor.

The Office of the Director of Corporate Enforcement (www.odce.ie) has published a guide for OMC's, and the Irish Home Builders Association (www.homefacts.ie) has a code of practice for developers, which is a useful reference document. Contact the Apartment Owners Network (www.apartmentowners.ie) for support, as many apartment developments have developer related problems.

3.2 The Managing Agent

The Managing Agent is the most important service provider to any Owners Management Company, yet only 15% of survey participants have confidence that their Managing Agent provides value and service quality when engaging contractors. Only 23% rated their agents overall service favorably, and almost half gave their agent an overall rating of “Poor” or “Below Average”.

Quality of service and value provided by managing agents.

1. *“Overall the Agent does not act in the interest of the Development. No concept of value for money.”*
2. *“He lets companies charge what they like without referring to the quote received - these have to be picked up by the directors instead. He also seems to side with the contractor.”*
3. *“I have photos/stories which illustrate the bad management of this agent which would shock any apartment owner.”*
4. *“They are incapable of preparing budgets/figures, I've no faith that they are obeying the Companies Act, and they use our building like a private playground.”*
5. *“The managing agent is very slow to respond to issues of repair. The fire alarm triggered yesterday due to a power failure and would not reset. Have been waiting nearly 24hrs for this to be rectified. The fire escape windows are open and the hallway is being flooded. Very bad service.”*

The owner-directors of the OMC and the Managing Agent must work together; but the important point is that the managing agent works for the OMC and should act in accordance with the instructions of the OMC directors. This is often not the case because either the OMC directors are not actively involved, or the managing agent is the dominant party and has full control of the management of the development without appropriate oversight from owners through the OMC.

Articles in the media have suggested improper behavior on the part of some managing agents, with suggestions that agents accept “kickbacks” or “rebates” from maintenance companies such as cleaning contractors or plumbers in return for giving them business. This is very difficult to prove (an audit would probably not detect the practice), but people close to the industry are of the view that it is common practice. As with any other industry, there are good and bad Managing Agents, but in most other sectors the good service providers prosper while the bad ones lose out. In the property management sector this does not always happen because OMC's are run by voluntary directors who often don't have the time or expertise to closely monitor the agent. OMC directors are often unaware of the bad practices, or have a 'better the devil you know' attitude and are fearful of the disruption that would be caused by changing Managing Agents.

Directors also rely on the expertise of the Managing Agent so don't have independent information with which to assess the agents' performance.

Do you have confidence that the Managing Agent obtains best value and service quality when engaging contractors, without favoring any particular contractors?

- 65% answered 'No', and a further 20% answered 'Don't know'
- 15% answered 'Yes'

Participants' comments:

1. *"By querying invoices . . . we have been able to slash costs. It feels like we have to micro-manage the agents and train the individuals to do THEIR job."*
2. *"[Agents have a] clear preference for 'own' contractors if not closely monitored."*
3. *"There isn't enough space here to go into all the details. Suffice to say that the MA rarely visits the complex, they don't monitor what goes on."*
4. *"When they arrange for things to be repaired, they always chose the most expensive - they claim that they have a list of reliable companies that they only deal with (obviously getting kickbacks)."*

It would be naive to think that all problems in the sector are the fault of the managing agents; however the nature of the relationship between the Managing Agent and OMC means that conflicts of interest are very likely. The incentive and opportunity exists for agents or their employees to benefit financially through underhand dealings. OMC directors should be vigilant to prevent improper behavior and do everything possible to prevent bad practices.

OMC owner-directors should watch out for the following practices in particular.

3.2.1 Relationships with suppliers

Agents often use the same suppliers across many of their clients, and many people feel that agents have a "cosy relationship" with preferred suppliers, which gives rise to suspicion of kickbacks, or at best a failure to be impartial in getting the best value for the OMC. Other cases can be more subtle, for example an owner of one large Managing Agent is also part-owner of a cleaning company. By giving business to the related cleaning company, is the agent just generating more profit for the owner, rather than getting best value for the OMC?

3.2.2 Insurance

The Managing Agent can receive a commission of up to 20% of the block insurance premium every year from the insurance broker or insurance company (so the agent can receive up to €6,000 on a €30,000 premium without the knowledge of the OMC). Most survey participants indicated concern about this, and were unaware that it is normal practice by some agents. It is rarely disclosed to the OMC, and few managing agents are regulated by the Financial Regulator to act as an Insurance intermediary.

3.2.3 Additional fees

Managing agents regularly charge additional fees for ‘Secretarial costs’, ‘Administration’, ‘Out of hours emergency service’ and other extras. Such additional fees allow for an upward ‘creep’ in the fees paid to the managing agent, without having to renegotiate a contract with the OMC. The total fee paid to the managing agent may therefore be higher than the figure for “Managing Agent fees” that appears in the annual accounts.

3.2.4 Sale of apartments

It is common practice for Managing Agents to charge sellers of apartments for providing information necessary for the sale to be completed (called a requisition 37). The amount charged varies but can be up to €250 per apartment sold. 80% of survey participants did not know the agent charges this fee despite the fact that it is normal practice in the sector. The ability to charge this fee arises from the role of the managing agent for the OMC, but the money goes directly to the managing agent rather than to the OMC.

3.2.5 Full services

Some Managing Agents provide full maintenance services to their OMC clients. This means that instead of engaging a plumber or carpenter to make repairs, with the OMC paying the contractor directly, the agent provides one of its own staff to do the work. In theory this can work okay, but the managing agent has no incentive to shop around for a good price – if they shop around at all. In other words, the agent will prefer if quotes received are high as this will help them to justify charging a higher price. There are also cases where the agent engages a contractor, but charges the OMC a margin on top of the contractors’ price.

3.2.6 The property manager

The Managing Agent appoints a member of staff (the property manager) to manage each apartment development. The quality of service the OMC receives depends primarily on the honesty, effort and ability of this individual. Contractors depend on the property manager to give them business, so there is the incentive for kickbacks. Although difficult to prove, industry insiders claim that this is a frequent practice.

The number of properties managed by this person determines the amount of time that is dedicated to your apartment development. Property managers often manage 7 or more developments, so only a fraction of the persons time is spent managing your development. Consider this in the light of the managing agents fee: does it represent value?

3.2.7 The Auditor

From a company law perspective, the auditor for the OMC is appointed at each AGM, but in reality the auditor is often selected by the managing agent and just rubber stamped at the AGM. Managing Agents often use one audit firm for most or all their OMC clients. As a result, the audit firm may be dependent on that managing agent for a lot of business. The OMC owner-directors should select the auditor independently of the managing agent.

3.3 The Owners Management Company (OMC)

The Managing Agent and Developer contribute to the problems, but ultimately it is the OMC that is responsible for managing the apartment development. The directors of the OMC have the responsibility to select the best managing agent for the job, and can remove the agent if they underperform.

After the developer withdraws, the directors of the OMC and the managing agent are the key to effectively managing an apartment development.

Comments on management of the Owners Management Company:

1. *"Taking control of the management company from the developers at the AGM roughly 5 years ago gave us the control we needed to turn the development around. We went through 3 agents before we found the right one – [Agent A] and [Agent B] being absolutely dreadful. The former charged us extortionate prices for all services (as soon as we asked for control of the cheque books [Agent A] resigned immediately!)"*
2. *"I strongly believe that most of the issues we experience with the management agent could be resolved if owners were in control of the complex and not the builders or if there was shared directorship between both parties."*
3. *"Although, they are by far the best agent we've had they still need to be monitored - as their service can become sloppy if we owners/mgt co. directors take our eye off the ball."*
4. *"We've been with [Agent A] since the beginning, hesitant to move as Directors all of the same opinion that better the devil you know. The last person looking after our complex was dreadful, and we really had to keep an eye on him to ensure anything got done...."*
5. *"We are being coerced into becoming Directors of the management company by the builder and they are refusing to improve the estate until this happens."*
6. *"Apartment directors do not have the same control or access to files as ordinary company directors. Some lack qualifications or dedication to the role. A survey of this type is hugely beneficial. I hope directors have enough information to respond to it."*
7. *"I have learned that there is only one solution and that it so put in good and competent directors, even if the developer or any other interest does not want them in, you need to have them elected otherwise there will be no management of the complex or the Agent."*

The directors of the OMC are volunteers and are almost always unpaid, so they delegate most of the work to the Managing Agent. This does not relieve directors of their responsibilities. Poor oversight of the agent and a reluctance to get actively involved or challenge the status quo often contribute to a deteriorating apartment development.

Participants in the survey ranked the main concerns from 1 (most concerning) to 5 as follows:

Concerns about management of the development	Rank
Control of costs / Financial Management	1
Debt Collection	2
Inadequate maintenance / cleaning	3
Inadequate Sinking Fund for Capital Expenditure	4
Security / disruptive residents	5

The order might be surprising given that anti-social behavior is a common problem, but it reflects a recognition that if an OMC does not manage its finances and collect its debts, then it will not be able to afford to keep the apartment development well maintained and secure; with the result that the desirability of the address will decrease. Once anti-social behavior problems begin, they can be very difficult to reverse. The survey also highlights the factors that contribute to the problems.

The Owners Management Company
1. Only 35% follow best practice of requiring at least two signatures on all cheque payments, with at least one being an OMC director. 35% allow the Managing Agent alone to sign cheques (not good practice). A further 30% didn't know who signed cheques.
2. When asked how the OMC obtains the best value for money and service levels from suppliers, only 19% of OMC directors were closely involved in supplier selection. 77% had concerns about the value and service levels from suppliers selected by the managing agent.
3. 70% were not satisfied that the sinking fund (cash saved for long term capital expenditure) of their OMC was adequate.
4. 20% of participants stated that the AGM of the OMC is not held every year.
5. Most OMC's have directors or owner committee meetings monthly or quarterly, but 30% said it was less frequently or didn't know if the directors meet at all.

Many people are reluctant to become directors of their OMC as they fear this is too much responsibility, and could create a liability on them if things go wrong. The first and most important thing to do is take out directors' and officers liability insurance. It helps protect directors against personal liability. It is paid for by the OMC and arranged by the Managing Agent.

Once involved, owner-directors should put in place best practices (see following sections) and remain actively involved. Owner-directors must find the right balance; being too heavily involved in the day to day is not sustainable in the long term, but the opposite extreme of leaving all decisions to the agent is not appropriate either. Once owner-directors step back, problems are more likely to recur.

4 Where does the money go?

Despite the fact that many apartment owners believe the service charges are too high, many Owners Management Companies are in poor financial health.

Analysis of Audited Accounts of 27 OMC's		
<i>Overall Financial health:</i>		
- Good: with a substantial sinking fund, low uncollected debts		5
- Poor: high uncollected debts, low sinking fund		9
- Very poor: Low bank balances, no sinking fund, high uncollected debts.		<u>13</u>
		27
<i>Debt Collection:</i>		
Unpaid service charges as a % of total:	- 5 healthiest OMC's	5%
	-13 least healthy OMC's	29%
<i>Sinking Fund:</i>		
Sinking Fund as a % of annual service charges:	- 5 healthiest OMC's	88%
	- All 27 OMC's	26%
Number of apartment developments with no sinking fund (out of 27)		13
Average Annual Service Charge per unit		€ 1,746
<i>Information on sample examined:</i>		
Number of Apartment Developments (total annual accounts examined)		27
Average Number of Apartments per development		118
Average age of Apartment Development		14 years*
<p><i>* Developments over 10 years old were deliberately selected, as these are most likely to be past the developer phase, and will have more realistic long term maintenance costs. They therefore give a better indication of what newer developments can expect in future years.</i></p>		

The fact that 13 out of 27 OMC's are in a precarious financial state speaks for itself; these developments need urgent action to avoid an irrecoverable deterioration.

The debt and sinking fund statistics tell us more:

- In a 'Good' apartment development only 5% of service charges are not received by the end of the same year (this does not mean 5% are bad debts as the amounts are usually collected in the long term). The 'good' development therefore has significantly better cash flow to spend on essential services in that year, and to build up a sinking fund.
- The 5 healthiest OMC's have a sinking fund equivalent to 88% of the total annual service charge billed. So in our sample of 27 developments, an average size development of 118 units in the 'good' category would have €181,000 (118 X €1,746 X 88%) in the bank as a sinking fund on average. In contrast, half of apartment developments have none.

Aside from showing that most OMC's are in poor financial health, this gives us 'rule of thumb' figures, or targets for our OMC's: Debtors around 5% of total annual service charges, and Sinking fund around 90% of the total annual service charges. In the long term, a more scientific way to determine the optimum sinking fund will be needed, but for now this is a good starting point.

There are several reasons why an OMC might end up in a poor financial position:

1. Money is being wasted or misappropriated.
2. Owners don't fully appreciate the costs of running an apartment development. This prevents the OMC from setting the service charges at an adequate level.
3. OMC's and their managing agents are not managing their finances effectively. Debts are not being collected, value for money is not achieved, and not enough attention is paid to building up a sinking fund for the future.

OMC directors must address all three. If the OMC manages its finances effectively, and is able to demonstrate this to owners, it is less likely that money will be wasted and owners will see that they are getting value for money. In turn, debt collection becomes easier.

The following tables represent the average service charges (income), and expenditure for the sample of apartment developments. The amounts are shown on a 'per unit' basis. Costs will vary depending on size of the development, number of lifts, insurance claims history etc. so this must be kept in mind when comparing the averages here to any individual apartment development. The figures help see where they money goes, and potentially, where money could be saved.

Income:	€
Service charges	1,746
Other Income (Interest, penalties, one-off levies, insurance refunds etc.)	146

This average income is for the year 2008/2009, and is calculated across all apartment sizes. Three or four bedroom apartments with allocated parking spaces in developments with elaborate water features, or a high number of lifts, extensive car parks or green areas etc. can reasonably expect to pay more; whereas small or one bedroom apartments in simple developments should expect to pay less. The level of service charge will also depend on the financial position of the OMC. If major projects are needed (painting, carpets etc) and there is no sinking fund, the cost will have to be met by current year service charges, so the charges may increase significantly.

Expenditure:	€
Repairs & Maintenance	(432)
Managing Agents fees	(187)
Cleaning	(163)
Insurance	(147)
Electricity	(133)
Waste disposal	(128)
Administration / Secretarial / General / Bank chg *	(128)
Caretaker expenses / wages	(88)
Security	(84)
Audit	(19)
Legal / Debt collection / Bad debts	(31)
Capital Expenditure Projects	(218)
Total expenditure	(1,758)
Surplus / (Deficit): Available to transfer to the sinking fund	134
* This figure is high as some OMC's show all costs under one heading "General and Administrative costs" and provide no detail. This practice is to be avoided as it hides the drivers of the costs.	

There is a tendency to think the service charge is high, without really analysing the costs and appreciating why they are incurred. For example, 'house dwellers' would normally spend a lot more on house insurance and waste disposal than an apartment dweller. Many house owners would also spend more than €650 a year on external repairs and improvements (repairs & maintenance €432 + Capital Expenditure €218).

A well-managed apartment development saves owners time and effort of taking care of the areas external to that owners unit. On the other hand, there are other costs that a house owner will not incur. All factors must be considered when assessing value for money.

OMC's and Managing Agents have to be realistic when setting the annual service charges. The service charge should be set with the long term in mind, rather than just the day to day running costs. If the charges are set too low, the development will deteriorate due to lack of funds. Owners must recognise that there are real and significant costs of managing an apartment development, and those costs must be paid for by the owners through the service charges. Once service charges are set at a realistic level, the OMC directors should actively seek to drive down costs and pass those savings on to the owners through by reducing service charges for the following years in a controlled and sensible way.

Section 6 'Manage the Finances' contains more information about cost control, budgeting and service charges, but for all categories of costs, owners should ask questions such as:

1. Did the managing agent shop around to get best value? How many quotes were received? Are the quotes independent and reliable?
2. How do owners know that the invoiced work was actually done? Who examines the work done to confirm that it was of good quality before paying for it?
3. How can owners be assured that there are no kickbacks or under the table payments involved?
4. Who signs the cheques to pay the suppliers: owner-directors or the managing agent? Does the managing agent sign the cheques to pay the agents own fees?
5. Are the same suppliers used for a long period of time? There are benefits and drawbacks to this: the tradesperson will become more knowledgeable regarding the development, but on the other hand the tradesperson may become comfortable that they will always get the work so begin to charge more.
6. What rates per hour are being paid for cleaning and security? Are these the best rates on the market given the quality of work done? Was this work put out to tender recently?
7. How does the Managing Agents fee compare to other similar apartment developments? How long has the current Managing Agent been in place?
8. Are there any hidden costs? Is the amount shown in the accounts as the Managing Agents fee the total amount paid to the agent?
9. Were any debts written off (bad debts)? Did the developer and directors of the OMC pay their service charges?

At a minimum, owners should ask the Managing Agent these questions at each AGM. The quality of management can often be judged from the openness and completeness of the answers. When owners are satisfied that their service charges are being spent wisely, debt collection becomes easier so the financial position of the OMC improves, and there is adequate cash to improve the development.

In order to adequately answer these questions, owner-directors of OMC's and Managing Agent need to put in place simple but robust structures which will help ensure the OMC is managed effectively. The result will be lower costs, better debt collection and sinking fund, a lighter workload and less aggravation for directors of the OMC; and ultimately a better apartment community.

5. Best Practice

The practices that follow are often common sense, and if these are put in place OMC directors will have a good basis for managing their apartment development effectively. Best practices aim to ensure that the OMC directors have overall management responsibility for the development and its finances, but leaving the details to the Managing Agent – that's what they are paid for.

To get the best out of the Managing Agent, the OMC owner-directors should set clear targets that set out what is expected, and then monitor the quality of service in an objective and fair basis. If the service level is poor, then action should be taken to improve performance or remove the managing agent. Best Practices are the foundations of good management, but don't expect improvements overnight. Turning an apartment development around can take several years. Owners often find that there is a new crisis every week, but those crises will continue as long as there is a lack of proper structures and practices to deal with them efficiently, so it is important to get these right. The following are practices which will help ensure sustainable management of a development for the long term.

People

People with a range of relevant skills should be included as owner-directors of the OMC.

- Many trades and professions bring specific knowledge to the committee table; from plumbing to financial management, so try to include people a range of backgrounds. People can be reluctant to be involved, particularly if there are problems so it is important to encourage the right people to become directors or just help out.
- Find a balance between involving owners with relevant expertise, and managing the development by full owner consensus. A common problem is "I would have done that cheaper"; where owners criticise decisions without full information, but rarely offer constructive help in advance. Remind owners that directors of the OMC are owners too and pay service charges, but are also dedicating time to running the development. Explain how management works, and always highlight positive changes to the management structure and improvements in services.
- Consider how to structure the committee (board). Some find that a formal structure works well with a chairman and separate responsibilities for individuals (e.g. debt collection, maintenance etc.). Others find a more informal committee with shared decision making works well.
- Avoid transactions between directors and the OMC where possible. Directors are not normally paid, but some OMC's pay directors who work part or full time. Transparency is important; owners should be fully informed and in favour of such arrangements.

Annual Plan

At the beginning of each year, agree a plan for the year with the managing agent. This provides the agent with clear targets to be achieved during the year, and is linked to the budget. See the example at Appendix I.

- This provides an objective basis against which the performance of the managing agent can be measured. It should be realistic and must be agreed between the directors and agent at the beginning of each year.
- Try to avoid “daffodil syndrome” - the term comes from residents who focus on the number of flowers in the garden while there are much bigger concerns! Set priorities correctly: insurance, health & safety, water leaks, long term preventive maintenance, healthy finances etc. should be top priorities. Once these are in good shape, then move on to other priorities. Recognise that the OMC directors and Managing Agent have limited resources, so those resources have to be allocated sensibly.

Meetings

Have a regular fixed meeting schedule (e.g. the first Tuesday of every month at 7pm). Use the annual plan as an agenda. Take short minutes in the form of action points. A director or the agent should take the minutes and distribute them the next day.

- The OMC directors and property manager should meet monthly, or at least every quarter if the development is running smoothly. Between meetings, there should also be regular communication on progress and issues (email communication provides a good record of events).
- Using the annual plan as an agenda helps to focus minds on the priorities for the year. Agree a short list of any additional actions for the property manager to complete (example: “issue warning to apartment 123 following party on 08/06/10”, or “Complete window cleaning in line with quote of €3,000”). Avoid long narratives of meetings (nobody will read them!). Review the status of the actions from the prior meeting, and obtain explanations from the managing agent for any missed targets.
- Ensure there is sufficient attendance at meetings. If directors routinely fail to attend meetings, then you should question their ability to contribute constructively (don't waste meetings by explaining matters to directors who missed prior meetings or don't read emails!). All directors should be actively involved. If the property manager fails to attend or fails complete his actions, then question the quality of service you are receiving.

Insurance

Ensure that Directors and Officers liability insurance is in place, as well as insurance cover for the development itself. Insurance brokers will advise on the level of cover required and shop around for the lowest cost on behalf of the OMC.

- Instruct the Managing Agent to put in place appropriate insurance policies for the development and directors. Valuations should be updated at least every 3 years.
- Ask the Managing Agent if they receive any commission for arranging the insurance. This is common practice, but is not normally disclosed (more on this later).

House rules

House rules must be relevant to the problems experienced in the development, and must be actively enforced. The rules should be posted clearly throughout the apartment building and distributed to owners and residents at least annually.

- Anti-social behavior is a big problem in some apartment developments. Enforcement is often difficult as Managing Agents can be reluctant or powerless put a stop to low level crime or nuisances such as loud parties, drunkenness, damage to property etc. Owner-directors often need to push the agent into taking robust action, but unfortunately many feel that our laws do not facilitate enforcement of house rules to the extent necessary.
- Zero tolerance works! Strict enforcement of the house rules will change behaviour in the long term. An on site caretaker is useful to detect breaches of the house rules.
- Enforcement can be problematic, but be relentless in pursuit of owners, even if it is their tenants causing the problem. Charge the owner for costs for repair or cleaning plus administrative costs, report incidents to Gardai, and/or seek eviction of tenants. Owners will eventually take notice if they are constantly receiving calls and letters about troublesome tenants. Keep records of all breaches of the house rules, and save camera footage or any evidence of the problems. The managing agent should do this.
- The Residential Tenancies Act 2004 has been an effective enforcement mechanism in some cases. In one example a landlord was fined €6,000 by a PRTB tribunal for breaching his obligations with regard to anti-social behaviour of his tenants (see www.prtb.ie for more details).
- Always report suspected criminal activity to the Gardai and follow up with them to provide any information or assistance they need. Never take risks to your own safety.

Contractors

The Managing Agent should obtain 3 quotes for contracts (lift maintenance, cleaning etc.). Engage only reputable contractors with their own insurance.

- For all contracts, instruct the managing agent to put the job out to tender at least every 2 years. All projects (e.g. painting the common areas) should also be subject to a tender process.
- Ensure the managing agent gives a consistent description of the job to each contractor, and require quotes broken down into detail (e.g. labour and materials). This helps ensure the quotes are comparable.
- OMC directors should obtain quotes independent of the agent as often as possible (ideally for all significant projects). This helps to confirm that the agent is achieving the best price. Contractors providing a quote to an agent who has nothing personally at stake is more likely to push up the price.

Payments

The Managing Agent must not have sole signing authority on payments. All cheques should require at least two signatures; one from the Managing Agent and one director; or two directors. The same should apply to all payment types (e.g. online).

- Have an agreed process whereby the agent brings cheques to the meetings for signing. Each cheque should have the supporting invoices from the service provider attached. There are examples of managing agents who pay the contractor and then bill the OMC for the work done (sometimes adding a margin for themselves). This is not good practice: work should be invoiced directly to the OMC by the contractor.
- Owner-directors are sometimes reluctant to be cheque signatories as they are not close enough to the details of the work being paid for. To alleviate this concern, the property manager should approve all invoices before the cheques are presented for signing by directors. Where possible, directors should inspect the work done before paying.
- Directors should query any invoices that they don't understand or seem unusual. The Managing Agent should be familiar with the services provided and the amount charged. Refuse sign cheques where the service is not of acceptable quality, or the cost is too high (within reason). Many payments tend to be repetitive, so over time directors will become familiar with invoices and payments.
- Ensure all invoices are recorded in the accounts. The property manager should provide an expenditure report that will show this.

Debt Collection

Appoint a good debt collection solicitor. At least quarterly, the directors meeting should review a debtors list provided by the managing agent. Prioritise debts that need to be sent to the solicitor for collection.

- Regularly highlight to owners that service charges are owners' collective contribution towards the maintenance of the common areas and provision of services. Failure to collect the service charges would lead to a deterioration of the building and services. Regularly communicate the improvements made to the development, and any steps that are taken to reduce costs.
- Notify owners in advance of the steps that will be taken to recover debts. Refer to the lease for rules around applying interest. A three step process that could be included with service charge invoices might look like this:
 - Step 1: If payment is not made in full, or an arrangement to pay (through standing order/direct debit) is not agreed with the Managing Agent within 30 days of the date of invoice, interest is applied at X% (leases usually state an interest rate to be charged on overdue accounts).
 - Step 2: If payment is not made in full, or an arrangement to pay (through standing order/direct debit) is not agreed with the Managing Agent within 90 days of the invoice date, the debt is forwarded to the debt collection solicitor for collection through the courts.
 - Step 3: The debt recovery will proceed through the courts and all costs incurred in recovering debts are charged to the owner concerned. The proposed Multi-Unit Developments bill strengthens debt recovery rights, and states that a dispute over the amount is not a justification for non-payment.
- A list of debts should be selected at each debtors review, and the Managing Agent instructed to pursue through the debt collection solicitor. Usually, owners will pay before the matter goes to court.
- Some claim other steps are effective (some are extreme and legal advice should be sought before undertaking these measures):
 1. *Insurance*: Removal of the apartment from the block insurance policy.
 2. *Services*: Withdrawal of services to the unit by the Property Manager.
 3. *Fobs*: Refuse to replace, or deactivate key fobs.
 4. *Accounts*: Publish details of overdue debts in the annual accounts.
 5. *AGM*: Prohibit voting at AGM.

Year end review

The OMC owner-directors should use the final meeting of the year to review the performance of the Managing Agent using the Annual plan and budget as an objective basis. This assessment should also be discussed at the AGM.

- Measure the performance against the Annual plan that was drafted at the beginning of the year. Be fair and objective, but take action if service levels fall below an acceptable standard.
- Have an open discussion about the performance of the Managing Agent. Consider whether to continue with the same agent or put the contract out to tender.
- Give feedback to the Managing Agent and other suppliers such as cleaning or security companies, whether positive or negative. If you don't tell them what they are doing wrong, they cannot fix it.

Audit

The Audit should be completed on a timely basis (within 6 months of year end), using an independent auditor. Directors should be closely involved in the audit process.

- The auditor should be selected by the OMC directors, not the managing agent.
- The standard of accounting by Managing Agents can be problematic. The directors should engage directly with the auditor and get feedback on the standard of book keeping performed by the managing agent.

Annual General Meeting

The AGM should be held within 6 months of the financial year end (although company law allows longer). All directors of the OMC should attend. The standard order of business should include at least:

1. Consideration of the Directors Report, Statutory Auditors Report, Balance Sheet and Income & Expenditure account
2. Election & Re-Election of Directors
3. Appointment / Re-Appointment of Auditors, and fixing their remuneration.
4. Any Other Business (AOB).

- The most productive part of the AGM is often under AOB where open discussion, suggestions and comments are invited from the floor. This is also an opportunity to gauge how owners feel about the management of the development. It cases where there are significant problems that are not being addressed, conflict and accusations are common. Owners need to have confidence in management.
- Note that the accounts do not have to be approved at AGM under company law, just considered. It is the directors who approve the accounts. However, the directors and managing agent should dedicate sufficient time to explaining the contents and answering any questions from the floor.
- Use the AGM as an opportunity to explain how the OMC directors and managing agent work together. Explain how you ensure money is spent wisely, and if the finances are not healthy or if there are other major problems, point this out and state how you propose to address the issues. Be open and frank, and ask for ideas or suggestions on how the development could be improved.
- Remind owners that they are responsible for ensuring their tenants adhere to the house rules. Point out any specific recurring breaches of house rules and what action is proposed to address them.
- Prepare for the AGM with the Managing Agent, and ensure any challenges or disagreements are resolved before the AGM. Problems should be acknowledged, and agreed solutions should be presented at AGM, but the AGM is not the appropriate forum for arguments between directors and the Managing Agent.
- Always ask if any owners want to become involved as a director of the OMC. It is advisable to have long term directors as they will have an accumulated knowledge that is invaluable. However, over time some directors become less interested and may not be actively involved. Use the AGM as an opportunity to replace those with fresh directors who may add a new perspective or expertise.

6. Manage the Finances

The best practices outlined in the previous section are the foundations for efficient management of an apartment development. The next steps are to ensure that the finances are managed effectively. The aim here is to ensure spending is controlled so that money is not wasted or misappropriated and to provide tips that help to reduce costs so that owners see that they are getting value for money.

6.1 Financial Best Practice

Planning in advance and then monitoring performance against the plan is the key to controlling of the finances. This will help ensure that the OMC directors have adequate oversight without being too involved in the day to day management.

Annual Plan and Budget

A Budget and Annual plan should be drafted at the beginning of each year. The budget is the basis of the service charges, and the annual plan sets out how tasks are spread over the course of the year. This clearly sets out what is expected of the Managing Agent for the year ahead. See examples at Appendix I.

- The budget is an estimate of all costs for the coming year and is the basis of the service charges. The Managing Agent usually prepares it, but the OMC owner-directors should review and approve it before the annual service charge invoices are sent out.
- The Annual Plan is the key to getting the best from the Managing Agent. In it, the OMC owner-directors clearly set out their expectations for the year ahead, and the Managing Agent has clear advance instructions on when tasks must be completed. See the example at Appendix I.

The annual plan is of benefit to both the OMC and the agent as both parties are clear on the priorities for the year. Of course additional priorities will arise during the year, so the plan can be updated throughout the year with the agreement of the OMC directors and agent. Preparing the plan does not have to be time consuming. Many of the tasks to maintain an apartment development tend to be similar year on year, so once the first plan is prepared it is easy to roll forward to following years.

The budget should flow from the annual plan. Once a list of all the tasks is compiled, the managing agent should provide a cost estimate where relevant, and add other routine costs such as electricity, waste disposal etc. to arrive at the total budget.

The service charges are then calculated by allocating out the total budget by the allocation specified in the leases. This allocation usually ensures that small or ground floor apartments pay less than larger units. These allocations are set out in the lease, so are very difficult to change.

Monitor the financial position (Balance sheet)

Bank accounts, amounts receivable, and amounts payable are usually the main assets and liabilities of an OMC. Monitor these balances, particularly the trend over a few years to ensure the finances of the company are improving rather than deteriorating.

- The bank balances (current and sinking fund deposit) should be presented to each meeting by the managing agent. The sinking fund should be represented by cash held in a bank account. Some people consider the surplus of assets over liabilities to be the sinking fund. This is not advisable as it is not available cash.
- Service charges receivable (Debtors) should be reviewed at least quarterly. A clear process for debt collection should be in place (see debt collection above).
- The only liabilities an OMC should have are amounts payable to suppliers (Creditors). If payments are made frequently, this figure should be relatively small.
- OMC's should not have any loans; bank loans or otherwise.

Monitor expenditure

Up to date and accurate financial information must be reviewed in detail at least quarterly. Ensure that the managing agent provides reliable, timely information throughout the year.

- Actual expenditure should be compared to budget and the prior year. Over-runs and unusual changes year on year should be explained by the Managing Agent. The information must be up to date and reliable. Insist on receiving an expenditure report for the year to date within a month of the end of the quarter.
- Some OMC's have problems whereby the Managing Agent provide the expenditure reports in an ad hoc way, and without performing the associated reconciliations (bank, creditors etc) to check the figures. If the agent does not do this, then you cannot be sure that all transactions are recorded.
- Unreliable information leads to bad decisions, so ensure that the managing agent is able to provide good quality financial information. Some prefer to review expenditure reports monthly, but an in-depth quarterly review of complete and accurate accounts is often better than a limited monthly review.

6.2 Cost Control

The following costs were listed earlier. Tips and recommendations follow that can help reduce costs, and get the OMC on the road to healthy finances. The underlying rule here is that the best way to control costs is to control the cheque book, and by ensuring that payments are made in a transparent and controlled way. OMC's cannot recover VAT so all costs here are VAT inclusive. Ensure that all quotes for work are VAT inclusive, otherwise the real cost is understated.

Expenditure:	€
Repairs & Maintenance	(432)
Managing Agents fees	(187)
Cleaning	(163)
Insurance	(147)
Electricity	(133)
Waste disposal	(128)
Administration / Secretarial / General / Bank chg *	(128)
Caretaker expenses / wages	(88)
Security	(84)
Audit	(19)
Legal / Debt collection / Bad debts	(31)
Capital Expenditure Projects	(218)
Total expenditure	(1,760)
Surplus: Available to transfer to the sinking fund	132
* This figure is high as some OMC's show all costs under one heading "General and Administrative costs" and provide no detail. This practice is to be avoided as it hides the drivers of the costs.	

6.2.1 Repairs & Maintenance

This covers everything from roof repairs, gardening, lift maintenance, painting, plumbing etc. Make it very clear that all contractors must be independent of the Managing Agent, and there must be no 'kickbacks' or benefit of any kind to the agent or its staff. To help keep costs down:

- Ensure the managing agent produces 3 quotes for all repairs over an agreed amount, say €1,000. The agent should confirm that contractors have their own insurance.
- For all significant expenditure, get a quote independently of the managing agent. Do the same occasionally for smaller jobs. Don't pay until the work has been completed and inspected by a director or caretaker.

- Lifts, pumps (water and sewerage), plumbing, machinery, and roof repairs tend to be the highest cost routine maintenance items. Preventative maintenance is best. Use the annual plan to schedule routine maintenance over the course of the year. Don't wait for break downs!

6.2.2 Managing Agents fees

- Insist on a contract in writing between the OMC and Managing Agent. The details of the contract are too extensive to go into here, but negotiate an all-inclusive price (prevents upward creep in cost where the agent can charge for additional services). See www.consumerproperty.ie for guidance on the contract.
- As expected, Managing Agents fees vary significantly. The amount per unit generally varied from €140 to €250 per year, with an average of €187. OMC's should aim to keep the Agents fees towards the lower end of this scale, but keeping in mind that each development is different.
- Don't allow the agent to sign payments to itself. Such payments should be authorised by OMC directors.
- Renegotiate the fee regularly and put the contract out to tender at least every three years. Frequent changing of managing agents is best avoided, but in one example an OMC reduced the fee by 40% and improved service levels by having three different agents in 4 years!
- If changing Managing Agents, try to do it at a financial year end. Be closely involved in the handover of records between agents, and ensure all legal, financial, structural and other records are handed over (see Section 7). Remember the Managing Agent does not 'own' OMC records, but only holds these records on behalf of the OMC.
- Insist on a clause in the contract that the agent or its employees cannot benefit financially with regard to its role with the OMC, other than through the contractual fee.

6.2.3 Cleaning

Typically, the managing agent engages a cleaning contractor to clean the common areas weekly. Rates per hour tend to be around €15 including VAT. Ensure the contract is put out to tender frequently. It can be difficult for OMC's to maintain a consistent high standard of cleaning over time.

- If the spend on cleaning is high, consider whether hiring a caretaker would provide a better standard. An onsite caretaker can monitor the standard of cleaning, and do some cleaning too. A caretaker can be part cleaner, part maintenance, part security and a full time presence on site generally improves the development.
- If the standard is not satisfactory, be proactive to ensure that the managing agent is working with the cleaning contractor to improve performance. Try changing the number of hours or days of the week that the cleaning is done. If this doesn't work, then change cleaning contractors.

6.2.4 Insurance

Insurance must be in place for building and contents of the common areas, as well as for directors and officers liability, public liability etc. The Insurance broker will advise on the cover required, and provide a renewal report with full details of the proposed cover and past claims before each renewal.

Insurance brokers receive commission from the Insurance company, and often pass part of this commission on to your managing agent. It is unclear whether this practice is allowed, but it should definitely be disclosed to the OMC directors. Ask your managing agent or insurance broker how much commission is paid to the managing agent.

In some cases, managing agents were acting as the insurance broker without the knowledge of the OMC, and receiving up to 20% of the premium as commission. This is clearly improper behavior by the agents.

- Generally, a single broker will approach several insurance companies to get the best price, but ensure you get a list of insurance companies that the broker has approached. Assess whether the net has been cast wide enough to get the best price on the market. If necessary, engage a second broker to get a wider scope of quotes.
- Insurance companies will often not give a quote to more than one broker for the same apartment development. For this reason, there is no point in engaging lots of brokers. Pick one or two reliable brokers and build a close relationship with them. Every few years, approach a different broker for quotes.
- Ensure that the quotes received are comparable – particularly with regard to the valuation and excess amounts.
- The excess on the insurance policy is the amount that the OMC or apartment owner must pay towards the cost or repair. This varies significantly and is often higher for water damage than other claims (e.g. €500 excess increasing to €2,000 for water damage). As many claims tend to be for water damage, a lower excess is preferable.
- Actively manage the insurance risks. Maintenance should be designed to minimise risk of fire, water leaks etc. Abandoned cars, broken lighting, uncollected waste etc. are hazards which should be prevented.
- Actively manage insurance claims. Agents should not be allowed to submit claims to the insurer without the approval of the OMC directors. All claims should be adequately documented and reviewed. OMC directors should be aware of claims history and take preventive steps where claims are increasing.
- The insurer will usually provide a Risk Management Action Plan. This is a list of recommendations regarding risks in the building and can give useful safety tips (although it is not a substitute for a full health and safety survey). Ensure the actions are added to the annual plan for the following year.

6.2.5 Electricity

There are an increasing number of suppliers of electricity to the commercial market, and prices do vary so shop around regularly. Changing supplier does not require any on-site wiring or electrical changes.

- An electricity broker will do the shopping around for you. They operate like an insurance broker and receive commission from electricity companies (Google or the Golden Pages will find one).
- Some developments have found that adjacent premises are linked to the common area electricity supply (e.g. marketing suite or offices), so if you suspect the electricity bill is high it may be worth having a survey carried out.
- Use photo cell or motion sensor technology and timers where appropriate to reduce the use of lighting. Over time try to replace lighting with more energy efficient models.
- Never take risks to save on costs. Preventative maintenance and safety surveys are cheaper in the long run.

6.2.6 Waste Disposal

Charges can vary significantly, and are often dependent on location. Different city and county councils and private contractors all have different ways of charging. The cost to the OMC will depend on whether the cost is per bin, pay by weight, or some other method.

- Consider buying a Bin Press. This is a machine that presses the waste down into standard size 1100L commercial bins. It can allow 2 to 3 times the amount of rubbish in one bin and does not damage the bin. It helps minimise the number of bins, and cuts the cost if the charge is per bin. It doesn't save money in a 'pay by weight' scheme, but can reduce the number of bins cluttering up the development. A caretaker is generally needed to use the machine weekly.
- Price structures change regularly, so put the cleaning contract out to tender often.
- Often, OMC's have to pay a contractor to move the bins to a suitable location to be collected by the waste disposal company. This is an additional cost, but can be avoided by using an electric 'tug' or quad bike to pull the bins to a suitable location. Again, a caretaker must be available to do the work, but these machines often pay for themselves in a short timeframe.

6.2.7 Administration / Secretarial / General / Bank chg

This heading is a 'catch all' which includes all miscellaneous costs, individually small but which add up to a significant figure.

Some audited accounts avoid showing costs according to individual categories, but include all costs on one line called 'General and Administrative Expenses'. This is not good practice as it hides the categories of costs and limits transparency. It is this practice that drives up the average on the sample to €128 per unit. Excluding the effects of this poor practice, this category of expense costs each owner around €28 on average.

6.2.8 Caretaker Expenses / Wages

About a quarter of OMC's have a full time caretaker. The annual cost is in the region of €25,000 to €35,000 per year, so it's usually feasible for medium to large developments only. Smaller developments could consider employing a part time caretaker, or even sharing a caretaker between neighboring developments.

Bear in mind that a good caretaker can save costs in other areas such as cleaning, maintenance and security. A full time presence on site also helps to ensure contractors finish work to a good standard, and can even help the OMC directors in managing the performance of the managing agent. Of course the key is to get a good reliable caretaker, and ensuring they are adequately supervised.

6.2.9 Security

Similar to caretaker costs, about a quarter of OMC's spend a substantial amount on security; usually for overnight weekend cover by a security guard. Quality of service providers vary, and because the work is overnight it is largely unsupervised so it can be difficult to ensure a consistent high quality of service.

Security companies usually charge per hour, and rates can be around €16 per hour. For a whole year, that can add up to around €20,000 for 2 weekend nights and bank holiday cover.

Many apartment developments also use CCTV. Installation of a CCTV system can be expensive, but ongoing maintenance is relatively cheap. CCTV works best in conjunction with monitoring by a caretaker or property manager to detect breaches of the house rules such as dumping. Some OMC's have even posted still images of offenders on notice boards as part of a name and shame policy! Over time, CCTV monitoring helps change behavior for everyone's benefit.

6.2.10 Audit / Legal / Debt collection / Bad Debts

On average €50 of an owners' service charge is spent on these items each year. These costs are just a 'necessary evil' of apartment living, and help to ensure everyone pays their fair share of the costs of running the development.

Bad Debts should not normally be written off bearing in mind that any unpaid debts can be registered through the courts as a charge on the property and recovered on the sale of the property.

6.2.11 Capital Expenditure Projects

Outside of the normal ongoing maintenance of the development, major capital expenditure is needed over the long term. The table below is an example of a recent capital expenditure programme over 4 years for a mid size development (around 200 units) built in the mid 1990's. This example is based on a real development that had deteriorated over a number of years, so a levy had to be raised to pay for this much needed capital expenditure. To fund this, each owner had to pay a levy of €500 per year for three years in addition to the service charge.

Do not underestimate the cost of long term maintenance; plan ahead by building up a substantial sinking fund from the early years of a development to avoid the need for expensive one off levies. In this example, around 30% of the total cost of running the development was capital expenditure, and the lack of a sinking fund to pay for the projects was a huge problem. Equipment (e.g. lift motors) can start to break down 10 - 15 years after installation, and bear in mind that the costs can increase further if the original design of the building does not match current equipment models (in this example lift replacement was more expensive due to poor design of the equipment rooms, and poor quality original equipment).

Year	Description	Estimated cost (incl. VAT)	Notes
<u>Year 1</u>			
1	Intercom System	20,810	Per quote
2	Paint internal common areas	40,000	Based on Decorators estimate
3	Replace one lift	42,350	Quote - E35K + VAT
		<u>103,160</u>	
<u>Year 2</u>			
4	Carpet inside all Blocks	43,126	Per quote
5	Replace one lift	44,000	Per quote
6	Balcony painting	30,000	Per quote
		<u>117,126</u>	
<u>Year 3</u>			
7	Fire alarm & improve lighting	20,000	Estimate
8	External Walls Painting	50,000	Per quote
9	Replace one lift	45,000	Per quote
		<u>115,000</u>	
<u>Year 4</u>			
10	Drain pipes / Gutters / Fascia & Soffit	16,000	Per quote
11	Roof repairs	10,000	Estimate
12	Re-planting courtyard	6,000	Per quote
13	Replace Front Door	5,000	Estimate
14	New Water / Sewerage pumps	8,000	Estimate
15	Final lift replacement	45,000	Per quote
		<u>90,000</u>	

7. Changing Managing Agents

When a Managing Agent underperforms, it is important to take decisive action to address the problem. Initially, a service level meeting should be held with the property manager and his superiors. Outline the problems and set out a realistic time frame for specific improvements in service. Try to work with the managing agent to solve the problems.

Although the transition from one agent to another can be difficult, OMC's should not be afraid to remove an underperforming agent. Staying with a poor agent will just make matters worse in the long run. However, try to have a professional end to the relationship; OMC's need the outgoing agent to hand over documents and files to the new agent, and often rely on the outgoing agent to transfer some knowledge.

Once the decision to appoint a new agent is made, there are several considerations:

1. The contract between the OMC and Managing Agent.

- Is the agent being removed under the breach of contract clause, or for general dissatisfaction with performance? The notice period required may differ depending on these circumstances.
- If removal is for general underperformance, what is the notice period to terminate the contract?
- Are there any other clauses in the contract to consider when removing the agent?

2. Finances

- When is the accounting year end? If possible, pick the year end as the end date for the current managing agent.
- How will payments be managed during the time between giving the agent notice of termination to the date of termination? This is particularly relevant if the OMC is in a poor cash position. The new managing agent will need some cash in the bank to get a good start, so don't let the outgoing agent run down the bank balances.
- Once notice is given to terminate the contract, prohibit the outgoing agent from entering into new contracts on behalf of the OMC or initiating any significant projects.
- Ensure the outgoing managing agent continues to keep accounting and other records, and continues to provide normal service levels up to the end date. This may require some negotiating around the payment of the final fees to the outgoing managing agent.

3. The Transition

This is often problematic. OMC's and Managing Agents often end the relationship on bad terms, so handover of files can be a low priority for the outgoing managing agent. However, failure to obtain all company records can lead to significant problems in the future. There is no industry accepted list of documents to be retained by managing agents, and documents are often lost with the passage of time or were not handed over to the first managing agent by the developer. Unfortunately, this is very common in the industry.

Always check the following:

- Legal documents: Either the OMC's solicitor or Managing Agent should hold title documents and other legal agreements on behalf of the OMC. These include the Management Company Agreement, Agreement for sale of the reversionary interest (vesting agreement), leases, planning and building control certificates etc. The solicitor should advise of a full list of such documents that should be held. If the agent holds them, then they should be handed over to the new agent.
- Any drawings of the building, equipment specifications and maintenance manuals, warranties and guarantees over equipment, etc. These should have been provided by the builder to the first agent. In practice such documents are often lost with the passage of time, so if the outgoing managing agent holds them, they should be handed over.
- All contracts entered into by the Managing Agent on behalf of the OMC. These usually include insurance, lift maintenance contracts, cleaning contracts etc.
- All financial books and records of the OMC. This includes the annual accounts for all prior years, with detailed supporting documents, including service charge allocations, owner statements, cheque and lodgment books, supplier invoices, bank statements etc. If in doubt ask the auditor or an accountant to provide a list of documents they recommend are handed over.
- Corporate documents: All minutes of AGM's and directors meetings, CRO returns, tax returns. A solicitor can advise on a full list of documents.
- Insurance claims history and policy, safety files, original brochures and any health and safety records are often lost with time, but if the outgoing agent has them, then they should be handed over.

7.1 The Selection Process

There are many agents out there looking for your business. Before inviting tenders, consider the type of agent you want: Do you want a large or small business as your Managing Agent? There are benefits and drawbacks to both: A large company usually has large back office support for the property manager, whereas a small agent lacks this but can compensate with a greater personal service. Ask friends or colleagues for recommendations or search the web. Identify the agents that manage neighboring apartment developments.

Once you have a list of agents that you want to tender, call them and invite them to come on site and meet you. They will probably want to do a site inspection in order to prepare a proposal.

Always ask for references from existing clients of the Managing Agents. Speak to the referee directly, and cross check their name to the CRO (www.cro.ie) to confirm that they are a director of the OMC concerned. Ideally the agent should have existing clients located near your development.

When assessing prospective Managing Agents, ask lots of questions. Use the best and worst practices sections above to guide your questions. See if they are experienced at managing similar properties. Consider the tenders under at least the following headings.

Assessing Proposals	
Transition	<ul style="list-style-type: none"> • How will the new agent ensure that all records and files are obtained from the outgoing agent? Ask for a list of the documents that will be transferred between agents. • Ask what is the agents policy regarding existing service providers: will they be replaced or continue? How are providers selected? • Ask if they have taken on any clients of the prior agent, and how that transition went. Ask for a reference from that client. • What communication will be sent to owners regarding the change?
Contract	<ul style="list-style-type: none"> • Ask for a draft of the proposed contract. Propose any amendments (particularly fees), and ask if they will accept your amendments. • What is the escalation process to address service level issues?
Fee Structure	<ul style="list-style-type: none"> • Does the agent propose a fixed fee covering all services provided? Insist on a contractual clause that the agent cannot charge additional fees or charges without the written agreement of the OMC in advance. • Will the agent or property manager receive any fee or benefit of any kind from any other person, with regard to its role as managing agent for the OMC? (E.g. insurance commission, inducements (kickbacks), etc). Add a clause to the contract prohibiting this.

Assessing Proposals (continued)	
Finances	<ul style="list-style-type: none"> • What is the budgeting process? Will the agent operate the annual plan and budget process as set out in the best practice section here and Appendix I? • Service charge invoices: When are invoices and reminders sent? Do they accept payment by monthly DD, standing order, credit card etc.? • Debt collection: Discuss applying interest, collection through the courts etc. What is the Agents track record? • How will the agent ensure that the initial debtor balances are recorded correctly? • How do they approach building up a sinking fund? • Do they provide monthly or quarterly accounts? Are associated reconciliations prepared with the accounts? • What auditor do they recommend? Do they use the same auditor for most or all of their clients?
Repairs & Maintenance	<ul style="list-style-type: none"> • What are the agents' initial observations on the state of the development? What would their priorities be? • What equipment or other 'maintenance heavy' features has the agent observed in the development, and how would they ensure that breakdowns/problems are minimised? • Will the agent prepare an annual plan for the first year similar to Appendix I? • How does the agent deal with day to day repairs and emergencies? • What is the agents tender approach, both for once off and recurring contracts? How many quotes do they seek? Do they have a preferred supplier list? How can we trust that the quotes are independent? • How does the agent ensure that standards of maintenance and repair are satisfactory? • Does the agent charge owners where repairs arise from problems within an apartment?
Support	<ul style="list-style-type: none"> • Who is the proposed property manager for the development (if successful)? Insist on meeting the proposed property manager. • What experience does the property manager have? • Will the Property Manager attend monthly board meetings? • How many other properties will this person manage (and what size)? • What is the escalation policy for complaints (by the directors or residents)? • What back office support does the agent provide to the Property Manager?

Assessing Proposals (continued)	
Legal & Compliance	<ul style="list-style-type: none"> • Will the agent manage all aspects of corporate and company secretarial responsibilities: e.g. AGM's/EGM's, all CRO returns, tax returns, audit completion? • How do they ensure deadlines for these obligations are met? • Do they provide a registered office address for the OMC? • How do they ensure compliance with health & safety legislation and regulations? • Would they want to be appointed as company secretary? (not recommended). • What documents will be held by the agent on behalf of the OMC (ask for a list)? • How are records kept, and will the OMC directors be given all or any documents on request?
Residents	<ul style="list-style-type: none"> • How does the agent interact with residents? E.g. is there a periodic newsletter, notices, meetings etc? • How responsive will the agent be to questions or complaints? Will the agent agree to a maximum 24 hour turnaround for resolution of non-emergency residents queries, and immediate response for emergencies? • How are house rules enforced? • Is there an out of hours emergency contact service? • When alarms are triggered, how does the agent respond? • How does the agent foster a community spirit?
Insurance	<ul style="list-style-type: none"> • How does the agent ensure adequate insurance policies are in place for the development and the OMC directors? • Does the agent receive commission from arranging insurance? • What insurance does the agent itself have in place, covering its services to its clients? • How does the agent ensure contractors have adequate insurance?
Staff	<ul style="list-style-type: none"> • How will any staff be managed (e.g. caretaker)? Are written contracts given to staff? How are issues of poor performance addressed? • Will the agent perform payroll and tax related services for staff?

7.2 Self-Management

Some developments are self-managed, which means there is no managing agent, and the owner-directors perform the functions of the agent. The degree to which a development is self-managed varies, but it is likely that at least some of the management functions will have to be outsourced.

Self-management can work well, but it puts a lot of responsibility on owners, so before going down this route owners should consider it very carefully and weigh up all options. The following are some questions to consider.

1. Who will be the day to day contact for owners? For example if there is a water leak, who does the owner call? What is the likely volume of such calls?
2. What if there is an emergency at night? Managing Agents usually provide an out-of-hours contact service. Who will take these calls and resolve the issue?
3. How will maintenance and repairs be organised, and who will manage bigger projects? Arranging insurance and risk management are also crucial to ensuring the development is safe and secure, but are time consuming.
4. How will the owner-directors communicate with owners and residents? Mail-outs, newsletters and notices are useful tools. Similarly who will issue warnings and penalties for breaches of the house rules?
5. Who will prepare budgets, issue service charge invoices, collect debts and record all transactions through the bank accounts? Similarly, who will keep the books and records of the company, record all purchase invoices and pay suppliers? How will the audit be managed? Some accounting expertise will be needed for this.
6. What about company compliance and secretarial matters? How will the company ensure it is complying with all its legal obligations? A solicitor will probably be needed for this, and to pursue debts.

Points 1 to 4 are possible to do if the board of the OMC is very active and willing to dedicate significant time and effort to management. Some OMC's pay one or more board members to perform these functions as a caretaker / manager / co-ordinator for the development. The success of this depends on the abilities and dedication of the person employed, and the support structures available. If going down this route, be careful how this is perceived by owners who might not be closely involved, as payments to owner-directors might be resented or be a divisive influence. Always ensure that such arrangements are transparent and have the full support of owners.

Points 5 and 6 will probably require specialist knowledge. It is best have external parties provide these services, as this can help ensure independence and transparency in financial and legal management.

If going the self-managed route, it is advisable to consult an expert initially at least, to help set up the structures and processes that will maximise the chances of success.

Appendix I: The Annual Plan and Budget

The Annual Plan is a useful tool to schedule tasks over the course of the year, and provides an objective basis to assess the performance of the Managing Agent. The following sample (this example is 6 months) can be tailored to the requirements of any apartment development.

The Budget is the basis of the service charges and must be prepared at the beginning of each financial year. It should be distributed to all owners with the service charge invoices. The example here is a summary; some OMC's include more extensive notes on planned spending.

**Example Owners Management Company Ltd.
Annual Plan for 2010 (6 months)**

Tasks to be complete by the date of each months meeting.

January		February		March	
Tasks:		Tasks:		Tasks:	
Invoice Service Charges for 2010		Complete 2009 Accounts & send to auditors		Complete 2009 audit & send AGM notice	€2,500
Service Water Pump	€300	Get 3 Insurance quotes		Transfer €10,000 to sinking fund	
Service sewer pump / pump out / clean sump	€300	Send quarterly newsletter		Service charge reminder letters. Apply interest.	
Pump out sewers & clean sump	€1,200	Open a new bank deposit a/c		Complete summer planting in the courtyard	€1,000
CapEx: CCTV cameras	€5,000	Paint ground floor lifts	€300	Service all lifts (Quarterly)	€4,500
		Qtrly fire systems maintenance	€600	3 quotes for waste disposal	
		Paint skirting boards	€200	Select insurance provider and pay for cover	€34,000
Finances		Finances		Finances	
Total of Cheques		Total of Cheques		Total of Cheques	
Total Debtors		Total Debtors		Total Debtors	
Current account bal.		Current account bal.		Current account bal.	
Caretakers account		Caretakers account		Caretakers account	
Sinking fund account		Sinking fund account		Sinking fund account	

April		May		June	
Tasks:		Tasks:		Tasks:	
Treat weeds & powerwash front wall	Caretaker	Hold AGM. Complete company filings.		CapEx: Fob system	€15,000
CapEx: balcony painting	€10,000	3 quotes for Security		Service all lifts (Quarterly)	€4,500
Service Water Pump	€300	Quarterly newsletter		Re-line car park	€1,500
Service sewer pump / pump out / clean sump	€300	Qtrly fire systems maintenance	€600	Transfer €10,000 to sinking fund	
Complete window cleaning	€1,200	Paint external railings	€3,000	Hold summer Barbeque	Caretaker
Full Debtors review with directors *				Roof repairs	€5,000
Finances		Finances		Finances	
Total of Cheques		Total of Cheques		Total of Cheques	
Total Debtors		Total Debtors		Total Debtors	
Current account bal.		Current account bal.		Current account bal.	
Caretakers account		Caretakers account		Caretakers account	
Sinking fund account		Sinking fund account		Sinking fund account	

* 1. Review all owner balances and select amounts to be sent to the solicitor for collection. 2. Overdue balances selected at the prior debtors review to be followed up.
3. Update on pending court cases.

Example Owners Management Company Ltd.
BUDGET 2010

2010 BUDGET

	2010 Budget	2009 Budget	Notes
INCOME			
Service Charges	345,650	359,260	4% Decrease on 2009
Total Income	345,650	359,260	
EXPENDITURE			
Insurance	34,000	33,000	Small increase expected from 2009.
Refuse Service	17,000	20,000	Decrease from 2009 - New Supplier
Management Agents fee	30,000	32,000	Decrease from 2009 - New Agent
Janitor's Service	30,000	30,000	Based on actual cost
Repairs & Maintenance	42,600	45,000	As per plan + 20k contingency
Repairs & Maintenance - Lifts	18,000	19,260	Decrease on 2009
Electricity	30,000	35,000	Expected decrease from 2009
Security	20,000	20,000	Fri & Sat night cover & Bank Hols
Cleaning	20,000	23,000	Decrease due to new supplier
Janitors Equipment	4,500	3,000	Phone, brushes etc.
Auditors Fees	2,200	2,500	Small decrease from 2009 Budget
Window Cleaning	2,500	3,000	To be cleaned yearly
Administration, Post & Stationery	1,100	1,000	Similar to 2009
Pest Control	2,000	2,000	As per 2009
Bank Charges	500	500	As per 2009
Legal fees	6,500	5,000	Increase from 2009 to recover debts
Corporation Tax	250	-	Tax due to Deposit Account interest
Capital Exp: Sinking Fund	30,000	30,000	
Capital Exp: Wall & Bal painting	30,000	40,000	€40k = New carpets in 2009
Capital Exp: New mail boxes	2,500	15,000	€15k = Upgrade of Main door
Capital Exp: Health & Safety	2,000		
Capital Exp: Fobs to replace keys	15,000		
Capital Exp: Upgrade CCTV	5,000		
Total Expenditure	345,650	359,260	
Budgeted Surplus / (Deficit)	-	-	

Apartment Type	Lease %	Units	Charge	Total	Difference 2010 Vs 2009
1 Bed Apartments	0.460	71	€1,592.37	113,058	(€63)
2 Bed Apartments	0.495	83	€1,713.53	142,223	(€67)
2 Bed Penthouses	0.530	22	€1,834.69	40,363	(€72)
3 Bed Apartments	0.580	11	€2,007.77	22,086	(€79)
Car Park Spaces	0.050	106	€173.08	18,347	(€7)
Commercial Units	1.000	2	€3,461.68	6,923	(€136)
Commercial Unit	0.335	1	€1,159.66	1,160	(€46)
Commercial Unit	0.430	1	€1,488.52	1,489	(€59)
Total Revenues				345,650	

Appendix II: Apartment Ownership fundamentals

The mechanism that has become the norm for managing apartment developments is the Apartment Owners Management Company (OMC). The purpose of the OMC is to manage the common areas of the apartment block for the benefit of the apartment owners. All apartment owners are members (similar to shareholders) of the OMC, and OMC's are generally run by unpaid voluntary directors who are owners of apartments.

If you are not familiar with the structure of OMC's, the difference between the OMC and the Managing Agent, and the relationship between the Developer, OMC and Managing Agent, you should do some research first through the resources below to get the full benefit from the information in this report, and to apply it to your situation.

One difficulty is that there are exceptions to every rule; owners are normally members of the OMC but there are exceptions; owners are usually in a position to manage the development for everyone's mutual interest but again there are exceptions. Exceptions are usually due to the structure of the legal documents prepared by the developer; these documents should be drafted for the benefit of the purchaser, but in reality this is not always the case. It is the exceptions that often prove to be the most problematic apartment developments, so it is important that all apartment owners understand how their development is managed.

Rights and obligations of Apartment Owners

As an apartment owner, you have rights and obligations with regard to the apartment development and OMC. Detailed information on your rights and obligations are available as follows:

www.apartmentowners.ie is the website of the Apartment Owners Network. This is a great group of apartment owners which provides advice and support to apartment owners.

www.consumerproperty.ie is the website of the National Consumer Agency. It has published some good guidance for apartment owners. This in particular is recommended reading for those unfamiliar with the rights and obligations of apartment ownership.

www.odce.ie is the Office of the Director of Corporate Enforcement. They have published a report on the more legal aspects of management of an OMC.

The obligations and rights of apartment owners are set out in the lease you received when you bought the property. Your solicitor should provide this to you. The most fundamental obligation is the duty to pay annual service charges to the OMC, and the rights generally relate to obtaining a reasonable level of service and information on the management of the development. Remember, as an apartment owner you are part of the Owners Management Company (OMC), and can influence the management of your apartment development, the level of service charges etc. through the OMC.

Getting Involved

All owners should attend the Annual General Meeting (AGM) and ask any questions about the accounts or management of the apartment development generally. All companies are required to hold an AGM annually and there is a standard order of business that must be adhered to. In the case of Owners Management Companies, in addition to the standard order of business, the AGM should facilitate free discussion between owners on any matters affecting the community as a whole.

A good source of information is the Annual Accounts of the OMC. You can obtain them from the Managing Agent (or from www.cro.ie). They should set out the costs incurred to run the development (but are sometimes not adequately detailed). In circumstances where the developer is still involved, or owners have concerns that are not addressed by the Managing Agent or at AGM, there are some practical steps you can take.

- Apartment owners have more chance of success by acting as a group rather than individually. Form an owners committee. Make contact with other owners by placing notices in the development. Meet with owners and assess if others have the same concerns as you.
- Don't be surprised if only a small number of owners want to get involved. It's not for everyone!
- Approach the Managing Agent as a group and insist on having your questions answered, or ask the Managing Agent to arrange a meeting with the directors of the Owners Management Company.

If these steps are not effective, you may need to take legal advice.

Become a director

To be in control of the management of the apartment development, owners must be appointed as directors of the Owners Management Company (OMC). Being a director is a voluntary role and is almost always unpaid, but it is the best way to influence the management and expenditure of the apartment development. It can be a rewarding experience in terms of quality of life and the value of your apartment, as well as contributing to a successful community.

The responsibilities and rights of directors are set out in the companies acts. The Office of the Director of Corporate Enforcement (www.odce.ie) has published a guide called "Directors: Their Powers and duties. A quick guide". You should read this if considering getting involved, but don't let it scare you. In practice, the day to day role of a director of an OMC is much less legalistic and much more mundane and practical.

Being a director can involve a substantial workload, but there is nothing to fear. It is normal practice for the managing agent to manage the day to day affairs of the development. The work of the OMC directors should focus on getting the best out of the managing agent and managing the finances of the OMC.

To become a director, you must be nominated and appointed at a general meeting of the company (usually the AGM).

To be nominated, you can take the following steps:

1. Inform the Managing Agent that you want to get involved. They can put you in contact with the existing directors and arrange for you to be nominated at the next AGM.
2. If unsuccessful through the agent, search for your OMC name at the Companies Registration Office (www.cro.ie). A company printout only costs a few Euro and will provide you with contact details for the OMC directors. Ask them directly for a meeting.
3. If the managing agent or owner-directors are not facilitating your request, you can attend the AGM and be nominated from the floor to be appointed as a director. The company's articles of association may have rules requiring members to give advance notice of their intention. Of course you will also need to obtain sufficient votes to be appointed. It is therefore best to have a group of owners working together, and plan in advance (with legal advice if necessary).

OMC's should generally welcome owners to join the board of directors, and the Managing Agent should facilitate this. If they don't, and the apartment development is well managed, it may be that there are a sufficient number of directors and the directors don't want the board to become too big. There is no ideal number of directors, but at least 4 active owner-directors is advisable.

If the apartment development is not well managed and you are being obstructed in your attempts to get involved, then getting involved becomes all the more urgent. Apartment developments deteriorate if directors fail to be active and diligent in their responsibilities. Take legal advice if you encounter difficulties with the OMC.

Constructive ownership

As an apartment owner, you don't have to become a director or be actively involved in the management of your apartment development. However owners must be constructive in their input to the management of the apartment development. At a minimum you should:

- Be aware of your rights and obligations as an owner.
- Understand the role of (and the differences between) the OMC and Managing Agent.
- Pay the annual service charges (you are legally obliged to pay them).
- Adhere to the house rules.
- Attend the AGM and have your questions answered.

The most important document for any apartment owner is the lease. When you buy an apartment, your solicitor should review the lease and be able to advise you about its contents. Always keep a copy.

Don't confuse the OMC with the Managing Agent. Owners are part of the OMC (similar to shareholders in a normal company), and the OMC is controlled by the owners collectively. If you think the service charges are too high, or you are not getting value for money, you have the power to get involved and change it!

The Annual Accounts

Companies are required to prepare financial statements annually and file them with the Companies Registration Office (CRO). The accounts are public documents and are available at the CRO for anyone to examine. Reviewing the accounts is a good place to start if you want to assess the financial situation of your OMC. You should review the accounts, bearing in mind that the trend over two or more years is important. Check the following:

1. The surplus of income over expenditure or deficit for recent years. If there are recurring deficits in recent years, this indicates the OMC is spending more than its income on a recurring basis. This is unsustainable and could lead at worst to bankruptcy, or at best a failure to provide for future capital expenditure through the Sinking fund.
2. The Sinking Fund. This is cash saved in a bank account for future non-recurring expenditure such as upgrading or replacing equipment (intercom, lifts, carpets, etc.), and is shown on the balance sheet (you may find it is not shown as many developments have no sinking fund). The body of this report contains more information on sinking funds. Check if the amount is increasing or decreasing in recent years.
3. The Bank balance. Some OMC financial statements will not show a Sinking Fund as a separate heading. The sinking fund is often just a deposit bank account, so is shown within the bank balance. If this is the case, you should assess the total bank balance and whether it is increasing or decreasing.
4. Accounts Receivable / Debtors. The amount of money owed to the OMC (usually by owners as unpaid service charges) is an important indicator of how good the OMC is at collecting the service charges. A sample of accounts examined determined that debtors are often between 5% and 30% of the service charges (income). A lower percentage is better, and a decreasing amount over 2 or more years is a good trend.
5. Accounts Payable / Creditors. This is the amount owing by the OMC, usually to suppliers. In assessing the Bank balance, bear in mind that amounts owed to suppliers effectively reduce the bank balance, as these suppliers have to be paid. The amount should normally be similar over years, unless any big projects were completed but not paid for before the year end.

The 'Managing your Finances' section of this document provides detailed information on the finances of OMC's.

Notes

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