



BY EMAIL: strategy@housing.gov.ie

Statement of Strategy,
Strategic and Business Support Unit,
Department of Housing, Local Government and Heritage,
Newtown Road
Wexford,
Y35 AP90

9th August 2024

Dear Sir/Madam,

Re: Call for Submission: updated Statement of Strategy (SOS) 2024-2025

Thank you for the invitation by the Minister to make a submission in relation to the Statement of Strategy 2024-2025 to the Department of Housing, Local Government and Heritage (“DHLGH”).

Our previous submissions in relation to the preceding Statement of Strategy 2021-25 and 2023-25 also refers.

Specific issues relating primarily to the Multi-Unit Development (MUD) sector are now revisited and further highlighted in more detail in this submission.

Existing Statement of Strategy

We note reference to housing sustainability in two of the seven Goals in the existing Statement of Strategy, **our emphasis** added:

Goal A: *To provide a framework that ensures **a sustainable housing system** in Ireland with a supply of good quality housing to match the needs of all our people.*

Goal D: *To ensure that planning and building in our regions, communities and maritime area contributes to the delivery of **sustainable and balanced development***

It is in the context of sustainable multi-unit residential housing development that we draw your attention to the following issues as they relate to the management of Owners’ Management Companies (OMCs) :

1. Sinking Fund Shortfalls

In October 2018, the Society of Chartered Surveyors Ireland (SCSI) produced a report, "[Sinking Funds in Apartments – Meeting the Challenge](#)", which found that "three out of four property managers say less than 25% of apartment buildings have set aside adequate funding" for long-term lifecycle maintenance.

Furthermore, in October 2019, a report jointly commissioned by the Housing Agency and Clúid Housing, "[Owners Management Companies, Sustainable apartment living in Ireland](#)", refers to "the sinking fund time bomb" facing many OMCs with inadequate Sinking Fund provision.

In the years since the reports were published, critical time has been lost, with no formal guidance for OMCs on Sinking Fund provision. We estimate that the aggregate financial deficit for the circa 100,000 apartment units built during the Celtic Tiger era could amount to over €1.5bn.

2. Dispute Resolution

The absence of an accessible and efficient dispute resolution process in relation to the MUD Act hampers the sustainable running of OMCs. Issues relating to poor corporate governance, poor communication and transparency, anti-social behaviour, and house rule breaches impair relations and dilute trust. The MUD Act provision for dispute resolution, referral to the Circuit Court, is too costly and impractical for most ordinary owners.

3. Inability to Collect Service Charges

There are inadequate legal remedies available to OMCs under existing legislation to recover unpaid service charges. The non-payment by a minority hampers an OMCs ability to provide the service the majority of owners pay for. Again, an efficient dispute resolution mechanism is required to address this issue.

The government's **Housing for All** plan recognised the issues listed 1-3 above. Section 5.5.5 promised to "*Reform Owners' Management Companies*". With a targeted timeline of Q4 2022, it stated:

"Well-functioning Owners' Management Companies (OMCs) are key to maintaining and sustaining higher-density residential developments, such as apartments. Housing for All will support effective management and oversight of multi-unit developments by legislating for necessary changes. This work will be led by the Department of Justice, supported by the DHLGH.

To ensure that OMCs are financially sustainable, the Department of Justice, in collaboration with the DHLGH, will make regulations under subsection 17 of section 18 of the Multi-Unit Developments Act 2011 (MUD Act), prescribing the class or classes of items of expenditure which may be the subject of annual service charges; the procedures to be followed in setting such charges; matters to be taken into account in the setting of such charges; and arrangements for the levying and payment of such charges.

Regulations will also be made under subsection 9 of section 19 of the MUD Act to ensure that OMCs provide for expenditure of a non-recurring nature (i.e. sinking fund expenditure) and it will also examine the introduction of a non-statutory dispute resolution process. This process would determine disputes in relation to provisions of the MUD Act and in relation to covenants of head/main leases to which OMCs are party."

It is deeply regrettable that government has failed to deliver on any of the commitments in section 5.5.5. We submit that the above commitments be prioritised for delivery in the 2024-25 Strategy.

4. Departmental Responsibility for the Multi-Unit Developments Act 2011 (“MUD Act”)

It has long been clear to all stakeholders in the MUD sector, that the Department of Justice (DoJ) has not the interest, the expertise, the knowledge, nor the experience to effectively legislate for the sector as necessary.

The failure of both the DoJ and DHLGH to effectively co-operate on the inter-departmental commitments made in Section 5.5.5 of Housing for All, serves to further highlight how the involvement of the DoJ in the MUD Act impairs the necessary progress of reform.

The Housing Agency, under the auspices of the DHLGH, has specialist knowledge of the MUD sector, and we therefore submit that responsibility for legislation and regulation affecting the sector is better suited to the DHLGH.

Chapter 3 and Recommendation 3 of the 2019 OMC report, and past submissions to DHLGH by the Apartment Owners’ Network, expand in considerable detail on the rationale for this proposal. The measure would be effected by way of amendment to section 1(1) of the MUD Act. We note that the Programme for Government commits to a review of legislation affecting owners’ management companies (OMCs).

5. A Dedicated OMC Regulator

We submit that, given the range of issues that impact the MUD sector and the management of OMCs, a standalone OMC Regulator should be established, initially on a non-legislative basis, to provide oversight of and guidance for OMCs. The experience of the regulator would be essential in informing the drafting of revised MUD Act legislation.

Oversight of the sector will be crucial as the state prepares to invest billions of euro in remediation and retrospective compensation for construction defects.

The establishment of an OMC Regulator is the key recommendation of the 2019 OMC Report. It recommends that the functions of the regulator would be:

- To offer guidance on all aspects of the operation of OMCs
- To maintain a register of OMCs and process annual returns to incorporate additional return requirements, thereby ensuring compliance within the sector by OMCs
- To collect data through the annual returns process in respect of expenditure trends, the size of the sector and monitor variances in service charge levels and collection
- To provide a dispute resolution process through an online tribunal system
- To impose sanctions on OMCs for non-compliance
- To appoint independent directors as a sanction on OMCs, or at their request
- To provide mandatory training to OMC directors
- To provide individual guidance and advice to OMC members and directors
- To carry out research in the interests of OMCs and unit owners
- To provide an inspection regime for new apartment developments to ensure compliance with building regulations and fire safety
- To provide an inspection regime for existing apartment developments to ensure compliance with building regulations and fire safety
- To provide emergency assistance where an OMC fails in its duties or abilities

6. Legislation for Construction Defect Remediation and Retrospective Compensation

We note that Objective 6 of Goal A of the Strategy is to “*Support the Delivery of High Quality Homes*”, with action 6.7 committing to “*Enact legislation to establish scheme to remediate fire safety, water ingress and structural defects in apartments and duplexes*”.

We commend the government in its political decision to commit to the enactment of this legislation and submit that the legislative process is commenced without further delay.

A key tenet of the 2017 report of the Oireachtas Joint Committee on Housing, Planning and Local Government “[*Safe as Houses? A Report on Building Standards, Building Controls and Consumer Protection*](#)” in recommending a redress scheme, was that “*Ordinary owners who purchased in good faith should not be liable for the costs of remediation caused by the incompetence, negligence or deliberate non-compliance of others*”.

We further submit that the Strategy ensures the necessary resourcing is in place at local authority level to ensure no bottlenecks in the rollout of building remediation.

7. Environmental Sustainability in MUDs


It is the experience of apartment and duplex owners, that State schemes to encourage residential carbon reduction are heavily focused on freehold houses and often fail to consider the complexities of OMC ownership of apartment buildings.

Owners in MUDs should not be disadvantaged in availing of State schemes and we therefore submit that all such initiatives involving the DHLGH must pay equal consideration to how they will effectively operate in apartment blocks with OMCs.

Examples include retrofitting, EV charging and waste management.

We should be glad to contribute further to the formulation of the Strategy.

Yours faithfully



Bryan Maher
Director