

Funda to cease operations in Ireland and close its property website



Ronan Higgins of Funda said the dominance of established property sites had made a market breakthrough difficult.

The IAVI was informed late on Friday 29 June by Ronan Higgins, CEO of Funda Ireland, that it was their intention to cease operations in Ireland. The reason given for the decision was a change in senior management in Funda NV in March this year which resulted in a major review of business strategy in recent months.

In briefing the IAVI, Funda explained it had managed to reach about 35% of Internet users seeking Irish property. However the dominance in

the market of established major property listings sites had made a breakthrough to viable trading levels difficult to achieve. After detailed analysis of the market and competitive conditions in Ireland and Holland the company decided that it could achieve higher returns from investment in new opportunities in its established markets.

Alan Cooke, Chief Executive of the IAVI, said: "We regret very much any inconvenience caused to members by this decision which was outside

our control. However, we have been assured by Funda that although they don't have a specific date for when the site will be totally down they would envisage that the site will be left up and ticking while agents make alternative arrangements. Of some concern to us are those members who are advertising solely on funda.ie and not on any of the other property listing sites. We will endeavour to impress on Funda Ireland the importance of keeping the site up and running for a reasonable length of time to allow members to transfer listings to another site."

Funda Ireland is an Irish subsidiary of the Netherlands based Funda company, which in turn is owned by the NVM, the Netherlands' major real estate association. The IAVI sold its property listings website, www.realestate.ie, to Funda in April 2006 and as members will know the Institute no longer operates a property listing website.

If you have any queries the contact in Funda Ireland is Ronan Higgins at ronan@funda.ie. Alternatively contact Valerie in the IAVI (valerie@iavi.ie).

Offshore Properties: Information seeking powers of the Revenue Offshore Assets Group

Tax Solicitor Julie Burke gave a talk on Dawn Raids and Revenue Audits at the Annual IAVI conference in Kilkenny which gave members much to ponder. Below is a briefing note Julie has put together on the information seeking powers of the Revenue Offshore Assets Group.

REVENUE OFFSHORE ASSETS GROUP: INFORMATION SEEKING POWERS UNDER SECTION 905 TAXES CONSOLIDATION ACT 1997 ("S905")

The following is the sequence of events and current position of the Revenue Offshore Assets Group:

May 2003 - Unannounced visits by Revenue to property agents

In May 2003 Revenue Officials under the direction of the Offshore Assets Group made several unannounced simultaneous visits to business premises of Irish property agents including some who are members of the IAVI.

Revenue requested information from these property agents regarding groups of unnamed persons who may have bought or sold non Irish property. These unnamed persons in many cases may not have been the clients of the property agent. In many instances the property agent was only acting for the developer.

A "selectively edited" version of s905 was furnished by Revenue officials to property agents who sought proof of authority for information requests made. Specifically, excluded from the text of s905 was the provision containing the right not to disclose any information of a confidential nature given to a client (except in relation to fees paid for services).

Revenue's View

Revenue believe that they had the power under s905 to visit premises of property agents and oblige them to disclose relevant information regarding groups of unnamed persons who may have purchased or sold property abroad. There are limitations where the purchaser or vendor is a client of the agent.

IAVI legal opinion

In light of the action taken by Revenue in May 2003 it became necessary for a legal opinion to be obtained, all representations made to Revenue having been disregarded. Accordingly, J.M. Burke Tax Solicitors (the only specialist law firm dedicated to dealing with tax litigation and tax disputes with Revenue) was retained by the IAVI. In summary, they confirmed as follows:

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That Revenue may not under s905:

1. Carry out a trawling exercise of unnamed clients files; or
2. request the property agent or his employees to extract this information from their records; or
3. fail to recognise the existence of the exclusion afforded in s905(2) (c) in relation to disclosure of any information or professional advice of confidential nature given to a client (except in relation to fees paid for services).

This view is supported by the fact that Revenue recognised in 1998 that they were not entitled to carry out an "indiscriminate trawling" exercise to ascertain information regarding the unidentified account holders in the context of the bogus non-resident account investigation. Thus, a new power was granted in Finance Act 1999 which required the Revenue to obtain a High Court Order which if granted allowed them to seek information: "in relation to a class of taxpayers whose individual identities are not so known". A new power was also deemed to be necessary and introduced in Finance Act 2005 in relation to unnamed groups of policy holders under Revenue's Life Assurance Policy Investigation.



Julie Burke of J.M. Burke Tax Solicitors speaking at the IAVI conference in Kilkenny.

Under the old legislation, insurance companies were only required to provide information to Revenue in cases where Revenue asked for information/records in relation to a specific named taxpayer.

These new powers would not have been necessary had the Revenue been entitled to use s905 or any other section of the relevant legislation to carry out the "trawling exercise" (as is proposed in the case of property agents) in relation to unidentified third parties. These new powers have no application to Revenue requests for information from property agents regarding groups of unnamed persons who may have bought or sold non Irish property.

June 2007 - Revenue's proposed action

Revenue have now advised the IAVI that following receipt and consideration of legal advice that Revenue believe they have the power to seek and obtain information regarding the owners of offshore properties and that they are in a position to resume visits to property agents in the near future to obtain the information originally sought. It is understood that visits will be announced by way of advance letter to the property agent.

Position of IAVI members

Whilst the IAVI and its members wish at all times to aid and assist Revenue in tackling tax evasion, we are most concerned to ensure that Revenue are acting within the scope of existing legislation and that IAVI members do not expose themselves to possible claims from taxpayers as a result of unlawful disclosure of information.

Unless there is a clear and unambiguous legal requirement to disclose information under s905, agents who disclose personal data (such as that required by Revenue during their visits in May 2003) may be potentially exposed to civil claims from affected parties. For any members who receive such a request, it is important that they seek proper advice from a practitioner who has experience in the area of revenue powers.

Darragh Brennan appointed IAVI Liaison Officer

Darragh Brennan has been appointed Liaison Officer with the IAVI. Darragh's main duties include liaising with colleges and college students on IAVI approved courses and enhancing the role played by the IAVI for students and members.

Members can expect to see a fair bit of Darragh as he will work closely with the Regional Councils and promote greater involvement by newer members in IAVI activities. Property Bytes decided to get to know Darragh a bit better.

Where are you from Darragh?

I grew up in Rosslare Strand, Co. Wexford and attended a school in the heart of Wexford town called St Peters College. Although I've been living in Dublin for over six years now, Rosslare will always be my home. After the Leaving Cert, I enrolled in Griffith College Dublin on their Journalism and Media Communications course. After graduation I decided to enrol in the Fitzwilliam Institute to pursue a postgraduate in Public Relations.

What made you choose this career?

While in fifth year at school, I was lucky enough to be chosen to produce and present a weekly youth orientated radio show on South East Radio called 'The Pulse'. It was while working on this show that I decided I wanted to pursue a career in the media. The course at Griffith College furthered my interest in the media; one day you would be learning how to construct a news story and the next you would be developing your own pictures in a dark room.

It was while doing a class on Public Relations in my final year that I felt that I had found the true direction I wanted my career to take.

While on my work experience with a Dublin based graphic design consultancy called Dara Creative I was offered a full time job as their PRO.

I learned all about how to manage the rebranding of a company right down to the smallest detail. I was involved in all aspects of communication, a vital element of my new role with the IAVI. For a year and a half prior to taking up my position I had been volunteering with Cradle in the capacity of public relations officer.

In August 2005 I joined the Sunday Tribune as a Senior Commercial Supplements and Feature Executive. I set all editorial outlines, briefed journalists; put commercial supplements together and secured sponsorship for each publication. This was a real eye opener as for the first time I was given an opportunity to understand the workings of the Irish media.

What's your new role with the IAVI all about?

The position of Liaison Officer is a new one for the IAVI and was set up in direct response to the 'Young Members Task Force', which was chaired by Kersten Mehl. The findings of that task force were that young members felt that the Institute was losing its relevance for them and there was no forum where they could air their opinions.

Young members felt that there was no real technical support available from the Institute and there was little contact with students while in college and there was no formal introduction for new members of the Institute. My responsibility is to tackle these issues and help the IAVI and its members communicate a little bit better.

In order to achieve this I have decided to focus on four main areas: student members, the colleges themselves, young members and the regional councils. We already have a lot planned including new networking events, a student website and a series of guest speakers for our college students nationwide.

Any first impressions working in the IAVI?

I didn't know much about the IAVI before I joined

so it really has been an eye-opening experience. So far I couldn't be happier. The IAVI staff are incredibly welcoming and helpful. I also met the officers and council members down at the National Council in Limerick a couple of weeks ago, which turned out to be a lot of fun.



Darragh Brennan the new IAVI Liaison Officer.

What would you hope to achieve in your role?

There was one word used over and over again in the 'Young Members Task Force Report' and that was 'apathy'. It seems over the years that the IAVI and some of its member have grown apart. I aim to dispel this apathy and reiterate to our members the value of being part of the IAVI. We provide more than just letters to put after your name.

Finally, what do you do when not working?

My favourite past time, although I will probably regret admitting to it, is playing guitar. I also try to keep fit in the gym three times a week. I'm an avid supporter of soccer, football and hurling. My favourite sports team is Arsenal and like 99.9% of Arsenal fans I am still grieving due to the loss of Thierry Henry to Barcelona.

IAVI makes a complaint on RTE's Future Shock programme

The Irish Times carried a story in its property supplement on Thursday, 24 May 2007, where it claimed that IAVI "members had not been slow to criticise Merrion Square for its head-in-the-sand approach" to the RTE Future Shock programme covering the Irish property market. The paper maintained that "no comment was forthcoming from the Institute and members felt let down that there was no one to defend them. (...) Meanwhile, objections to the programme by individual firms may well lead to a steward's enquiry at RTE over its shock tactics and bias," the Irish Times story concluded.



Journalist Richard Curran, author of RTE's Future Shock: Property Crash.

This story was inaccurate. The fact of the matter is that the IAVI, on behalf of its members, did lodge a formal complaint to the Broadcasting Complaints Commission (BCC) about RTE's Future Shock programme on 14 May 2007, ten days before the Irish Times ran the aforementioned story. It is regrettable that the so called paper of record did not act in line with the basic rules of good journalism and check its facts with the IAVI.

In a three page letter sent to the BCC, Alan Cooke, Chief Executive of the IAVI, asks the Commission to consider the Property Crash programme in terms of the requirement that news and current affairs programmes should be fair and balanced. As is explained in the letter, the IAVI delayed lodging a complaint until its members had time to gauge whether the programme actually affected buyer behaviour. A number of IAVI members reported an extremely detrimental response by potential buyers to the programme, which has been named by prospective buyers as the specific reason for reconsideration of their decision to commit to their purchase.

The IAVI complaint maintains that "the Future Shock programme acknowledged that public sentiment is a major element underpinning any market, but then went out of its way to undermine that sentiment in respect of the

housing market in a grossly exaggerated fashion. The advanced promotion of the show, broadcast at peak viewing hours, set a sensationalist and negative tone, thus preconditioning viewers. This was inappropriate for a programme carrying the label 'RTE Factual'."

The letter also stated that "while the property industry must not be immune from criticism or commentary, every industry, particularly one that is critically important to the economy, is entitled to balanced reporting, especially in the context of documentaries. We take serious issue with RTE's claim that the 'necessarily predictive' element in the programme was presented from a 'balanced, detailed and reasonable perspective'. In our view, the programme makers deliberately set out to frighten prospective and existing first time buyers and, while the majority of subsequent informed comment relating to the programme (...) has been almost uniformly condemnatory, there is a realisation among property professionals and the broader construction sector that serious damage has been done by the programme to the confidence of property buyers.

RTE's Head of Public Affairs Policy has responded to IAVI's complaint in a letter, dated 24 May 2007, to the head of the BCC which

maintains that the programme was fair, "in particular for first time purchasers who are considering taking out very large loans over 30 years or more." It states: "Certainly RTE believes it has done a service to would be property purchasers by making them aware of the possibility that prices may decline. That process has started."

The IAVI responded to that letter on June 5th with a second letter which highlighted a telling admission in RTE's letter which claimed that: "As the purpose of the programme was to examine the possibility of a significant price decline, the majority of commentators in the programme represented that viewpoint."

In the letter, Alan Cooke says the BCC must determine whether the programme was, as factual television documentaries should be, a fair and balanced examination of an issue of vital economic importance, which facts were presented to viewers in a manner that did not seek to unduly influence the viewers' conclusions.

The Broadcasting Complaints Commission decision is pending and has not been communicated to the IAVI.

IAVI REGIONAL COUNCILS 2007-2008

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Regional Council Members:	Paul Good Norita Robinson Seamus Somers	<i>As above names</i>	Seamus Costello Máire Daly Eoin Dillon Alex King Catherine McAuliffe Gerard O'Dea Ger Carmody Eoin Dillon	Stephen Gregory Leo McCauley Roger McCarrick Cormac Meehan Peter Tuohy Joe Daly Cormac Meehan Peter Tuohy	Anselm Brankin Francis Donaghy Dairmid Laird Ciaran Smyth
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UPDATES

Upcoming & Proposed CPD Seminars Update - July 2007

The CPD verification process for the 2004 to 2006 CPD cycle has been ongoing, thus the delay in launching the new CPD **Category A** cycle. We would like to thank the large number of members who have participated in the verification process and have now fulfilled their CPD requirements. For those few members who have not submitted your CPD Card may we encourage you to do so immediately.

The following **Category A** - CPD Seminars have or are in the process of being organised for you the members. **All bookings are being allocated on a pre-payment basis.** Your full cooperation in this regard will be much appreciated.

URBAN DEVELOPMENT AND INVESTMENT APPRAISAL

Course over four days under the direction of Dr Brendan Williams of UCD - IAVI certificates will be awarded to participants. **Now fully booked.**

FÁS SAFE PASS PROGRAMME

Has now been offered at five locations on a countrywide basis during the autumn and early winter. Bookings are brisk thus far and an extra date has been allocated to Dublin. There are still places available, especially in Galway and Sligo.

INSTITUTE OF ARBITRATORS

Initial planning meeting has taken place and work is in progress on a course aimed at IAVI members. The successful participants of this course will be eligible to become Associates of the Institute of Arbitrators.

VALUATION REFRESHER COURSE

A repeat of this very successful programme has been fully agreed with Mr John Morley. Autumn dates have been confirmed. IAVI certificates will be awarded to participants. Full details will be released at a later date after disappointed members who failed to gain a place on the 2006 course have been offered this year's course.

PROPERTY & TAXATION DAY

Agreement has been reached in principle with the Institute of Taxation to offer a suitable one day course. Full details to follow.

BUILDING ENERGY RATINGS

Ongoing discussion with SEI, DIT, GMIT and Energy Action Ireland. At this stage it looks like a 2008 Course on existing residential dwellings would be suitable for the vast majority of our membership.

INVESTMENT TRAINING FOR ESTATE AGENTS

Agreement in principle has been agreed with excellent line up of speakers: Jim Power of First Active, John Lowe (The money doctor, a weekly contributor to the Pat Kenny radio programme) and Brian O'Loughlin, the Investment advisor who has recently published a superb book on investment advice.

AGRICULTURAL DAY

This CPD will be practical rather than academic in its target. It will consist of the valuation of Wind Farms and Forestry. It will include an overview of current agricultural developments and their possible effect on agricultural land market.

PROFESSIONAL REAL ESTATE DAY

- ◆ **The proper conduct of an Auction**
Mr Neil Harper, Harper O'Grady
- ◆ **Effective Communications for Real Estate Agents**
(XPD8) Mr Pat Stephenson, J H North & Co
- ◆ **The management of multi tenanted buildings**
(TBA)

Please advise if there are any other suitable topics you would wish to be covered by your CPD team.

Noel A O'Reilly
CPD Manager
July 2007

IAVI website attracts 36,000 hits a month

Since the launch of the redeveloped IAVI website in early February the rate of hits month on month has grown to a high of almost 36,000. One of the most popular areas on the site is the Job Opportunities section. Viewed as a valuable service, members have utilised this area to advertise a variety of vacancies.

Currently, there are 32 advertisements on the site and based on feedback from previous advertisers we know that at least 6 vacancies were filled directly from the site. Perhaps this buoyancy in employment in the sector could belie the tales of doom and gloom out there! It is planned to carry out some modifications to the site in the near future. A discussion forum will be introduced to the members' area together with other features designed to make the site more user friendly. We will also take on board any suggestions made by members in response to the recent questionnaire from BDO Simpson Xavier.

If you have any ideas on features that will enhance the site please email: Valerie@iavi.ie



The job opportunities section of the new IAVI website is its most popular section.

Tennis Tournament

The ever popular IAVI tennis tournament will be held on Wednesday 29th August at Lansdowne Tennis Club.

Entry forms have been sent to members with the summer issue of The Property Valuer. So if you fancy yourself as a budding Rafael Nadal or Maria Sharapova come along to what is a great opportunity for an evening's sport and networking.