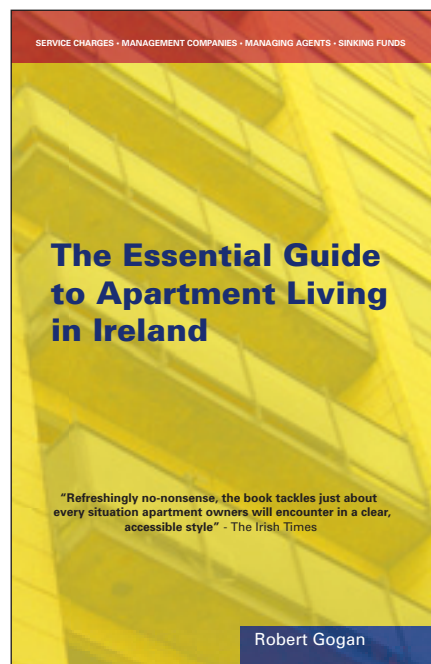


A Brief Overview of the Role of the Managing Agent in multi-unit dwellings

BY ROBERT GOGAN



It's estimated that about 500,000 people live in multi-unit developments in Ireland today. That's more than 10% of our total population.

The housing statistics collected by the Department of the Environment, Heritage and Local Government show that between 1992 and the 3rd quarter of 2006 a total of 145,458 apartments were built nationwide (about 20% of total housing completions), with 69,956 of these being built in Dublin (about 40% of Dublin housing completions). When you take into consideration the apartments built before 1996 and after the 3rd quarter of 2006, and all of the houses built in privately managed developments, you're talking about a very significant percentage of the overall property market in Ireland.

Having worked as a Managing Agent in Dublin for several years, I decided to 'emigrate' to Achill Island and take things easier. Throughout that period in Dublin, I was amazed to note that very few estate agents were willing to become

involved in the business of acting as Managing Agents in multi-unit developments or privately managed estates. "I wouldn't touch it with a barge-pole" was, and still is, the common reaction from estate agents.

There's no doubt that it can be a frustrating business and you have to deal with some very frustrating people. However, I believe that if your business is conducted in an efficient manner and you're transparent in your dealings with the owners you can greatly reduce any potential difficulties.

The property industry can fluctuate greatly between highs and lows – the present property climate is a witness to this. Therefore it's vital to have a section of your business which creates the bread & butter for the company, and perhaps, now and again, the odd dollop of jam. You can achieve this end by including a Managing Agency section in your business.

As for the jam, I'll explain more about that later.

OWNERS' FRUSTRATIONS

The Managing Agency business is not without its problems. In my experience, the greatest problem for the Managing Agent is the lack of information, awareness and knowledge on behalf of the owners of the units. Most people who buy apartments have little or no idea as to:-

- The legal organisation of the apartment development.
- The operation of the management structure (Management Company, Managing Agent and Board of Directors).
- The items and services covered by their Service Charge.
- The fact that their Service Charge can increase on an annual basis.

This results in endless hours of staff time being spent explaining to frustrated owners how the whole system works and what your responsibilities as a Managing Agent are within that arrangement. This is made more difficult by

the fact that most owners resent having to pay any Service Charge whatsoever and are unaware of the cost factors involved in the management of an apartment development. They therefore convince themselves that they're being ripped off and consequently have little trust in their Managing Agent.

This situation is highlighted even more so in a new development, during the period when the developer is completing the development and hasn't dealt with all the common area snags. Most owners expect the Managing Agent to work tirelessly on their behalf to have the development completed to their satisfaction. However, it's not the Managing Agent's responsibility to do this and certainly the management fee could not possibly justify the enormous time and effort which would be involved in such work.

Trying to explain this situation to the owners can be exasperating and extremely time-consuming. I can't count the number of times when, in the course of one of these types of conversations, I'd have given my right arm to have been able to say "There's a book available which will explain in detail how an apartment development works and you need to read this book". Hence the idea of writing such a book came into my mind, and the fact that there are several references and explanations in it in relation to the role and responsibility of the Managing Agent in new developments.

Managing Agents should consider producing a short explanatory document outlining the management structure and Managing Agent's responsibilities and distributed it to all owners and residents. Such a move would be of benefit to the owners and would help to reduce the number of calls to the Managing Agent's office. Having said all of the above it's fair to say that the teething problems begin to decrease as the development matures.

OPPORTUNITIES TO INCREASE BUSINESS

I can already hear many estate agents saying, "I don't need that sort of hassle. I still wouldn't touch it with a barge pole!" Fair enough, but let's look at the potential earning capability of the entire exercise.

- Firstly, there's the management fee for acting as a Managing Agent. It's important to explain clearly and in detail to the owners what's included in the fee and, more importantly, what's not included – i.e. the services you're prepared to provide for additional fees, such as, (a)outlay and stationery, (b)the attendance at, and organisation of, Extraordinary General Meetings, (c)non-scheduled visits to the development, etc. (Strictly speaking, this information need only be supplied to the directors of the Management Company, or the developer in a new development. I believe that all owners should be entitled to it and should receive it along with all other budget information.)
- Secondly, there's a strong possibility of picking up the letting and management of several of the rental apartments in the complex. As the Managing Agent, you'll be aware of the identity of the investors and owner-occupiers. It shouldn't be too difficult to convince investors that your company, as the Managing Agent in the development, is best placed to source the most suitable tenants for them and to manage their apartment.
- Thirdly, you're in with a good chance of securing the sale of some of the apartments in the development when owners are moving on. You're a familiar line of contact with the owners and you'll be the most qualified and experienced to answer the potential purchaser's questions in relation to the apartment.

So, all-in-all, there's quite a package of opportunities available to an estate agent if they enter the Managing Agency business in multi-unit developments - provided, of course, that the owners are happy with the level of service being supplied by the Managing Agent.

INFORMATION TO OWNERS

One of the greatest issues that owners have, and I referred to it earlier, is that they are unaware of the variety of costs involved in the management of their apartment complex. Many of them complain that they're not getting value for their

money or, worse still, they're being openly ripped off. Their suspicions are often stimulated by the fact that a large number of Managing Agents send out the annual Service Charge invoice but fail to include any supporting explanatory documentation, in particular the budget on which the Service Charges were calculated.

I can't see any reason for the withholding of this important information from the owners and in my opinion it's an unacceptable practice. It's the source of much frustration among owners, and, in turn, leads to mistrust and suspicion of the Managing Agent.

MANAGING AGENT'S SERVICES

Proper management of an apartment development requires efficiency, competence and knowledge in a variety of different areas. Not all of the services might be included in the management fee quoted and some of them might be subject to additional fees, which should be stipulated.

The complete list of services includes:-

Maintenance and repair

- Prepare tenders, seek quotations and appoint the contractors required for routine maintenance and cleaning.
- Investigate the competence of all contractors and inspect their public liability insurance.
- Interview and select any full-time employees to be employed by the Management Company - caretakers, etc.
- Deal with all routine repairs and any scheduled and unscheduled cleaning and maintenance.
- Supervise all work carried on at the development.
- Keep a schedule of all equipment and machinery, arrange for annual service contracts where necessary and review them each year.
- Act as project manager for non-routine renewals, refurbishment and other works.
- Prepare a cyclical maintenance plan for all equipment.
- Deal with any matters in relation to security, break-ins or vandalism in the common areas.

Financial and accounting

- Maintain the Management Company bank accounts and reconcile the monthly statements.
- Maintain Service Charge accounts records for all owners.
- Carry out all bookkeeping functions.
- Prepare the annual budget and meet with the Board of Directors to finalise same, and provide a copy to each owner showing a detailed breakdown of costings.
- Apportion the Services Charges in accordance with the Lease.
- Manage the collection of Service Charges from all owners, including the collection of Service Charge arrears.
- Provide quarterly/monthly Direct Debit facilities to owners for payment of Service Charges.
- Examine and pay all contractor invoices.
- Liaise with the company auditor in relation to the annual accounts, and issue accounts documents to all owners prior to the Annual General Meeting.
- Advise the Board of Directors on the required level of Sinking Fund each year.
- Pay wages to Management Company employees, and deal with all PAYE and PRSI matters.
- Deal with the Revenue Commissioners in relation to all routine tax and accounting matters.

Legal and administration

- Advise the Board of Directors in relation to

surveys of the development - Health & Safety, Fire, reinstatement valuations, etc. Circulate the results of the surveys to the directors.

- Deal with all professional and technical advisors.
- Negotiate the renewal of the insurance policies.
- Deal with all insurance claims if and when required.
- Deal with the Companies Office in relation to all routine company law matters.
- Liaise with the Board of Directors on the Annual General Meeting and circulate all owners with the Notice and Agenda, including statutory accounts documentation.
- Deal with all matters in relation to any Extraordinary General Meetings of the Management Company.
- Attend all General Meetings of the company, and meetings of the Board of Directors, if necessary. Circulate all minutes of meetings as instructed by the Board of Directors.
- Deal with all breaches of the House Rules, Lease covenants, etc.
- Provide legal advice to the Board of Directors on routine matters relating to the Lease.
- Liaise with the Management Company solicitor if instructed to do so by the Board of Directors.
- Act as company secretary and carry out all functions of that position.
- Deal with any issues arising with the Local Authorities, adjoining neighbours, Gardaí, etc.
- Provide replies to Requisitions on Title when an owner is selling his apartment.

- Advise the Board of Directors on the most suitable location for the Health & Safety file, Title Deeds, company seal, etc.

General

- Maintain a diary of events and incidents at the development.
- Maintain computer database files in relation to all owners.
- Deal with all telephone and written communications from owners and residents in relation to all matters relevant to the remit and responsibilities of the Managing Agent.
- Issue a periodic newsletter to owners and/or occupiers.

As you can see, there can be quite a number of different duties surrounding the job of Managing Agent, but it's not rocket science. Many of the tasks are routine, repetitive and relevant to most apartment blocks. A well organised Managing Agent, therefore, could automate and streamline many of the procedures to the benefit of everybody.

There's an abundance of business out there and apartment developments are very much on the increase in our towns and cities. The bread and butter, and jam, could become very tasty!

Robert Gogan is author of "The Essential Guide to Apartment Living in Ireland" which is available in good bookshops, priced €15.

CLARIFICATION

In my article on the Fine Art Market in the Winter 07 PV I mentioned that Artists Resale Rights (ARR) are payable by the vendor of works by living artists who have owned the work for more than three years.

In fact this applies only to Northern Ireland and the UK in general as the authorities there availed of the option to provide this exemption.

However here in the Republic, the Dept of Enterprise Trade and Employment which drew up the regulations under which we operate the scheme did not avail of this option, therefore ARR is payable by vendors on all works by living artists that sell for a price in excess of €3,000, regardless of when purchased.

James O'Halloran