

# CLIFDEN COURT NEWS SUMMER 2011



## Multi-Unit Development Act 2011

The multi-unit development bill was signed into legislation in the first quarter of 2011. This legislation has given extra rights to members in how your management company is run. Please read pages 3 to 7 that gives you as much information as possible regarding this new legislation.

### SUMMER 2011

#### Contents

- MULTI-UNIT DEVELOPMENT BILL 2011
- ROOF REPAIRS
- WINDOW
- CLEANING
- COURTYARD
- WATER TANKS
- NEW FRONT DOOR

## New Lobby Front Door

An item, which has been on the agenda for the past number of years, has been the front door. Please note that the new door was installed on the 29.06.2011. We hope the new design will improve the overall look of the development.



## Water Tanks

We would ask all members to check their water tanks, which are located in your hot press area or in the attic area's of your apartment. It appears that the majority of water tanks located in the development are plastic. However we have had two apartments lately in block C, which had metal tanks originally, installed in the apartment.

The issue with metal tanks is that they have a life span of approx. 20-25 years but this will vary wildly depending on ph. of water in development. They rust from inside out, so it is impossible to tell when they will fail. Therefore Plumbers advise to change whenever they come across them.

**\*\*PLEASE CHECK YOUR WATER TANK\*\***

---



## COURTYARD

Please note that as per the house rules, children are not allowed to play in the courtyard area. This is based on health & safety grounds and on the instructions of the insurance company.

Over the past number of months I have spoke to a number of tenants, however some tenants are continuing to ignore our directives. I would ask any members who are currently renting their apartments to families to please ensure they are reminded of these health & safety concerns.



# "MUD" - New Responsibilities and Obligations For Directors

In effect the MUD Act allows owners to take far more control of their own developments but simultaneously it imposes greater liability and a requirement for apartment owners to participate and take up the role of director of the OMC and ensure the OMC is compliant with the obligations of the Act in addition to the Companies Act 1963-2009.

## Governance

Additional governance obligations and far greater responsibility is now imposed on directors in terms of the general operation of the OMC, consultation with the owners and reporting.

Directors will now have far greater responsibility in terms of ensuring adequate maintenance of the development, and the selection of services and contractors particularly in terms of life safety equipment.

For example, generally life safety systems in multi-unit developments will consist of a fire alarm system, emergency lighting, smoke ventilation systems, fire extinguishers and dry risers. All these systems have annual maintenance requirements by suitably qualified persons and the maintenance carried out must comply with the relevant standards (IS 3218:2009 IS 3217:2008 BS 9999:2008 IS 291:2002 BS 5306-1:2006).

To ensure value and regular reviews occur the Directors cannot enter into contracts for a fixed period greater than 3 years.

## Reporting

As well as the standard statutory reporting, the directors of an OMC will now have responsibility to prepare for the annual AGM a report issued 10 days in advance detailing:

- Income and Expenditure.
- Assets & Liabilities.
- Annual Service Charges.
- Sinking Fund Provision.
- Planned Sinking Fund Expenditure for the current year.
- Details of the Insurance cover.
- Fire Safety details.
- Contracts including any connected party transactions.

The directors must present the financial statements at an AGM, and now as mandated by the Act also have the annual service charge budget approved at general meeting. Generally AGMs are held between 6 and 9 months after the financial year-end. If directors wish to



Present the proposed budget at the same meeting the budget may consequently have to be prepared between 3 and 6 months ahead of the financial period it relates to. This may have implications for the accuracy of presented budgets as generally final service and contractor costing's are determined 30-60 days prior to the new financial year.

Alternatively the directors may opt to incur additional administration costs and look to hold two separate general meetings during the year.

### **Service Charges and Sinking Funds**

There is a separation in the Act between annual operating service charges and an annual contribution to a Building Investment Fund (Sinking Fund). This distinction and the separate rules to approve expenditure under each section will now require two budgets to be presented to members at general meeting.

#### **• Service Charges**

The initial OMC Directors may set the first year's service charge rate, which must be calculated on a transparent basis and be equitably apportioned between all unit owners.

Thereafter, the annual operating budget and service charge cannot be levied until the Directors have presented it and approved by the members at a general meeting. It can be amended by at least 60% of the members attending and in order to be disapproved must be voted against by at least 75% of the members attending.

If disapproved, the existing charges (prior year) shall remain in place until adoption of a new charge.

The service charges levied must not be used to discharge expenses on matters, which were or are the responsibility of the developer, unless such expenditure is approved in writing by 75% of the members.

The directors must ensure the OMC maintains proper records of expenditure for auditing purposes.

#### **• Sinking Funds**

The Act requires that the directors of every OMC establish a sinking fund for the purpose of discharging expenditure reasonably required for the refurbishment, improvement or maintenance of a non- recurring nature or advices in relation to such matters.

Each unit owner, including a developer who is deemed to be a unit owner, is obliged to pay €200 per unit per annum and any alternative sum will require to be presented by the directors and approved by 75% of the members at a general meeting.

These monies may not be utilized to pay for any non sinking fund expenditure and must be

---

held in a separate account.

The fund must be established within 3 years of the first sale or if the development is already in existence, within 18 months (30<sup>th</sup> September 2012).

## **MUD" - Additional Requirements For Life/Safety Systems**

This imposes far greater responsibility on directors in relation to the operation of the OMC in terms of ensuring adequate maintenance of the development, particularly in terms of the statutory obligations regarding life safety equipment and other mechanical equipment.

### **Life Safety Systems**

Generally life safety systems in multi-unit developments will consist of a fire alarm system, emergency lighting, smoke ventilation systems, fire extinguishers and dry risers. All these systems have annual maintenance requirements by suitably qualified persons and the maintenance carried out must comply with the relevant standards (IS 3218:2009 IS 3217:2008 BS 9999:2008 IS 291:2002 BS 5306-1:2006).

### **Domestic Water tanks**

In many developments council water supply is stored temporarily in water tanks and pumped to apartment units as required. There is potentially significant health risks associated with unmaintained water tanks (such as E.Coli and Legionella). Dirt that collects in these tanks, either originating from the mains supply or from the local environment, provides a nutrient source for harmful bacteria. It is therefore important that owners of these systems (in this case the OMC) ensure there is a planned maintenance programme to disinfect these tanks in accordance with ACOP L8 / BS6700 and the National Guidelines for the Control of Legionellosis in Ireland 2009.

### **Lift Systems**

Passenger lifts must be maintained annually to ensure the reliable and safe operation of the passenger lift unit by qualified and competent lift service providers that comply with the Safety, Health and Welfare at Work (General Application) Regulations 2007 and the EN – 81 regulations for lifts.

In addition, under the Safety, Health and Welfare at Work (General Application) Regulations 2007 it is a requirement that all lifts are covered by an Engineering Insurance Policy. This policy provides for a bi-annual independent engineering inspection of the lift installation and also covers sudden and unforeseen damage and fragmentation.

In addition to the valuation for insurance purposes the scope of cover generally and terms including excesses must be adequate and appropriate.



## "MUD" - New Requirements and Obligations For Insurance

The directors are responsible for arranging the development's insurances and annually reviewing the adequacy of the cover in place in advance of renewal of the policy/policies.

A valuation for Insurance purposes is required to determine the insured sums and care must be given to ensure a qualified and competent person carries out the valuation so that the proposed insured sums are adequate. Annually this valuation should be reviewed and adjusted according to market conditions.

In addition to the valuation for insurance purposes the scope of cover generally and terms including excesses must be adequate and appropriate.

In accordance with the Act the Director's Annual Report required to be presented annually to the members at the Annual General Meeting must now include full details of the insurance arrangements including a statement of the insured value of the multi-unit development, and a summary of the principal risks covered, the name of the insurance company with which the policy of insurance is held and the amount of premium charged.

Generally the OMC will hold insurance policies under the following headings;

- **Buildings Cover**

Cover is written on a fire and special peril basis and the principle risks covered are fire, lighting, explosion, aircraft, earthquake, riot, civil commotion, storm, tempest subterranean, flood, escape of water from any tank apparatus or pipe, impact, accidental damage, damage to buildings arising from theft peril, accidental breakage of glass signs and subsidence.

- **Public liability Cover**

The policy should include Public Liability Insurance, which covers legal liability that may arise from accidental bodily injury (or death) to any third party person or loss of or damage to their property arising in connection with the ownership (Freehold or Leasehold) and/or management of the Multi-Unit Development.

- **Employers liability Cover**

If there are direct employees of an OMC such as a Janitor or concierge then an appropriate employers' liability policy should also be put in place.

- **Directors and Officers Liability Cover**

Directors and Officers liability insurance cover is arranged to protect the Directors & Officers of the OMC for their potential exposure to claims that might be brought against them for any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, omission,

breach of warranty of authority, libel/slander or any other act that may be committed by them in the course of carrying out the activities of the OMC on behalf of all the owners/members.

Cover should automatically apply to any person who becomes a director, officer, trustee, employee, volunteer, committee member or any member of staff of the OMC.

- **Lift Engineering Inspection cover**

It is an existing statutory requirement that all lifts are covered by an Engineering Insurance Inspection Policy, which provides for a bi-annual independent engineering inspection of the lift installation and may also cover sudden and unforeseen damage and fragmentation.

## Window Cleaning

The annual window cleaning took place last week in Clifden Court. We would ask members for any feedback and please inform us if you have any issues with the cleaning standards.





## ROOF REPAIRS-BLOCK E

Please note that as discussed at last years AGM we had scheduled a roof survey for the whole development. This survey has highlighted some areas of the development, which need to be replaced/repaired. As a result we have started major repairs to Block E in the courtyard. These works will last 4 weeks and we would ask all residents to be patient during these necessary works.

These works are only permitted during the hours of 9AM to 5PM Monday through Friday. We apologise for any inconvenience during these works.



---

### CLIFDEN COURT MGT COMPANY

C/O AM Estate Management

26 Upper Pembroke Street

Dublin 2

Tel:01-6403387

Fax:01-6865658

[www.amestatementmanagement.com](http://www.amestatementmanagement.com)

[Adrian@amestatementmanagement.com](mailto:Adrian@amestatementmanagement.com)

24-Hour Emergency Phone (New Number)

087-7540856