

IPOA E-ZINE

Issue 4. 7th December 2005

Official on-line magazine of the Irish Property Owners Association

Registered members of the IPOA can subscribe to receive this regular update by e-mailing their name, membership number and e-mail address to: ipoa@eircom.net

Contents

1.Editorial

2.Dublin Meeting 17/11/05

3.Cork Meeting 13/10/05

4.Fire Prevention

5.Long Equity Leases

6.Upcoming Budget

7.Apartment Insurance

8.PRTB Form

9.Market Trends

10.Keeping Your Records Straight

11.Article

12.RAS

13.IPOA Website

14.Notice Periods of Termination

15.IPOA Launch Invite

16.Parking Permits

17.Codes of Practice

18.Wills

1. EDITORIAL

Another year has passed; a very eventful and productive one for us. Our move to new premises in February was well received and we are happy to report an increase in the numbers of members who are coming into the office. With members meetings, quarterly newsletters, monthly e-zines, legislation training and mediation training we have been keeping very busy. The Residential Tenancies Act 2004 is still in its infancy and we are continually learning and keeping the members informed of its implications. We are watching the PRTB with interest and the determinations that are on their website www.prtb.ie.

It is gratifying to note that rents have increased and members are no longer facing the problems of letting that they were experiencing at the beginning of the year. A number of

members have expressed their interest in the RAS scheme, provided that RAS pay the market rent, which they are not doing at the moment. We are continually arguing for market rents to be paid.

We are happy to be in a position to give all the members that renew their 2006 membership a 2006 diary/yearbook to help them keep track of their business. We are introducing our Advocates, Diary/Yearbook and previewing our IP2000 Standards for rented properties to our friends and colleagues on the 14th December and look forward to seeing some of you then.

Best wishes for the Christmas Season!

Stephen A. Faughnan, Chairman

2. DUBLIN EVENT - 17TH NOVEMBER 2005

Our recent members meeting in the Red Cow was very well attended and it is really gratifying for us to see so many members, some having travelled a good distance to attend. Robert Houlihan, who designed the website, gave the members a quick tour of the site and showed them how useful it will be. There was also a comprehensive overview of the Residential Tenancies Act 2004 presented by the Chairman. Colm Lavery from the Department of Environment Heritage and Local Government gave a well explained, presentation on the RAS, allowing the members to make up their own minds as to whether it is suitable for them.

We had a very quick questions and answers session and altogether a lot of valuable information was imparted to an interested audience.

3. CORK MEETING - 13TH OCTOBER 2005

Our recent meeting in Cork was a very successful occasion. With guest speaker Aodan O'Laoire from Cork City Council discussing the Council Waste Management and Colm Lavery DEHLG outlining the RAS (Rental Accommodation Scheme). There was also a very comprehensive presentation on the Residential Tenancies Act 2004 prepared and presented by the Chairman. The Cork Committee were introduced to the members and there was a very good atmosphere generated with a very active questions and answers session. Altogether a very informative meeting

4. FIRE PREVENTION IN THE RENTAL MARKET

Fires are particularly dangerous and can result in tragic loss of life, injuries and damage property. A number of precautions carried out by all property owners and tenants could save lives and prevent hardship.

We would advise all property owners and tenants to check that fire alarms are working and batteries are replaced at regular intervals. It would also be a good practice to place a route planner on the back of the door in bedsits and apartments explaining the route to use to exit the property in the event of a fire.

Electrical and gas appliances should be inspected frequently and replaced or repaired where necessary. Unplug kettles, televisions, radios etc at night which will help prevent fires and save money as well. Be vigilant and look out for anything that could cause a fire. Make sure that sockets are not overloaded.

Smoking is dangerous and smokers should be careful when putting out cigarettes, ensuring that they are out particularly at night. 60% of fires are caused by cigarettes not properly extinguished.

The use of chip pans should be minimised particularly late at night and should never be left unattended. Water should never be used to put out a chip pan fire, use a fire blanket or extinguisher which should be kept in the kitchen. Fire extinguishers should be checked yearly to ensure that they are functioning correctly. This is sensible and easy advice to follow and should help in the safe management of your property. Increased awareness of the danger of fires should prevent accidents.

5. LONG EQUITY LEASES

Under the Landlord and Tenant Amendment Act 1980 property owners should be aware that if they have a tenant for a 20 year period they have a right to a 35 year renewable lease. This lease can be sublet and is of course invaluable to a tenant. However this is detrimental to a property owner. Your tenant has to have been in the property for 20 year and has to have applied for the right before 1st September 2009.

Where the tenancy has lasted less than 20 years but could reach 20 years before 1st September 2009, if not terminated before then, the tenant will be able to irrevocably renounce his/her entitlement to claim a long occupation equity lease in return for being allowed to continue as tenant of the dwelling. If you have any queries about long equity lease please do not hesitate to contact us.

6. UPCOMING BUDGET

It appears that the Private Rental Market is the least valued section of our economy. The state is happy to take revenue from the industry but do not bother year after year to examine a tax system that is antiquated, unfair and in place over a hundred years

The idea that rental income is passive income or unearned obviously came from someone with no knowledge of the industry. Property owners are expected to act in a professional

manner, advertise, interview tenants, check references, register properties, collect rents, file returns, clean and maintain properties, garden, and frequently redecorate and yet this is classed as unearned income. Obviously this is all being done by magic. Don't expect tax relief on any pension contributions either that's out of the question for property owners.

7. APARTMENT INSURANCE

We have had a lot of queries recently from members regarding apartment insurance. It is important to remember although management companies insure the block they do not insure the interior of an apartment for public liability. If you are letting a property it would be a wise precaution to insure the apartment separately for public liability. This way you would be insured for a mishap that could happen to your tenants or their visitors.

8. PRTB FORMS

The Private Residential Tenancies Board recently issued a new registration form on their website www.prtb.ie which is now 6 pages. When they were redesigning the Registration Form in June they requested our input and on the 8th July 2005 we sent the director of the Board a well thought out much shorter form, containing all the relevant details. Unfortunately the Board did not even have the courtesy to reply to our submission. Obviously our form was not considered worthy of a response. The board have more than 70,000 registrations and there are 700 disputes pending, the forms do not need to contain the amount of information requested. If disputes arise and more information is needed it should be requested.

9. MARKET TRENDS

We are happy to confirm that members have reported an upturn in the market since our survey in January. Properties are being let quickly. Rents have increased and members now have fully let properties. This does appear to be as a result of the amount of immigrants looking for properties. Although there are much higher yielding investments out there as a nation we have faith in bricks and mortar and property is still selling for investment purposes. If you are thinking of investing in more property be particularly careful in choosing the location of the property because this will help to keep it let and ensure it retains its resale value.

10. KEEP YOUR RECORDS STRAIGHT

Make a practise of writing everything down when dealing with your property. Document well the condition of the property when you are letting initially. If possible photograph or video the apartment and have this signed by your tenants to show the state of the

apartment when it is let. If your tenant is paying you cash, use a duplicating receipt book and give a receipt each time. Show on the receipt the amount you are being paid, the period the rent is being paid, the date paid and sign it and have your tenant sign it. Keep the rent book up to date or give a statement every three months. If you run into a problem you need to be able to rely on your own records so they need to be accurate.

11. ARTICLE - PROPERTY INVESTMENT REPORT

We recently commissioned a report from Vincent Lynch from Fagan, Lynch Donnelan outlining long term issues that investors need to consider. It also compares the rental business and other business and shows how unfair Revenue is treating the business of renting property. The report outlines the treatment of income Tax, VAT, Capital Gains Tax, Capital Acquisitions Tax, Stamp Duty and how they deal with the transfer of the property to your heirs. We will present extracts from the report in the next few newsletters and the full text can be accessed on our website at www.ipoa.ie.

Income Tax Rental Profit

Net Rental Profit from Investment Property is liable to Income Tax at the taxpayer's marginal rate. The allowable expenses which commonly arise in arriving at Rental Profits are: Rates, Interest on Loans to buy or refurbish Maintenance, Insurance, and Depreciation on Fixtures, Accountancy Fees, and Mortgage Protection Premiums

Special Relief's

Investors may claim a deduction from Rental Income based on the construction cost of the following buildings, those situated in certain designated areas, student accommodation (Section 50), child care facilities, nursing/convalescent facilities, Housing Units for the Aged and hospitals or sports injury clinics.

Allowances available on the latter three categories are not restricted to Rental Income only. There is a limited transfer of allowances, up to €31,750, against Other Income.

	€	€
Cost of Residential Property	500,000	59,471
Annual Rental Value	18,000	3,124
Net VAT Claim Year 1		56,347

3. The creation of a Long Lease (period greater than 10 Years) usually gives rise to a VAT liability of 13.5% of the capitalized value of the Lease.

Capital Gains Tax

Profit from the sale of an Investment Property is liable to Capital Gains Tax at 20%. Taxable Profit is calculated as Sale Proceeds less Purchase/Enhancement Costs after indexing for inflation (no indexation after 2003).

Investment Property does not qualify for Retirement Relief. Under the Retirement Relief provisions a gain accruing to an individual over 55 from sale of his farm or business may be wholly or partially exempt from Capital Gains Tax.

The Rollover Relief that applied to certain residential properties was abolished for disposals after 4th December 2002.

12. IPOA WEBSITE

After much deliberation and discussion and thanks to Robert Houlihan one of our members we have entered the internet age. The website is up and running and can be accessed by members on www.ipoa.ie. It contains information about the association copies of recent newsletters, our pre-budget submission, and Vincent Lynch's article commissioned by ourselves, on the tax treatment of property owners compared to other businesses etc. and includes links to useful sites like Revenue and UIPI. We wish to express our appreciation and thanks to Robert, who designed, planned and executed the website.

13. RAS

People who attended our recent meetings in Cork and Dublin will have heard Mr. Colm Lavery, DOE, outline the RAS Scheme. This presentation was well structured and very well presented. It does, however, beg questions as regards the workability of such a scheme in the current market. Some questions members must ask themselves;-

1. Why do I have to take less rent (10/20% less) to accommodate the tenants I already have?
2. Why must I comply with the Residential Tenancies Act 2004 when Local Authorities can opt to suit themselves and bend and twist the legislation ?
3. Why, in the case of new tenants, do I not have the option to interview and select tenants, are my properties going to be used as a dumping ground for troublesome tenants and such like, when the Local Authority has the option to choose my apartment, or refuse it ?
4. Why is contents insurance compulsory? Would it be that any damage done by tenants will be claimed from my insurance and not the tenants or local Authority and, as a result, leave me with uninsurable property?

By using their Heavy Hand the Government and Local Authority are also victimising tenants by forcing them from their established homes and comfortable surroundings to a new environment less friendly and more remote and removing them from housing waiting lists.

Politicians are staying quiet in the hope that current unworkable housing waiting lists will be shortened at the expense of the property owners. It is at this time that a little reality be put into the scheme and avoid unnecessary confrontations by landlord and tenants

14. NOTICE PERIODS OF TERMINATION

Subject to the terms of any letting agreement in place, the notice period to terminate a tenant's tenancy is determined by the duration of the tenancy, as follows:

Notice Period	Duration of Tenancy
28 days	Less than 6 months
35 days	6 months or more but less than 1 year
42 days	1 year or more but less than 2 years
56 days	2 years or more but less than 3 years
84 days	3 years or more but less than 4 years
112 days	4 or more years

Where a tenancy has lasted more than 6 months and less than 4 years, the landlord must state in the termination notice the reason the tenancy is being terminated and the termination will not be valid unless that reason relates to one of the following:

- the tenant has failed to comply with the obligations of the tenancy
- the landlord intends to sell the dwelling within the next 3 months
- the dwelling is no longer suited to the needs of the occupying household
- the landlord requires the dwelling for own or family member occupation
- vacant possession is required for substantial refurbishment of the dwelling
- the landlord intends to change the use of the dwelling.

In the case of the last three of the listed termination grounds, the termination notice must contain certain additional details as specified in the Act. In the case of the first ground (except where the termination is for serious anti-social behaviour) the tenant must have been given an opportunity to rectify the matter and have failed to have done so for the termination to be valid.

15. INVITE IPOA LAUNCH

YOU ARE INVITED TO THE IPOA'S LAUNCH
of our
Advocates Service
Diary & Year Book 2006
Preview of IP2000 Standards
at
Ashtown Business Centre, Navan Road, Dublin 15.

14th December 2005
6.30pm-8.30pm

Limited spaces available.
Please rsvp to 01-8276000 or ipoa@eircom.net
by 12th December 2005

16. PARKING PERMITS

A number of members in the Cork area are experiencing difficulties with regard to parking permits. Cork City Council are insisting that they only issue them to tenancies that have been registered with the Private Residential Tenancies Board. Tom Reilly, an active member of our Cork Committee, has been to see them and explained that licence agreements are not included under the Residential Tenancies Act 2004 and that lettings on licence agreements should be issued with parking permits. Cork City Council passed the licence agreement to their legal department who are examining it at the moment and we should have an outcome from this in a few weeks time. We will keep you informed.

17. CODE OF PRACTICE

IPOA membership is not a right it is a privilege for property owners who act in a professional manner and maintain their rental properties in a good state of repair. As the Association is continually growing and moving forward there will be a need to update our code of practice. This will be sent to all members early in 2006.

This will not be particularly onerous but members will have to keep their properties up to the standards set out in the Standards for Rented Houses Regulations 1993. These standards relate to structural condition, provision of sinks, toilets, bath/showers, cooking and food storage facilities, safety of electricity and gas installations, availability of adequate heating, lighting and ventilation and maintenance of common areas etc. Members will have to act in a professional manner when letting properties and use good practice. Our code of practice is a good policy and will prevent the Association's good name being brought into disrepute

18. WILLS

It is important and reassuring that a will is made in all situations particularly for property owners. You should decide what happens to your properties rather than leave it to your family. In some cases where wills are not made terrible rifts can be caused within families. If you do not decide what happens to your worldly goods then the state will decide on your behalf and charge for the privilege. By sorting out your affairs early you can save time and trouble and prepare for any inheritance liability.