

IPOA E-ZINE

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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

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Also:

*** IPOA Property Investment Article as published in the October 2005 issue of Accountancy Ireland**

Magazine (as a pdf attachment).

*** With Thanks...**

*** Vacancies: REQUIRED - Legally qualified person.**

*** IPOA Insurance Scheme.**

1. EDITORIAL

What Was Your Money Used For?

The Housing (Registration of Rented Houses) Regulations 1996 was another piece of legislation by the Government that unfairly penalised property owners. Monies were collected from property owners as they registered their properties and intended to be invested back into the market by the local authorities by carrying out inspections. There were insufficient inspections carried out to justify the amount of money taken in. In the 3 years up to the year ended December 2004, local authorities have taken in excess of €3 million from property owners for inspections that have not taken place. The monies were not returned to the property owners so the question begs to be asked? What was the money used for? Is this another case of rip off republic?

The IPOA is calling for:

The local authorities to refund the €3 million plus taken from property owners under the 1996 legislation (and now repealed),

The PRTB to pass on the €4 million collected and due to the local authorities to carry out the inspections under the 2004 legislation,

Social Welfare and RAS to pay the market rent for properties.

It is time that property owners were fairly treated!

2. DETERMINATION ORDERS

A number of determinations orders have been placed on the prtb website www.prtb.ie. It is interesting to note that approximately 2000 problems have been sorted by the board informally through discussion.

There are currently approx. 25 determination orders on the site which appear to have been fairly dealt with. Quite a number of landlords with tenants in arrears have been awarded the rent although we have yet to see if the monies have been paid.

The PRTB are taking a number of cases to the circuit court where determination orders have not been complied with and we await the results of this with interest. To date three of them have been decided in favour of the determination orders.

We do feel that the cases are taking far too long and hope that as soon as the backlog is dealt with the board can deal with cases much more expeditiously.

3. 2006 DIARIES

The Irish Property Owners Association Diary for 2006 will be launched in December at our members Christmas Reception. A copy will be posted to each member on receipt of their 2006 renewal subscription. If you are interested in placing an advertisement in the Diary please contact the office immediately.

The deadline for advertisements is the 7th October 2005.

4. PPS NUMBER CHECKS

Be careful when completing the PRTB registration form that you have already identified the tenant by photographic means because the PRTB do not check the persons name against the PPS number.

5. REGISTRATION FEES REFUNDS

The registration of the tenancy of a dwelling the previous tenancy of which had been included in an application accompanied by a composite fee of €300 within the previous 12 months is fee exempt. The Private Residential Tenancies Board stated that this is the position since the Act was enacted and is the position conveyed to enquirers. If, notwithstanding this, a landlord paid a fee in respect of the registration of a new tenancy in a dwelling where the previous registration had been the subject of a composite fee, he/she should write into the PRTB with the details of the Composite fee and subsequent applications and the PRTB will arrange a refund as appropriate.

6. SOCIAL WELFARE CAPS PENALISING TENANTS

The government has now capped social welfare supplements and is effectively making people homeless. A tenant who has been renting a property for a considerable length of time who suddenly loses his/her job is now being made homeless by the government at what is already a very difficult time.

The cap on rent means that the tenant cannot remain in his home and

receive rent supplement if his rent is over the capped amount. He can not make an agreement with the person letting to pay the amount given by social welfare and to pay the balance when he returns to work over a period of time because the government do not allow that either.

The government has effectively brought in rent control. A market rent is what a likely tenant would be willing to pay and what a likely landlord will accept.

Tenants in receipt of Social Welfare benefits are now being penalised, it is difficult to find property at the capped amount and often tenants that have been in a property for two or three years will be told to find somewhere cheaper. In a lot of these cases they have built up a good rapport with their letting manager who feels sympathetic and lets them stay at the lesser rent. Sad to say this is doing the industry no good and letting the government get away with

7. RENTAL ACCOMMODATION SCHEME

The scheme is progressing with an anticipated 750 tenants transferred over by the end of the year. RAS have encountered some serious problems when trying to transfer tenants including seriously sub standard properties, overcrowding and lack of adequate fire certificates especially in Dublin and Limerick City Centres. RAS will not allow sub standard properties to be accepted for their scheme. Paying the market rent should go some way towards solving these problems.

It is a condition of IPOA membership that your properties comply with the minimum standards set out in the Housing (Standards for Rented Housing Regulations) 1993, copies of which were sent out with the last newsletter. A copy of these standards are available from the office. We would also stress the importance of having a current fire certificate where ever necessary.

It is a worthwhile exercise to periodically check that the number of tenants in you property are appropriate to the size of the property and the number of bed spaces. A number of property owners recently discovered that they had double the amount of tenants living in the accommodation unknown to them.

8. MEMBERS MEETINGS

• Cork

There will be a members meeting in Cork on the 13th October in the Silver Springs Hotel at 7pm. This will be an informative meeting with guest speakers on the refuse situation and RAS. We also look forward to

introducing our Cork Branch Committee to the members on the night.

- Dublin

We will be having a meeting in Dublin in the near future, the date will be advised.

9. RAS NO DEPOSITS

The Government now feels that deposits are not necessary when property owners take in a Social Welfare Assisted Tenant under their (RAS) scheme. They will not be paying deposits. This is not acceptable. All other tenants in the private rental sector pay deposits. Deposits are necessary in the industry, evolved over time and are fair to both property owner and tenant.

10. RAS TENANCIES - NO CHOICE

If a property owner is not agreeable to accepting RAS's terms where they currently have a SWA tenant, the tenant will have to move. Some people might consider this blackmail. We will take your tenant away if you do not agree to our terms. Most property owners build up a good rapport with their tenant and therefore will not want to upset them by not agreeing with the RAS. Tenants regardless of personal finances should be fairly treated and not victimised because they rely on rent supplement.

11. INHERITANCE TAX

Picture this, you work hard and have three properties let. You expect after all your years of hard work to leave these properties to your child to let after you. Think again. You die as we all eventually do and one of your properties will have to be sold to pay the inheritance tax. If you were a farmer your child could take on the farm as a going concern and gain tax relief but if a property owner/landlord wants to leave his family the rental business there is no tax relief.

12. SECTION 60 POLICIES

Be aware of the existence of these policies they can be put in place to pay inheritance tax liabilities Obviously your heirs may have the money to pay the Revenue liability or alternatively take out mortgages on the properties but it is worth giving the situation some serious consideration.

13. RECENT PROBLEMS FACED BY MEMBERS

The usual problems continue, rent arrears, noise nuisance, tenants absconding, not returning prtb registration forms.

Recently a member had difficulties with a tenant who had brought snakes into the property amongst other animals. Fortunately the tenant has now left complete with assortment of pets.

Another member whose tenants had moved out and were no longer paying the rent left a dog behind and came back to feed him every day.

14. THE PRIVATE RESIDENTIAL TENANCIES BOARD - ONE YEAR ON

The Private Residential Tenancies Board (PRTB) commenced on a legislative basis on the 1st September 2004 and has now been operational for one year. The PRTB was set up as a result of the Residential Tenancies Act 2004 which now controls the rental housing sector in Ireland. A complex piece of legislation (126 pages), it changes the face of the private rental market. Its functions include registering tenancies, tenant/landlord dispute resolution by mediation or adjudication and providing statistical information to the Minister and other Government Departments. It is also due to produce a register of all rented properties.

Unfortunately the PRTB has been dogged by problems since its inception including technical problems with phone systems, computer systems and staff shortage.

The Board has registered an estimated 70,000 tenancies which has taken a great deal of time. The new legislation changes the registration system. It registers tenancies and not units as previously, gives more rights to tenants and following a six month probationary period a right to reside for a further 3 1/2 years. To register with the PRTB, property owners have to fill out a needlessly bureaucratic form and pay a fee, €70-140 per annum per unit. Technical problems with the Boards computers and insufficient staffing levels have caused long delays. 65% of members of the Irish Property Owners Association (IPOA) experienced delays of around eight months before their applications were processed. This has caused problems whereby tenants have moved on and in some cases two different tenancies have been entered into during that period. Further delays were encountered as a result of incomplete forms which had to be returned and phone system problems.

The registration process requires that the PPS number of the property owner is mandatory and that of the tenant is optional, which is an unbalanced requirement. As the Board were not contactable due to administration inefficiencies, any questions that arose on the part of the property owner went unanswered which caused a lot of worry and stress. This lack of contact would have greatly contributed to the problems with the incorrect forms. A simple registration system as recommended by the Commission of Rented Properties would make much more sense.

The Mediation and Dispute Resolution Systems Part 6 of the Act commenced on 6th December 2004. This takes tenant and landlord disputes away from the courts and it was anticipated that it would be a quick, cheap and user friendly system while still being legally binding. A property owner has to be registered to use the dispute resolution system but a tenant does not. A number of determinations have been made but unfortunately they have taken up to six months and remain very bureaucratic. The fear is, as has already occurred, that disputes take six months for a determination to be made and by then property owners/tenants can find that the notice of termination is invalid and therefore has to be reissued. The applicant would then have to re-apply meaning that it could take a year for the dispute to be settled. In other cases, even if a determination is made, it may only be possible for it to be enforced against the landlord and the tenant could walk away without blame or conviction.

No one expected the board to be totally effective from day one but it is very disappointing and frustrating to property owners that so many problems have occurred from the outset. Bearing in mind the Private Residential Tenancies Ad Hoc Board was set up over a year before the Legislation commenced, a lot of its teething problems should have been dealt with prior to its commencement.

With its 1st Anniversary upon us it must be demanded that the Board streamlines its activities e.g.:-

- Units should be registered by Local Authority as is the practice in other jurisdictions. Local Authorities are charged with enforcing standards. This will allow the Board to focus on its dispute resolution service its core function.
- Reduce the bureaucratic nonsense of long form filling.
- Go on line for completion of forms.
- Reduce the delay in registrations to 24 hours.
- Reduce the delay in having determination orders issued to 4 weeks maximum.
- Insist on tenants PPS numbers, phone details and work details.

Hopefully if our recommendations are taken on board next year the Private Residential Tenancies Board will be a lot more effective.

15. BUDGET COMING UP

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.

16. NOTICE OF TERMINATION

The Residential Tenancies Act 2004 is very specific in the form that notice of termination can be given and if it is given incorrectly the property owner can lose out even if the tenant is substantially in arrears. We have had a barrister draw up a notice of termination which complies with the terms of the Act and this is available for our members. In the case of non payment of rent, after the probationary period has elapsed a letter has to be given notifying the tenants that they have 14 days to bring the rent up to date. If it has not been brought up to date you then serve them with a 28 day notice of termination. This means that it takes a minimum of six weeks to have your property vacated.

In the case of substantial refurbishment you have to give the tenant the notice with the correct amount of time depending on how long they are in the property, specify the nature of the works and offer the tenant the accommodation back afterwards provided the tenants keeps in contact and the dwelling is going to be re-let. If planning permission is required that must be already obtained. In the case where you need the property for yourself or a member of your family the notice of termination must be accompanied in writing by a statement specifying the intended occupant's identity and relationship to landlord and expected duration of their stay.

17. UIPI CONGRESS, OSLO JUNE 16-19

The 38th congress of UIPI took place in Oslo in June and 200 property owners from UIPI member countries attended the three day sessions with informative presentations and very useful dialogue over the following days.

The legal advice plan for property owners intending to purchase property in member countries was formally launched and already investors are availing of the service. Irish investors should note that unfortunately it does not apply to Hungary, Bulgaria, or Turkey (which are becoming popular locations for overseas Irish investment and the subject of ipoa members queries) as there appears to be no property owners organisations

in those countries and so they are not members of UIPI. Details of the plan are to be found on the UIPI website.

The director of the Norwegian tenancy gave a detailed explanation of the workings of the tenancy board there. Initially it operates on a voluntary basis alongside the courts; this means that the applicant can go either to the courts or avail of mediation from the tenancy board. If mediation fails then the tribunal comes into play. It has come into existence almost contemporaneously with the Irish tenancy board and appears to command great support among both landlords and tenants. Almost 400 disputes have been settled: 80% at mediation stage (there is no provision for adjudication in Norway) and the remainder at tribunal stage. One of the great advantages of the system is that there is no registration with the board and no cumbersome bureaucracy / fees; rather the disputants may be liable for a fee of €200 to lodge an application for dispute resolution which is then apportioned among them by the tribunal depending on the merits of the case. Although the obvious advantages of this system have been explained to the PRTB here and in great detail, so far there is no enthusiasm to change our way of doing things.

The UK is to have a licensing system, which is currently being discussed by the housing authorities there. The expected fee is to be 50 sterling per bed payable on a 5 yearly basis. There is also talk in the UK of introducing a rental deposit board The Belgian delegation gave a detailed explanation of the successful introduction of their new plan to keep a register of tenants who default on rent payments for 3 months a so called black list of non compliant tenants. The list, which was challenged by tenant's organisations unsuccessfully in the courts, is only to apply to non-payment of rent and not to other misdemeanours because of legal constraints. The UIPI have designated the 10th of December as Property Owners Rights day and they would like to see it marked in all member countries.

18. SUBMISSION RE. TAX INCENTIVES FOR INVESTMENT PROPERTY

A submission was recently sent to Indecon (International Economic Consultants who were requested by the government to assist with a review of tax based schemes in the property sector) outlining tax incentives we feel are necessary for the provision of good quality accommodation for renters in both the private sector and in various holiday resorts. Given the huge demands on the rented sector over the last 10 years we pointed out that an earlier shortage of private rented accommodation has been very significantly alleviated and that the rental market is now in a state of equilibrium with supply meeting demand.

To encourage professionalism in the business in line with the rented housing commission's recommendations in 2000 we would like to see the following implemented:-

- 1) Refurbishment relief to be claimed back over a 3 year period rather than 8
- 2) Capital acquisitions tax for practitioners in the private rented sector to be in line with that applying to the agricultural sector
- 3) Given that the government is at pains to persuade Irish workers to take out a pension plan we would propose that property owner who operates full-time in the business of providing rented accommodation be given tax relief for pension payments
- 4) Well focused tax incentives should be continued in areas where there is a clear need especially for care of the elderly and for housing SWA assisted tenants.

19. PRIVATE RENTAL SECTOR: A FORECAST FOR THE FUTURE

Property owner's are forced to accept below market rents as a result of Government intervention. Property owners/Investors with large mortgages, registration fees, service charges, no tax incentives, no pension rights, unfair treatment cannot meet repayments, stressed, discriminated against decide to invest elsewhere. Property owners sell up and leave the Private Rental Market. There will always be a rental market because a number of property owners will not have the burden of debt that new investors have but new investors will not be able to enter the market. Buoyant rental market destroyed and accommodation shortages follow. Government never suffers but people do and tenants will find it difficult to find accommodation.

20. RENT CONTROL

The Government is now treating tenants in receipt of social welfare assistance as second class citizens and not allowing them the right to chose their accommodation like everyone else. With the cap on rents they will end up with large areas with cheaper rents, housing families with low incomes and few amenities. It will then take years to sort out the problems that will occur and tenants may be penalised by employers as a result of their address. This sort of short sighted thinking by the Government needs to be addressed.

Caps on Rent Supplement need to be removed to keep Ireland an integrated society with fair and balanced rights for everyone.

WITH THANKS...

Our website is now up and running. We would like to extend our appreciation to Robert Houlihan one of our members who created, designed and completed the full package without charge. Well done and grateful appreciation.

REQUIRED

Legally qualified experienced person required for a half day to one day's work per week for ongoing clarification of legislation.

Suit retired solicitor/barrister.

Contact the IPOA for further details

tel. 01-8276000

IPOA INSURANCE SCHEME

This scheme is gaining popularity among the members and is now being extended to cover the private family homes of members at very attractive premiums, showing savings of up to 25%. For quotation without obligation contact David, Emmet or Pdraig on 01-8245555.