



CONSTRUCTION DEFECTS
ALLIANCE

Budget 2021

Submission

to

**Department of Finance
Department of Public Expenditure and Reform
Department of Housing, Planning and Local Government
and Oireachtas members**

August 2020

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1. Construction Defects Alliance

The Construction Defects Alliance is an informal grouping – which has the support of the Apartment Owners’ Network (AON) – currently involving hundreds of apartment owners and OMCs from over 70 different locations around the country which are affected by construction defects. The Alliance also has active involvement from some of the professionals who are working with the owners and OMCs concerned.

The Alliance has its origins in the Beacon South Quarter Lobby Group which has been campaigning for the last number of years for action for homeowners affected by defects. Through that Lobby Group’s campaigning work other individual owners and OMCs approached it and got involved in the campaign. Ultimately, as the numbers began to grow, the Construction Defects Alliance was set up in autumn 2019.

The Alliance has one very simple aim – the implementation of the Oireachtas Housing Committee’s *Safe As Houses?* report, which was published in January 2018.

2. Submission Context

2.1 Urgent Problem of Fire Safety

The Programme for Government contains important and welcome commitments to tackle the problem of legacy defects – especially fire defects – in the country’s Celtic Tiger-era apartments.

The urgency of taking such action was set out very clearly earlier this year by recognised fire expert, Eamon O’Boyle, in an article in the *Engineer’s Journal* (bit.ly/2Q9mCix) in which Mr O’Boyle says: “*Fire safety of apartments is one of the many ‘legacy issues’ faced by Government and it cannot be long-fingered until there is a tragedy.*”

In terms of the metrics of the problem in Ireland, Eamon O’Boyle’s assessment in the *Engineer’s Journal* largely mirrors that of the Construction Defects Alliance – he estimates that 75% of Celtic Tiger era apartments are affected by fire defects – which would mean, based on CSO statistics, that almost **100,000** apartments have legacy defects.

It’s important to note that the UK Government is now taking active steps to tackle fire safety issues in its multi-unit developments. In their Budget earlier this year, a £1 billion Building Safety Fund has been created to tackle fire defects. So the need for urgent action on this issue has been recognised by our near neighbours.

2.2 Government Commitments

As was mentioned above, the Government’s programme (<https://assets.gov.ie/3221/231118100655-5c803e6351b84155a21ca9fe4e64ce5a.pdf>) contains the following welcome commitments to action on legacy defects at Page 57:

- *Examine the issue of defective housing in the first 12 months, having regard to the recommendations of the Joint Oireachtas Committee on Housing report, Safe as Houses?;*
- *Bring forward law reform to improve the legal remedies for homeowners who are dealing with defects;*
- *Assist owners of latent defect properties, by identifying options for those impacted by defects, to access low-cost, long-term finance.*

The Construction Defects Alliance – along with our colleagues in the Apartment Owners’ Network (AON) – recently had a constructive meeting with the Minister for Housing, Local Government and Heritage, Darragh O’Brien TD, along with senior officials in his Department.

While the clear focus of the Alliance, AON and the Minister is on developing a comprehensive package of measures on tackling defects through the proposed 12 month examination of the defective housing issue, nonetheless, some measures need to be taken by Government in the short-term to alleviate the hardship many apartment owners are experiencing in the here and now.

2.3 Impact of Public Health Crisis

In proposing some short-term measures to alleviate hardship on apartment owners, the Construction Defects Alliance is extremely conscious of the current fiscal situation caused by the COVID-19 pandemic. Clearly resources are tight and there are many demands on these resources.

However, Government has shown a welcome openness to supporting various groups affected by the pandemic. In this context, there is anecdotal evidence from OMCs trying to tackle defects that payment of levies is slowing down – hardly a surprise given that so many people have been laid off and have found their work and income shrinking – which in turn is affecting their ability to undertake or complete urgent fire safety works in a timely manner.

Our proposals below, seek to address the need to continue tackling legacy defects in the light of the context set out above.

3. Tackling Legacy Defects in 2021

As stated earlier, the proposals contained in this submission are designed to address the issues OMCs and owners are facing in 2021 in tackling legacy defects while the comprehensive package of measures is being developed by Government.

3.1 Create Redress Fund

Given that apartment owners are in no way responsible for the defects affecting their homes, the Construction Defects Alliance's preferred option for helping owners and OMCs tackle the costs of is the creation of a €20 million to €30 million Redress Fund to cover the costs of remediation works in 2021.

As the Apartment Owners' Network set out in Page 7 of their Pre-Budget Submission (<https://apartmentownersnetwork.files.wordpress.com/2020/08/20200805-aon-dof-budget-2021.pdf>), the monies for such a fund could be sourced from the profits which the National Asset Management Agency (NAMA) is due to make on the purchase and disposal of developer loans. As AON rightly argue, given that these profits have come from the property developer sector – who are significantly responsible for the Celtic Tiger era defects – it is entirely appropriate that some of these profits be directed towards the rectification of such defects.

The application of NAMA profits for defect remediation purposes, would also be consistent with the agency's statutory purposes set out in the National Assets Management Agency Act 2009 (<http://www.irishstatutebook.ie/eli/2009/act/34/enacted/en/html>) one of which is “to contribute to the social and economic development of the State” (Section 2(b)(viii)). The Alliance concurs with the view put forward in AON's Pre-Budget Submission that a substantial social dividend would accrue from putting some of NAMA's profits towards tackling legacy defects as such an investment would bring a significant number of apartments up to standard and make them safe for those living in them.

An alternative route for creating the €20 million to €30 million Redress Fund for 2021 that the Construction Defects Alliance is proposing is to follow the recommendations of the Oireachtas Housing Committee's *Safe as Houses?* report (https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_housing_planning_and_local_government/reports/2018/2018-01-24_report-safe-as-houses-a-report-on-building-standards-building-controls-consumer-protection_en.pdf) – namely to finance the fund jointly through the Exchequer and a levy on the construction industry.

3.2 OMC Access to Soft Loans

It's important to reiterate that the Alliance's preferred route for tackling the costs of remediation works in 2021 is through a Redress Fund because owners hold no responsibility for the defects that beset their homes. However, if Government cannot see its way to setting up such a fund, then access for OMCs to long-term (20-year) soft loans – provided there is a mechanism for ALL owners to recover the cost of some of their loan repayments through tax credits – could be an acceptable way forward.

In this context, AON – at Page 5 in their Pre-Budget Submission (<https://apartmentownersnetwork.files.wordpress.com/2020/08/20200805-aon-dof-budget-2021.pdf>) – set out a number of possible options through which soft loans could be accessed with which the Alliance concurs:

- Through Home Building Finance Ireland – subject to sustainable interest rates and loan terms from HBFI;
- Through the agencies providing finance to Approved Housing Bodies including Housing Finance Agency, Irish Strategic Investment Fund and the Social Finance Foundation.

3.3 Tax Credits for ALL Apartment Owners

In order to ensure that apartment owners are not left taking full financial responsibility for the costs of rectifying the defects, the Alliance is proposing that a refundable tax credit – or similar financial benefit – be introduced for ALL apartment owners on their levy payments. At present landlords – apart from local authorities and AHBs – can write off remediation levies against their taxes. It's only fair that owner-occupiers should be offered equality of treatment with landlords on this front.

We would estimate that such a measure would incur an additional cost of less than €12 million maximum to the State in 2021 if combined with the soft loans we are proposing above (see detailed financial workings at this link https://www.constructiondefectsalliance.ie/assets/files/pdf/proposed_20-year_loan_and_refundable_tax_credits_for_all_owners.pdf).

4. Conclusion

The Construction Defects Alliance wishes to thank the Departments of Finance; Public Expenditure and Reform; Housing, Local Government and Heritage – as well as the Ministers at the Departments – and Oireachtas members for the opportunity to make this submission.

We trust that the views expressed will be given due consideration in the deliberations over Budget 2021 and the measures that flow from that.

We submit that the measures proposed should be raised by all in whatever forum is appropriate, in particular with the Department of Housing, Local Government and Heritage.

We would be glad to expand on our proposals at a meeting or in another appropriate forum.