OPENING STATEMENT TO THE JOINT OIREACHTAS COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERITAGE

Tuesday, 14 October 2025

By Pat Montague on behalf of the Apartment Owners' Network, the Construction Defects Alliance and the MUD Act Reform Group

On behalf of the hundreds of thousands of people living in the country's apartment and duplex complexes, the owners of those homes and those serving as directors of their owners' management companies – OMCs – I want to thank the members of the Committee not just for the invitation to appear before you this afternoon but also for your ongoing interest in the issues affecting this sector, especially the publication of the 'Safe as Houses' (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) report nearly eight years ago.

The three of us sitting before you – Sam Doran, Chair of the OMC in The Crescent, Park West, Dublin 12 and the Not Our Fault campaign; Brian Lambe, Senior OMC Manager with Clúid (one of Ireland's largest approved housing bodies – not-for-profit providers of social and affordable housing) and a member of the OMC board at Dublin's Clarion Quay and myself, as coordinator of both the MUD Act Reform Group (MARG) and the Construction Defects Alliance (CDA) – have been asked by the Apartment Owners' Network, the CDA and MARG to represent them here today. This Opening Statement is on behalf of all three groups.

Our brief before the Committee is to address issues relating to Multi-Unit Developments and we will deal with two sets of issues – the first will be the challenges flowing from some of the shortcomings in the implementation and oversight of the 2011 Multi-Unit Developments (MUD) Act (https://www.mudreform.ie/resources/multi-unit-developments-act-2011/) as well as in the actual Act itself and the second will be the issue of defects.

The starting point for any analysis of the challenges facing the multi-unit development sector is the 2019 report prepared by chartered surveyor, Paul Mooney, for the State's own Housing Agency and Clúid Housing, *"Owners' Management Companies: sustainable apartment living for Ireland"* (https://www.mudreform.ie/resources/owners-management-companies-sustainable-apartment-living-for)/.

Mr Mooney recapitulated some of the challenges facing the sector at a MARG event in June 2024

> *"When the MUD Act was put in place in 2011 the country – and the housing sector – were in the middle of a deep financial crisis so the Act was seen as a gentle first step in managing OMCs with a view to strengthening the regulatory*

framework once circumstances had improved. As we know, housing output has dramatically improved in recent years and the number of OMCs has also increased considerably. However, we have not put in place the type of regulatory framework that was originally anticipated and this is causing massive problems."

Let's begin to look at the challenges facing the sector.

At a very basic level, there is no proper register of OMCs. That means that the State doesn't have a list of OMCs and isn't in a position to directly communicate with these companies about the Interim Remediation Scheme for example to begin tackling fire safety defects in apartments and duplexes.

The directors of OMCs are typically volunteers – the vast majority of whom have no expertise in law, finance, business, property management or construction. These directors receive little or no training for their roles – apart from voluntary support from the Apartment Owners' Network and information events by the Housing Agency – yet they are legally responsible – and liable – for the health and safety of hundreds of thousands of people as well as the management of these properties. While many OMCs have professional assistance from managing agents a considerable number self-manage – somewhere between 20% to 40% of OMCs are estimated to self-manage.

Given this context, it's no surprise that many OMC boards are struggling to properly manage their developments and we're already seeing this coming through in the Interim Remediation Scheme grant application process.

This sector is facing huge challenges from a financial point of view:

- A significant number of OMCs are teetering on the verge of insolvency because they don't have effective means for collecting annual service charges. The only way they can collect these monies is by taking costly and time-consuming court cases with no guarantee of success at the end of that process.
- In practical terms this means that those living in duplexes and apartments are not getting the services they need in terms of the upkeep of their complexes which most of them have actually paid for.
- Quite often this shortfall is made up by raiding the OMCs' sinking funds which are supposed to be for long term maintenance issues like lift, window and roof replacements.
- Even more worrying in relation to sinking funds is that – based on two reports in recent years by the Society of Chartered Surveyors Ireland (SCSI) (https://www.mudreform.ie/resources/241022-scsi_sinking-funds-report-final/ https://www.mudreform.ie/resources/sinking-funds-in-apartments-meeting-the-challenge/) – they are hugely underfunded which means that many developments simply can't undertake these necessary maintenance works.
- The size of the sinking funds deficit will make the €2.5 billion cost of fixing defects look like a 'teddy bear's picnic' and given the age of our apartment stock that train is fast approaching the station.

In relation to governance, while the majority of OMCs are honourably-run, there are many instances where directors have been paying themselves substantial sums of money and awarding contracts to people with whom they are connected. Other governance-related concerns include:

- Some builder-developers putting supporters or linked people onto boards to protect their interests.
- The risks of co-mingling the roles of Managing Agent and Company Secretary needs thorough review from a governance perspective.
- Lack of clarity about what data and information OMCs should provide to their apartment owners.
- No clear recourse path – apart from the courts – for owners who have disputes with their OMC and for OMCs who have issues with residents.
- Lack of a central repository for information or support in relation to environmental upgrades of MUDs such as installing photovoltaic (solar) panels, retrofitting and charging points for electric vehicles.
- Need for an external driver (via regulations and/or a central agency) to ensure the transfer of common areas from developers/receivers to OMCs.

On the last point, data from the applicants to the Interim Remediation Scheme indicates that nearly a quarter of those OMCs do not own the common areas – hallways, stairwells and corridors – in their complexes. This means that they cannot undertake any works there and that means that they cannot apply for funding for remedial works until this matter is resolved.

So what needs to be done?

Basically, there are three steps here – first, complete the transfer of responsibility for the sector from the Department of Justice to the Department of Housing as set out in the Programme for Government; second, set up a regulator and then, third, conduct a review of the Act and amend the legislation.

In relation to the transfer of responsibility between the two Departments I see that the Committee got an update on this matter recently from the Minister. All I would say is that the quicker this is executed the better for all and I would hope that this can be facilitated by both Departments.

Turning to the requirement for effective regulation of the sector, the Programme for Government contains a welcome commitment – which MARG sought – to set up a regulator initially within the Housing Agency. This makes sense to us as the Agency has already got a unit dealing with multi-unit developments and has a good history of incubating regulatory bodies in this space.

Given the scale and severe nature of the challenges I outlined earlier, you won't be surprised to hear me say that we would like the Housing Agency to commence regulatory activity as early as possible in 2026 on an interim non-statutory basis with a strong focus on:

- Compiling a comprehensive register of OMCs and a database of directors;
- Gathering financial data on the sector including annual accounts for OMC;
- Assessing the adequacy or otherwise of sinking fund provision and service charge collection;
- Ensuring that minimum governance standards are adhered to such as the holding of AGMs in a manner that allows proper participation, the election of directors, provision of annual reports and proper information to OMC members;
- Providing a dispute resolution mechanism for owners and their OMCs;
- Providing training for OMC directors.

The information and insights collected from such regulatory activity over a 24-month period would provide an invaluable starting point for the much-needed review of the MUD Act which must include putting the regulator on a statutory basis – whether on a stand-alone basis or in conjunction with another agency in this space – with the powers and tools it needs to ensure that the sector is operating properly and effectively in the interests of all stakeholders.

Turning to the issue of defects, we know from the 2022 report of the Working Group to Examine Defects in Housing (https://assets.gov.ie/static/documents/report-of-the-working-group-to-examine-defects-in-housing.pdf) that somewhere between 62,500 and 100,000 Celtic Tiger-era apartments and duplexes are affected by mainly fire safety defects and the estimated cost of remediating those is somewhere between €1.5 to €2.5 billion. In January 2023, the Government made the welcome decision to fully fund these remediation works and to reimburse owners who have already paid for such works and this decision has been supported right across the Houses of the Oireachtas.

It's worth delving into what the Working Group found a little bit more:

- 12% of defective apartment and duplex complexes have had their defects remediated;
- Up to 34% have been undergoing remediation works;
- While 54% have not undergone any remediation works – that's somewhere between 33,750 and 54,000 homes.

In human terms, what that final figure means in practice is that over 100,000 people are living in homes that do not have an acceptable level of fire safety with all of the worry and anxiety that this situation entails.

I'm conscious that only one of the Committee members has served on the Committee previously so I think it might be useful to explain what fire safety defects actually are. In a nutshell, what we mean is that these complexes don't have fire stopping in place (which was a legal requirement at the time these units were built) which is crucial to stop the spread of fire and smoke from one home to another and from common areas – car parks, hallways, corridors and stairways – into homes and vice versa. The fundamental purpose of fire stopping is to impede the spread of fire and smoke for up to one hour so that people can evacuate safely, calmly and in an orderly fashion while giving the fire services time to get the seat of the fire and deal with it. Without fire stopping, fire and smoke spread much more quickly presenting challenges for safe evacuation.

While the absence of fire stopping is the biggest single fire safety defect it's not the only one. In some cases buildings are covered in flammable cladding material – we know of a number which have timber cladding fixed to the building by timber batons with no fire break in between including Sam Doran's complex in Park West. This is a highly dangerous combination of defects as the residents in one of the 12 blocks in Clarion Quay found out when fire spread from one apartment to others within 10 minutes in February 2023 instead of being contained for that 'golden hour'. I would also commend Committee members to look at the Netflix film 'Grenfell Uncovered' to see what can happen as a result of the combination of flammable cladding and the lack of fire stopping.

We know of a complex in Dublin facing other types of grave fire safety challenges. In this case, the means of escape in the event of fire for the residents on the top floor of a u-shaped five-storey block is a wooden walkway placed on top of the apartments underneath – in some cases that's the kitchens of the apartments underneath – which leads to two stairwells to enable people to exit. If there's a fire in between your hall door and reaching those stairwells then your means of escape is highly compromised putting it at its mildest.

The reason why I've outlined the fire safety issues affecting thousands of apartments and duplexes in so much detail is to bring us back to why the Interim Remediation Scheme – launched in December 2023 – is so important and why we need to greatly speed up the processes around it. The purpose of this particular scheme – which the CDA proposed in September 2022 and former Minister Darragh O'Brien accepted in December 2022– is to provide an acceptable level of fire safety while people await full remediation on their complexes. These works include the removal of flammable cladding, providing fire alarm and lighting upgrades and ensuring escape routes are safe. With the best will in the world it's going to take more than 10 years to fix all the defects and that is way too long to leave people exposed to a very high level of fire safety risk – hence why the speedy implementation of the Interim Remediation Scheme is so important.

While the Scheme has been open for applications for nearly two years now – and has had over 200 valid applications for funding covering nearly 20,000 homes – unfortunately, no grants have issued yet. There are many good reasons why this is the case and there has been a lot of learning from the process which has led to some tweaking of the scheme to try to improve things. However, one of the big challenges has been that we have had to use public procurement methods and instead of the process being nimble and efficient it has become complex and labyrinthine. As it stands – without any further changes to the procurement methods used by the Scheme – it will take more than 12 months for an OMC to get a grant never mind undertake works and this is way too long for the 100,000 plus people exposed to a high level of fire safety risk. Members need to bear in mind that the longer people are exposed to risk the more likely it is that that risk will be realised with all of horrific consequences that might flow from that.

Thankfully, our concerns about the length of time it is taking to process grants are now shared by the Minister for Housing, James Browne, his officials and the Housing Agency. As a result, the CDA is about to engage in a process with all of these partners to look at ways of short-circuiting the inordinate amount of time it is taking to get grants to undertake these vital fire safety works. It's crucial that this process bears fruit before the end of the year.

As I mentioned earlier, complexes containing up to 46,000 apartments and duplexes have had remediation works fully or partially completed. These works were paid for by the owners of these apartments even though the defects were not their fault – they were due to shoddy construction work and inadequate oversight and supervision, including by those charged with building control. As I mentioned earlier, the Government has recognised that these owners should be reimbursed and to advance such a reimbursement process, a pilot Retrospective Payments Process got underway earlier this year. It involved eight pathfinder complexes from different parts of the country which have supplied details of the works done and the costs involved to the Housing Agency. We understand that the Agency has made a number of reports to the Department of Housing on this.

In order to move this process forward, the Minister has to report to Cabinet on the outcome of this process and we would urge the Minister to do so in the coming weeks so that – at the very least – the owners in those eight pathfinder projects can be quickly reimbursed the thousands of Euros they've paid out for remediation works. They – and all of the owners who have already paid for works – have a reasonable expectation that they will be paid and soon as the former Minister stated in public that they would be paid in 2025. We look forward to this becoming a reality not just on the basis of fairness and equity but also from the perspective of avoiding the 'moral hazard' the Working Group warned of in 2022 – namely OMCs deciding to hold off on remediation works because of the uncertainty over whether or when owners might get paid back.

Finally, I want to address the issue of legislation. Currently, the Interim Remediation Scheme is operating on an administrative basis and hopefully the Retrospective Payments Scheme will be doing so too. Ultimately all of the schemes will have to be underpinned by the Apartment and Duplex Remediation Scheme Bill. The Bill is listed as a priority bill with the Heads having been approved by Cabinet in September 2024. It is crucial that this Bill comes before this Committee for pre-legislative scrutiny this term so that the legislation can be enacted by mid-year 2026. Any delays in this timeline will mean that the full scheme won't be up and running until well into 2027 – five years after the Working Group reported, 10 years since this Committee finished its report 'Safe as Houses' and 16 years after Priory Hall came to light.

Ends.