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ABERDEEN CITY COUNCIL

28th February 2011

David Stewart MSP
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The Scottish Parliament
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Dear Sir / Madam

The Building Repairs (Scotland) Bill Consultation

I refer to the above consultation and have pleasure in enclosing a response on behalf of this local authority.

If any further comment or clarification is necessary then please do not hesitate to contact me.

Yours faithfully,

Gordon Spence
Building Standards Manager



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1. What do you believe are the current problems with the enforcement of dangerous and defective buildings legislation?

Council budgets are increasingly constrained. It is difficult to justify, especially in relation to defective buildings, the outlay of Council resources on an item that may not result in cost recovery and is not dangerous. The work may only be necessary in the long term public interest. Owners tend to be less interested in defective buildings and only take a degree of responsibility when a danger is present therefore giving a more direct liability.

2. In your opinion, what changes should be made to current legislation to allow for a more effective system of identification and enforcement?

Giving local authorities more confidence in cost recovery will encourage the appropriate use of the powers. Cost recovery should not just relate to the contractor costs but must also include staff time. For example a percentage of the cost of works is an appropriate method cost recovery and may well encourage owners to organise work themselves.

3. What do you see as the benefits of charging orders in enabling local authorities to recover costs from owners of dangerous and defective buildings?

Local authorities will balance budgets with more confidence knowing that the enforcement work costs will be retrieved at some point. It will still cause some difficulties because money spent in one year may not be recouped until a number of years later when the building is sold.

4. What do you see as the disadvantages of charging orders?

The downside is that the local authority may be used as an interim, possibly long term lender. Consideration should be given to charging an interest rate on the local authority money invested in the building which can be recouped at sale.

5. What do you see as the benefits of charging orders to owners of dangerous and defective buildings?

Charging orders will encourage co-owners of a building to co-operate with one another.

It will allow genuinely cash strapped owners to use the equity in the building to maintain the building and therefore make it more saleable.

6. What do you see as the disadvantages of charging orders to owners of dangerous and defective buildings?

Experience in Aberdeen, and in the examples in the consultation, has shown that the cost of work to defective and dangerous buildings is often picked up by the public purse. This would no longer occur with charging orders and will place the costs back on the owner.

7. What would be the benefits or disadvantages of changing the notice period in relation to defective building notices?

Some co-owners who are keen to get work done (those about to sell a property and wish it to be more attractive) may think that 12 weeks is too long.

8. Do you think this would allow adequate time for owners to carry out repairs to their properties and please give a reason for your response?

In reality, the local authority usually has a "feel" for whether owners are progressing to carry out work through communication and will extend the period where appropriate. Only where an owner is non-communicative will the local authority adhere to the strict terms of enforcement. Enforcement is seen as a last resort after initial contact with owners.

9. What do you see as the advantages or disadvantages of the proposal?

The advantage is that owners are more likely to arrange the work themselves because they know that they are going to have to pay at some point. They will wish to retain control over the work to be completed.

10. What do you see as the advantages and disadvantages of an automatic equal shares provision for local authorities in cost recovery for work carried out by them on dangerous and defective buildings?

Using equal shares will keep things straight forward for the local authority in dividing and recouping costs. There will be no need to look at title deeds and rateable values. For example, shops converted to flats and no-one thought to change the deeds to reflect a smaller rateable value. Using equal shares may be seen to penalise owners of small flats when another flat is much bigger or there are commercial premises in a tenement. It may lead to some owners, those with a bigger title deed share, being happy to leave the work to the local authority knowing that their share of the cost will be smaller. It may encourage some owners to be less co-operative.

11. What do you see as the advantages and disadvantages of a certification and inspection regime for buildings?

Advantages

Certification will reduce the number of direct interventions by the local authority. It will help those co-owners who take an interest in their property by engaging all owners in maintenance. Elements of the industry e.g. surveyors and contractors could be bolstered by job/work creation. It will provide more confidence in property sales for the buyer by confirming that the property achieves a reasonable standard.

Disadvantages

The administration of the system could be a huge task for local authorities. Maintaining a register of buildings and owners could prove complex and costly especially as buildings are sub-divided, demolished or re-built. Cost implications for administration would need to be carefully investigated. The contents of a certificate would need to be clearly defined e.g. what is defective? Liability must be considered – if a certificate is not received/renewed, should the local authority investigate? What

if there is an incident in the interim similar to Christine Fosters? What if a certificate is signed and an incident occurs thereafter – who is liable?

12. Do you have any comments on the financial implications of the proposals?

The comments made in the consultation regarding local authority's failing to recover costs are true. The introduction of charging orders will encourage local authority's to take action where necessary and adopt the intention of defective building notices.

13. Do you have any comments on enforcement of the proposals?

It is likely that local authority's will continue to take a softly softly approach, where appropriate, by negotiating with owners for work to be carried out. The fact that cost recovery exists, will enhance this approach because owners know that they will have to pay at some point.

14. Are there any equality issues that arise from these proposals?

There would not appear to be any equality issues with the proposals.

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