



**T**he Law Society's recommended form of Architects' Certificate was a suggested minimum form of certificate and requires to be adapted to the exact circumstances of the case.

In particular if a certificate is furnished relating to houses in a large development the standard form is not adequate. Some builders' solicitors argue that it is sufficient to certify that the house has been constructed in accordance with the provisions of the planning permission. The Committee disagrees. It may be implicit in such a certificate that all general conditions have been complied with but something as important as this should not be left to implication. In the Committee's view an Architect's Certificate for a house in a building estate should at the very minimum contain a paragraph on the line of the following:

"I also certify that the general conditions of the planning permissions relating to the estate of which this house forms part (including all conditions precedent) have been complied with in all material respects in so far as it is reasonably possible at this stage of the development".

This recommendation arose out of the celebrated case in the suburbs of Dublin where the necessary drainage arrangements had never been agreed. Purchasers' solicitors were being offered a Certificate of an Architect saying that the house had been built in accordance with the plans and specifications and ignoring the fact that one of the main general conditions as to drainage had not been complied with.

The qualification of a person to give a certificate of Compliance with planning permission raises many vexed questions. There is no system of registration of architects in Ireland so that a person with very inadequate training and experience can legitimately call himself an Architect. There are very great difficulties in many parts of the country where properly qualified Engineers or Architects are simply not available. Solicitors in these areas quite sensibly use their discretion and accept certificates from persons who have many years of experience and practice on their own account as "Architects" although they may not have any strict educational qualifications or be members of the various institutes whose members would automatically be considered qualified to issue such certificates. A member complained to the Committee that certain building companies in the Dublin area had been taking advantage of this lacuna by giving Purchasers' solicitors Certificates of Compliance signed by technicians who are not adequately qualified. In the cases he reported, the building company in question had on their staff properly qualified persons but he suggests it suited them to pass the responsibility to someone else if they could. The member went on to point out that very few such technicians would have the financial standing to back up a certificate if a loss arose.

## ARCHITECTS' CERTIFICATES



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(Contd.)

The Committee recognised that a person may be well justified in calling himself an Architect on the basis of experience alone but take the view that such experience must be lengthy and in most cases be gained while self employed in the field of architecture. The Committee recommends that sympathetic consideration be given to the acceptance of certificates from persons operating in those parts of the country where there is a shortage of qualified personnel. They feel, however, that such sympathetic consideration is not appropriate in cases of building estates. They recommend that in such cases Certificates of Compliance should only be accepted from persons who are properly qualified as Engineers or Architects or have many years' practical experience as such on their own account.

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**UPDATE:** See also "Who Should Certify Compliance?" at page 7.53 hereof.

## HOUSES HELD UNDER TRANSFER ORDERS

### CONSENT TO EXTENSIONS

**D**ifficulties have arisen in cases where extensions were carried out to houses held under a Local Authority Transfer Order where Planning Permission and Building Bye-law approval were not obtained for the extension.

While permission could be obtained for retention of the structure under the Planning Act it is not possible for the Local Authority to grant Building Bye-Law Approval retrospectively. The form of Transfer Order prohibits the person holding the property from the Local Authority from carrying out any extension or alteration to the structure without consent and the Local Authorities were reluctant to give a letter of consent in case it could be argued that this was a waiver of the breach of the Building Bye-Laws.

Following a meeting between Law Society Representatives and Officials of Dublin Corporation and Dublin County Council it has been agreed that the following will be included in any letter of consent issued in such circumstances:

"This letter of consent is given by the Corporation in its capacity as the Housing Authority under Transfer Order dated the ..... day of ..... 19 ..... The extension the subject of this consent was erected in breach of the requirement to obtain Building Bye-Laws Approval under the Public Health Acts. It is not possible for the Corporation to give Building Bye-Laws Approval retrospectively under the Health Acts. The consent must not therefore be construed as a waiver of the breach of Building Bye Laws.

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