



## REQUISITIONS IN RESPECT OF THE BUILDING CONTROL ACT

### BUILDING CONTROL

In this part of the Requisitions ('the Regulations' means the Building Control Act, 1990, the Building Control Regulations 1991 and the Building Regulations 1991 and any extension, amendment, modification or re-enactment thereof and any other regulations order or instrument made under The Building Control Act, 1990 and for the time being in force).

1. Is the property, or any part thereof affected by any of the provisions of the Regulations?
2. If it is claimed that the Property is not affected by the Regulations please state why. Evidence by way of a Statutory Declaration of a competent person may be required to verify the reply.
- 3.1 Confirm that a Commencement Notice was given to the Building Control Authority in respect of the Property, and furnish a copy of the same.
- 3.2 If the Property is affected by the Regulations please furnish now a Certificate of Compliance by a competent person confirming that all necessary requirements of the Regulations have been met.
- 4.1 In particular, if the Property is such that a Fire Safety Certificate is one of the requirements of the Regulations, a copy of the Fire Safety Certificate should be attached to and referred to in the Certificate of Compliance which should confirm that the works to the Property have been carried out in accordance with the drawing and other particulars on foot of which the Fire Safety Certificate was obtained and with any conditions of the Fire Safety Certificate.
- 4.2 If a Fire Safety Certificate was required in respect of the Property please confirm that no appeal was made by the applicant for such certificate against any of the conditions imposed by the Building Control Authority in such Fire Safety Certificate.
5. Has any Enforcement Notice under Section 8 of the Building Control Act been served?  
If so, furnish a copy of the Notice, compliance with which must be evidenced by a Certificate of Compliance made by a competent person.
6. If any application has been made to the District Court under Section 9 of the Building Control Act, please furnish details of the result of such application.
7. Has any application been made to the High Court under Section 12 of the Building Control Act? If so, please furnish a copy of any Order made by the Court and evidence of compliance with such order by a Certificate of a competent person.

### **Multi-Storey Buildings**

1. (a) Is the property or any part of it a multi-storey building, or connected to a

## PRE-CONTRACT REQUISITIONS AND REQUISITIONS ON TITLE

## BUILDING CONTROL ACT 1990, BUILDING CONTROL REGULATIONS 1991, & BUILDING REGULATIONS 1991



**PRE-CONTRACT  
REQUISITIONS AND  
REQUISITIONS ON  
TITLE**

**BUILDING CONTROL  
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(Contd.)

multi-storey building, within the meaning of the Local Government (Multi-Storey Buildings) Act 1988 or

- (b) Does it form part of a development on which there is a multi-storey building with which it shares a common management company?

If so, is the building one whose construction was governed by the Regulations (as defined under the heading "Building Control")? If so, then Requisitions 3.1 to 6 inclusive under such heading must be answered.

If not, then ..... (follow the text from the printed requisitions).

**PRE-CONTRACT REQUISITIONS AND NOTES THEREON**

**BUILDING CONTROL**

In this part of the Requisitions ("the Regulations" means the Building Control Act, 1990, the Building Control Regulations 1991 and the Building Regulations 1991 and any extension, amendment, modification or re-enactment thereof and any other regulations order or instrument made thereunder and for the time being in force.)

1. Is the Property, or any part thereof affected by any of the provisions of the Regulations?
2. If it is claimed that the Property is not affected by the Regulations please state why. Evidence by way of a Statutory Declaration of a competent person may be required to verify the reply.
- 3.1 If the Property is affected by the Regulations please furnish a Certificate of Compliance by a competent person confirming that all necessary requirements of the Regulations have been met.
- 3.2 Confirm that a Commencement Notice was given to the Building Control Authority in respect of the Property, and furnish a copy of the same. (See NOTE 1).
- 4.1 In particular, if the Property is such that a Fire Safety Certificate is one of the requirements of the Regulations, a copy of the Fire Safety Certificate should be attached to and referred to in the Certificate of Compliance which should confirm that the works to the Property have been carried out in accordance with the drawing and other particulars on foot of which the Fire Safety Certificate was obtained and with any conditions of the Fire Safety Certificate.
- 4.2 If a Fire Safety Certificate was required in respect of the Property please confirm that no appeal was made by the applicant for such certificate against any of the conditions imposed by the Building Control Authority in such Fire Safety Certificate.
- 4.3 If the Property was developed under the Regulations and if a Fire Safety Certificate or Certificates was required please furnish a copy of the application or applications for the Fire Safety Certificate(s) and all drawings and other particulars on foot of which such Certificate(s) issued.



If the Property forms part of a development which is one such as a block of apartments where the reversion will be transferred to a management company, upon the sale of the last apartment, it will be sufficient to confirm that the application(s), drawings and other particulars as aforesaid have been made available to the management company and will be handed over to it upon the conveyance of the common areas and reversion to it. (See NOTE 2.)

5. Has any Enforcement Notice under Section 8 of the Building Control Act been served?  
If so, furnish a copy of the Notice, compliance with which must be evidenced by a Certificate of Compliance made by a competent person.
6. If any application has been made to the District Court under Section 9 of the Building Control Act, please furnish details of the result of such application.
7. Has any application been made to the High Court under section 12 of the Building Control Act? If so, please furnish a copy of any Order made by the Court and evidence of any necessary compliance with such order by a Certificate of a competent person.

#### **Multi-Storey Buildings**

- 1 (a) Is the property or any part of it a multi-storey building, or connected to a multi-storey building, within the meaning of the Local Government (Multi-Storey Buildings) Act 1988 or
- (b) Does it form part of a development on which there is a multi-storey building with which it shares a common management company?  
If so, was the building one whose construction was governed by the Regulations (as defined under the heading "Building Control")? If so, then Requisition 3.1 to 6 inclusive under such heading must be answered.  
If not, then ..... (follow the text from the printed requisitions).

#### **NOTE 1**

While Building Control Authorities keep a register for their own use the regulations do not give the public a right of access to it and after a lapse of time it may prove difficult and perhaps impossible to establish whether a Commencement Notice was or was not served in relation to a particular development. It is clearly very important for the maintenance of good standards of building that Building Control Authorities monitor building standards. The purpose of the Commencement Notice is to put them on notice that a development is commencing so that they can monitor a development in such a manner as they see fit. There are two points that arise in relation to a development if no Commencement Notice was served.

- (a) The first is whether there is any downside for a subsequent owner from a conveyancing point of view. Carrying out a development without serving a

### **PRE-CONTRACT REQUISITIONS AND REQUISITIONS ON TITLE**

### **BUILDING CONTROL ACT 1990, BUILDING CONTROL REGULATIONS 1991, & BUILDING REGULATIONS 1991**

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Commencement Notice is an offence and leaves the parties involved liable to prosecution. It will not impact otherwise on a subsequent owner. Solicitors should ask if a Commencement Notice was served and for a copy thereof. We do not feel that Solicitors should insist on a copy if it is not readily available. The Conveyancing Committee has already decided that solicitors for subsequent owners should not concern themselves unduly about whether a Commencement Notice was served or not or whether a copy of the Commencement Notice is available or not.

- (b) The second point which arises from the non service of a Commencement Notice is that it may have been a deliberate omission. In most cases it will turn out to be a mere oversight and in some of those cases the Building Control Authority will have carried out the usual foundation inspections by arrangement with the contractor. There may be cases however, where a contractor or developer wants to carry out work and due to something about the manner in which it is proposed to carry it out, does not wish to have the Building Control Authority know about it and be in a position to see what is done and accordingly, does not serve a Commencement Notice. This scenario is unlikely to arise if there is an architect or structural engineer involved in the development and if it arises at all is more likely to happen where a builder is operating without the assistance of professionals.

What if anything can a solicitor do? In any case where you establish that a Commencement Notice has not been served the circumstances should be investigated. If it seems to have been a genuine oversight and this is confirmed by a reputable professional or if building control was aware of the development and carried out inspections no further action should arise. If there is any reason for disquiet as to whether the omission to serve a Commencement Notice was deliberate or not you should recommend to your client to seek the advice of an architect or structural engineer to consider whether any further surveys are necessary and possibly in an extreme case, to review the decision to proceed with the purchase at all.

**NOTE 2**

While conveyancing practice is to seek a certificate from a competent person of compliance with a Fire Safety Certificate it will be important also for a property owner to be able to know what precise work was the subject of the Fire Safety Certificate. This is not a conveyancing point and is really a commercial matter for the property owner.

In situations where the property being purchased is an apartment there should be no need for the individual apartment owners to have a copy of the application so long as the management company has it.



The same would normally apply to commercial developments such as a shopping centre. Ordinarily, in relation to shopping centres there would be one significant difference which is that a developer will normally get a Fire Safety Certificate in relation to the centre as a whole and in particular its common areas. The individual purchasers or lessees would normally take a shop unit in its unfinished state (called shell finish) and would have to apply for and get a Fire Safety Certificate for the fit out of same.

### **PRE-CONTRACT REQUISITIONS AND REQUISITIONS ON TITLE**

(Contd.)

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Society News, November  
1994*

1. The five forms<sup>1</sup> of Opinion of Compliance published by the RIAI are agreed with the Law Society for use in appropriate circumstances. A sixth form of Opinion on Compliance for apartments is in the course of preparation<sup>2</sup>.
2. The RIAI and the Law Society agree that it would be desirable to have only one set of standard Forms of Opinion or Certificate and both will co-operate with the objective of producing such a set of Forms and getting them agreed with all appropriate parties. The RIAI will agree to its forms becoming the basis for such an agreed set.
3. The Law Society will advise its members to try and clarify at the commencement of a transaction what form of Certificate of Opinion on Compliance will be forthcoming. The Law Society agrees that in dealing with RIAI members it will advise its members to accept the appropriate RIAI form. RIAI members may occasionally be asked to sign the forms of Certificate of Opinion on Compliance published by the Law Society but the Law Society agrees that solicitors should not press RIAI members to sign the Law Society forms. Occasionally the RIAI forms will not meet the particular circumstances of a case and may have to be adapted. Care should be taken by RIAI members to make sure that any altered form is acceptable to their Professional Indemnity Insurers.
4. The RIAI and the Law Society have agreed to the publication of a factual statement of qualifications for membership of the RIAI, the Irish Architects Society, the Incorporated Association of Architects and Surveyors, and the Architects and Surveyors Institute. The Law Society will contact these bodies with a view to seeing if there is a consensus in favour of agreeing such a statement. When this has been done the Law Society and the RIAI will review the position.

### **LAW SOCIETY/ RIAI - AGREED STATEMENT**

### **PLANNING PERMISSION - OPINIONS ON COMPLIANCE**

*Published in Law Society  
Gazette, March 1995*

*1. Specimen RIAI forms are set out in the Appendix to this Handbook with the kind permission of the RIAI*

*2. This sixth form - FORM 1A (APARTMENTS) - was later published in March 1997 and a seventh form - FORM 1B (Apartments) was published in 2001*