

**INSURANCE ON
APARTMENTS OR
QUASI-
APARTMENTS**

Many modern commercial developments comprising one structure are intended to end up in different ownerships. The best practice in relation to fire insurance in such cases is that the entire structure is in the name of one entity and the contributions for the different units forming part of this are contributed by way of service charge. The entity is usually a management company but sometimes a major commercial company takes on the role. The reason for this is simple. In the event of a fire involving total destruction it is impractical to have a number of different owners involved in re-planning and rebuilding.

The Conveyancing Committee is alarmed to hear that some developers are ignoring such fundamental points in arranging the legal structures in new building developments.

The committee finds it surprising that insurance companies seem to happily insure an upper floor apartment which in the event of the total destruction of the entire block of which it forms part could not be rebuilt without the co-operation of others who would have their own vested interests and agendas.

Two examples are worth considering

EXAMPLE 1

A new block is being developed comprising retail units on the ground floor and basement with several stories of apartments above. The apartments were all insured in one block policy and this policy was a typical apartment insurance policy as if the apartment block was standing on its own foundations and ground. The individual retail units were left to arrange their own insurance. The legal documentation gave no rights to the apartment owners to enter on the retail area to rebuild the foundations in the event of total destruction of the entire. Such problems were just ignored.

The best practice in such matters would be to have one management company which would insure the entire structure recovering the insurance by way of service charge. Such arrangements may be somewhat more complicated in that two management companies are sometimes necessary and considerable care is needed in relation to the control thereof. There is a tendency to give the commercial owners (whose units are likely to be much more valuable) a greater say in the management of the company in the hope that their business experience is more likely to have the insurance reviewed on an ongoing basis which is sometimes neglected by management companies which may be run by people who have little or no experience of business.



EXAMPLE 2

A builder is selling apartments/duplex units comprising three storey building. This comprises an apartment on the ground floor and a two storey duplex unit above. Each are self contained (with their own entrance). The developer does not arrange a block insurance but leaves it to the owner of each unit to arrange their own insurance. In some cases they also fix the owner of the ground floor apartment with responsibility for the foundations and the owner of the duplex unit with responsibility for the roof.

The best practice in such matters in the view of the committee is to treat such a development like any apartment block. The structure should be owned by a management company which should insure the entire and be responsible for repairs of the foundations, structural fabric and roof and the common areas (although in the case of a duplex unit the only common areas would probably be water tanks in the roof space).

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