



It seems, therefore, that it is implicit that the Client must also be the owner of the land (or perhaps entitled to control the ownership thereof).

The building of houses like this is a very common feature in rural Ireland and this matter of interpretation is going to become the focus of much attention. In conclusion, it is clear that in some cases where 'once-off' houses are being built that there is no Client and therefore no obligation on any person to prepare a safety file. In such cases, solicitors dealing with conveying the house should not concern themselves with the matter of a safety file.

SAFETY FILES AND ONCE-OFF HOUSES

(Contd.)

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The Law Society published a practice note about the need for certificates of compliance relating to retention permissions in the November 1997 issue of the Gazette. This practice note was intended to apply only to private houses. The committee takes the view that it is reasonable for a solicitor for a purchaser to ask for confirmation by way of letter of opinion by a suitably qualified person that the drawings submitted for the retention application correctly showed the actual structure for which permission to retain was applied for. If there are conditions to the grant of permission to retain, the certifier should go on to deal with these in the usual way.

No certificate of compliance should be required where the permission related only to the retention of a (changed) use, where no conditions were attached.

The committee was asked to consider whether it was reasonable to accept a title in a case where permission to retain an extension to a dwellinghouse was obtained more than ten years ago and no certificate of compliance is available.

The committee takes the view that, in light of the provisions of the 1992 Act, it is reasonable for the solicitor not to require a certificate of compliance in such a case unless there is an evident problem.

When acting for a vendor in such a case, a solicitor preparing a contract should put in a special condition putting the purchaser on notice of the position and providing that no requisition or objection shall be made due to the lack of certificate. In that way, before signing a contract, a purchaser has an opportunity of getting advice in the matter and, if necessary, to get advice from an experienced architect or engineer.

RETENTION PERMISSION – DWELLINGHOUSES

CERTIFICATE OF COMPLIANCE?

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