Inside this issue:
American housing market, post-recession
Housing and human rights
The importance of data in housing policy
Residential Tenancies (Amendment) Bill 2012
Contents

Editorial 03

Irish housing review 04
Your round up of what’s been happening in the sector

What’s happening elsewhere 08
A look at the housing headlines across the UK

A rights based approach to housing 10
Dr Padraic Kenna on how human rights affect the work of housing professionals

A ‘housing-led’ approach to addressing homelessness 14
Bernie O’Donoghue Hynes on the CSO Special Census Report on Homeless Persons in Ireland

The new American dream 18
Housing outside the bubble - Josh Kahr and Genevieve Francoise provide a special insight into the American housing market

Residential Tenancies (Amendment) Bill 2012 29
Kevin Baneham considers this new legislation and its implications

Knock, knock... 34
A leading Irish housing professional reflects on 2012 and looks towards the new year in housing

Making informed decisions on future housing policy 36
Rob Kitchin on why the right data is fundamental for sound housing policy

Restructuring NI 42
Housing Executive
Creating a better housing system for Northern Ireland

A day in the job of... 44
Bronagh D’Arcy, Director of Development at Túath Housing

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Editorial

The latter months of 2012 brought a real sense of momentum to housing policy and its implementation across Ireland

After a year mostly defined by waiting for things to happen - as our anonymous contributor’s diary entry highlights - there was a shift towards action as 2012 rolled to a close. The voluntary code for the regulation of Approved Housing Bodies was published for consultation, the Residential Tenancies (Amendment) Bill and Finance (Local Property Tax) Bill 2012 were introduced. In addition, the property price register was launched and the report on the deposit retention scheme was published.

Meanwhile, in Northern Ireland, the Minister for Social Development, Nelson McCausland, published what has been a long-awaited housing strategy, announced a fundamental transformation of the Northern Ireland Housing Executive and commissioned a review of the allocations policy, amidst the introduction of the Welfare Reform Bill. These developments will create both change and opportunity across Ireland.

The recession, of course, is the driver behind many of the direct and indirect decisions affecting housing policy in Ireland (and the rest of Europe) and this edition of Housing Ireland features an in-depth look at the housing market in the United States, as it struggles in the aftermath of a spectacular bursting of the housing bubble. Many parallels can be drawn between the approaches adopted in the United States as detailed in Josh Kahr and Genevieve Francois’ extensive article, produced exclusively for Housing Ireland and the Irish housing market. But there are also some thought-provoking contrasts and questions, about the role of the state in the housing market and the success of traditional policy interventions.

Rob Kitchin’s article takes another approach to this theme and makes the case for policy-making based on evidence and data, while Kevin Baneham points to risks of legislation that doesn’t have a nuanced understanding of housing and housing-related support. Padraic Kenna provides a concise and sympathetic look at the relationship between housing and human rights. Whilst for many housing professionals the fundamental human right to a safe, warm home is the cornerstone of what they do, human rights law is something that many need to give more consideration to.

Moving into 2013, the challenge for us as housing professionals is to respond to these policy changes and support their implementation, but also to continue to provide our views and expertise to government. Whilst government is the system steward, as the deliverers of housing we also have a vital role in the policy process, with invaluable experience as to what works and can be achieved.

Finally, as always, I hope this edition of Housing Ireland adds to how you think about housing and housing policy and look forward to your comments.

Jennie Donald
Editor
Property tax

Budget 2013 (announced on 5 December 2012) introduced a Local Property Tax (LPT) which will come into force on 1 July 2013. The LPT is levied in respect of ‘Residential Properties’. A half-year payment will be due for the second half of 2013, with a full-year payment due in 2014. The Property Owner will be liable for the LPT and currently this includes Local Authorities and Approved Housing Bodies. The LPT replaces the Household Charge and the Non-Principal Private Residence (NPPR) Charge. Outstanding charges will be collected via the LPT system. The Household Charge will be abolished from 1 January 2013 and the NPPR will cease with effect from 1 January 2014.

The rate of the tax will be 0.18% of market value up to €1 million and 0.25% on values above that level. These rates will not be varied during the lifetime of the current Government. Properties of more than €100,000 and less than €1 million will be assessed at the mid-point of the valuation band of €50,000 width – for example, properties valued between €200,001 and €250,000 will be assessed at 0.18% of €225,000. Properties below €100,000 will be assessed at 0.18% of €50,000. Properties valued over €1 million will be liable at 0.18% on the first €1 million and 0.25% on the balance, with no banding applied.

Section 4 to Section 10 of the Bill provides for an exemption from local property tax in certain instances:
• where the owner has vacated the property due to long-term mental or physical infirmity and where no other person occupies the property
• where residential properties were constructed by a builder or developer but remain unsold and have not yet been used as dwellings
• residential properties that are owned by a charity or a public body and used to provide accommodation to persons with disabilities or the elderly to enable them to live in the community
• registered nursing homes are exempt

• first time buyers who purchase a newly constructed or second hand residential property between 1 January and 31 December 2013 are exempt until 2016
• properties situated in unfinished housing estates (commonly called “ghost estates”). Section 10 lists the relevant circumstances to be considered by the Minister for the Environment, Community and Local Government in deciding which housing estates are to be included on the exempt list.

One of the most significant issues which arises for the social housing sector is the levying of the LPT on social housing landlords. Housing authorities and Approved Housing Bodies are already exempt from the Household Charge and the ‘Thornhill Report’ specifically recommended exemption from the LPT for non-profit housing associations. The not for profit sector has strongly criticised the move stating it ‘threatens the financial viability of the sector and will impact on low income families already suffering from cuts’ (ICSH).

Unfinished housing developments

The 2012 National Housing Development Survey was published in November. The survey has been tracking the extent and condition of unfinished housing developments since 2010.
The 2012 survey reveals that:

- 1,203 developments previously included in the survey can now be removed because they are either substantially complete or the development never commenced. Many of the substantially complete developments will now progress to being considered for being taken over by the relevant local authorities.
- 1,770 developments remain unfinished; of these, approximately 1,100 are in a seriously problematic condition and are a focus for continued action.
- 16,881 houses remain vacant - down from the 18,638 dwellings recorded in 2011 and the 23,250 recorded in 2010.
- 91,692 houses are complete and occupied - up from the 79,234 houses in 2011.

This indicates good progress in bringing vacant housing into beneficial use and bringing down the level of vacant new housing. The next immediate priority is for developers, funders and local authorities to work together in assessing developments for the purposes of ‘taking in charge’ and expediting that process. The focus needs to concentrate on bringing the remaining 1,770 developments that are incomplete, especially the 1,100 developments that are in a seriously problematic condition, into use. The Department is due to bring forward detailed proposals on this matter during late spring 2013.

### Property price register

In September, the Residential Property Price Register was launched by the Property Services Regulatory Authority (PSRA). It includes date of sale, price and address of all residential properties purchased in Ireland since 1 January 2010, as declared to the Revenue Commissioners for stamp duty purposes. It is not intended as a ‘Property Price Index.’ This is a move towards greater transparency in the property market. It is hoped that the register will restore confidence to the market by improving the quality of information available in the residential property market.

### Private rented sector

The private rented sector has seen a raft of new legislation and initiatives in recent months.

1. **Residential Tenancies (Amendment) (No.2) Bill 2012**

   Published in July 2012, the focus of the Bill is to improve the system of tenant-landlord regulation and promote mediation in dispute resolution. It introduces a number of specific measures:

   - Tenancies in the voluntary and cooperative housing sector that most closely parallel private rented tenancies will be regulated under the Act, i.e. the registration requirement will be extended to a large number of voluntary housing tenancies.
   - The agency responsible for regulation of the tenant-landlord relationship, the Private Residential Tenancies Board (PRTB), will be re-named as the Residential Tenancies Board (RTB).
   - Formal effect has been given to the merger of the Rent Tribunal with the Residential Tenancies Board.
   - The size of the Board has been reduced, from 15 to 12 members.
   - The Bill also seeks to reduce the number of cases where supplementary welfare allowance is used to facilitate rent payments in respect of unregistered tenancies.

   The creation of a deposit protection scheme to address the issue of illegal retention of tenants’ deposits has still to be addressed and included in the Bill.

2. **Deposit protection scheme**

   The current Programme for Government includes a commitment to “establish a tenancy deposit protection scheme to put an end to disputes regarding the return of deposits”. In November, Minister O’Sullivan published a report on the feasibility of introducing a deposit protection scheme.
The Report recommended that if a formal deposit protection scheme was to be introduced, the best option would be a custodial scheme whereby the management and administration would be undertaken by a private sector provider. The report states that a custodial scheme involving legislative changes and outsourcing would be likely to achieve financial viability.

Measures to establish a Deposit Protection Scheme will be introduced in the Residential Tenancies (Amendment) (No.2) Bill 2012.

To read the full report visit http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/

Reform of local government
In September, the Government published ‘Putting People First – An Action Programme for Effective Local Government’. This document outlines the most fundamental reform of the local government system in over one hundred years. The plan sees:

- local government structures streamlined with a new model of municipal governance
- funding, accountability and governance processes strengthened
- an enhanced role for local government in economic and job development
- a focus on delivering services efficiently with new measures to monitor the performance of authorities.

From a housing perspective, one of the most significant reforms announced relates to the abolition of the power that councillors have to overturn the decisions of planning officials. Section 140 of the Local Government Act will be put to an end so that councillors will no longer be allowed to direct officials in respect of planning functions.

Regulation of the approved housing bodies
In August, a consultation process commenced on the draft voluntary code for the regulation of approved housing bodies. This process concluded in late September and a new Voluntary Code will be published in the near future based on responses. Whilst a statutory regulatory framework is the long term aim, the interim proposal is a voluntary code and Charter of Commitment. The draft voluntary code is based on three sound principles: proportionality, accountability and transparency. A significant amount of work has already been carried out within the voluntary housing sector on good governance. The aim of the code is to set out key regulatory principles that will then hopefully form the basis of a formal framework. The contention is that the Irish housing sector is significantly different to that of other countries, therefore a collaborative and evolving process will produce the most effective and sustainable system of regulation.

A collaborative approach is definitely one that CIH would endorse and this approach can pre-empt inconsistencies and misunderstandings down the line. We also recognise how important it is to get regulation right and Government’s commitment to an evolving process rather than a prescriptive one is to be welcomed. However, there is a risk that the lack of regulatory powers – particularly that of intervention – and the voluntary nature of the code, will not serve as an incentive for financial institutions, especially those already lending to housing organisations subject to regulation.

A balance clearly needs to be struck between the financial constraints on housing and the properly managed introduction of a new regulatory framework. The consultation responses will hopefully have given some indication as to whether the voluntary housing sector and lenders feel that balance has been achieved. CIH was amongst the organisations who submitted a response to the consultation and our thoughts on the draft code can be read at….


“...a collaborative and evolving process will produce the most effective and sustainable system of regulation.”
Tenant purchase schemes

November saw the announcement of significant reforms to existing tenant purchase schemes that allow social housing tenants to purchase their homes. The 1995 ‘tenant purchase scheme’ was the main vehicle to facilitate this transfer and in the last 10 years approximately 10,000 tenants have become homeowners under this scheme. However, since 2008 demand for the scheme has fallen dramatically, with just 195 homes purchased in 2010.

Prior to this announcement, regulations were made to close purchase applications under the 1995 scheme from December 2012. This was to be replaced by a new scheme modelled on the ‘Incremental Purchase Scheme’ for new local authority houses. This new scheme will be the main tenant purchase vehicle in the future. The most significant reform relates to how the discount off the purchase price is calculated for tenants. The current discount available to tenant purchasers relates to length of tenure; discounts under the new scheme will be based on family income.

Budget 2013

The big headline affecting the housing sector was the introduction of the property tax and the detail setting out how the tax would operate. Other announcements in the Budget 2013, as it affects delivery of social housing, include a €310m allocation in current spending with €275m to be invested through capital expenditure in 2013. The Minister states this will be translated into excess of 5,000 social housing units in 2013. This will include:

- 350 units for people with special housing needs
- 150 units specifically for people leaving institutional care
- an additional 400 permanent homes delivered through capital expenditure under the Social Housing Investment Programme
- 300 transfers under the Mortgage to Rent Scheme
- some 4,000 units delivered under social leasing, including property transfers from NAMA, the Rental Accommodation Scheme (RAS) and mortgage to lease.
- €80m provided for the national regeneration programme.

“A balance clearly needs to be struck between the financial constraints on housing and the properly managed introduction of a new regulatory framework.”

To read the draft voluntary code log onto: [http://www.environ.ie/en/DevelopmentHousing/Housing/HousingPolicy/News/MainBody,30930,en.htm](http://www.environ.ie/en/DevelopmentHousing/Housing/HousingPolicy/News/MainBody,30930,en.htm)
What’s happening elsewhere?

Across the UK, policy-makers have been wrestling with the challenge of how to increase housing supply and regenerate communities.

England
- The ‘Homes for Britain’ campaign was launched in September 2012. Homes for Britain is the united voice for housing, bringing together more than 40 organisations, representing every part of the housing industry, with the aim of placing housing at the top of the political agenda. CIH, the National Housing Federation, Crisis, Home Builders Federation, Residential Landlords Association and Royal Institute of British Architects came together to form Homes for Britain to articulate one clear message: that housing is part of the solution to the current economic crisis.

- The third edition of the Housing Report (produced by CIH, the National Federation of Housing Associations and Shelter) was published in November 2012, with an update on the Coalition Government’s progress against its stated housing aims. In this report the government achieved four red lights, four amber and two green. You can read the Housing Report at http://www.cih.org/housingreport

- The Housing Minister Mark Prisk launched a new £200m Build to Rent fund in December 2012 that will reduce the risk for housebuilders moving to build houses for private rent rather than sale. The fund will finance the construction of rental homes until they are built, let out and managed.

Scotland
- Seventeen housing associations, councils and house builders have so far submitted successful bids for the Scottish Government’s £4.5m Empty Homes Loans Fund. The fund helps private owners renovate empty homes in exchange for them being made available as affordable housing for at least five years. The Scottish Government has extended the funding to help tackle the problem of empty homes to March 2014 and hopes that more than 400 empty homes can be brought back into use.

- Scotland has seen resurgence in private sector development in 2012. The number of new homes started by private builders (to June 2012) was the highest recorded since the economic downturn began in 2008. 10,827 new homes were started, a 24% increase on the same period in 2011 and a marked improvement after three years of decreases in new starts.

- As of 31 December, all individuals and households who are unintentionally homeless in Scotland have the right to settled accommodation. Previously this only applied to those identified as being in priority need. This is part of Scotland’s 2012 commitment to homelessness reform which promises a home for everyone and an end to priority need categorisation.
Wales

The Welsh Housing and Regeneration Minister, Huw Lewis, has published Vibrant and Viable Places, a consultation on a new regeneration framework. This new approach aims to reverse economic, social and physical decline in areas where market forces will not be sufficient to achieve lasting improvement without some support from government.

A new Community Initiative Grant fund of £1.5m to support housing and regeneration in Wales over the next three years was announced in November 2012 by the Minister for Housing and Regeneration. The fund is intended to support the delivery of community benefits through housing and regeneration capital investment; innovation, particularly in relation to the development of new housing models and funding options; the exchange of ideas, experiences and lessons that contribute to the successful delivery; and the strengthening of the housing and regeneration sectors through training and development.

Northern Ireland

Nelson McCausland, Minister for Social Development, published ‘Facing the Future: Housing Strategy for Northern Ireland’ consultation in September 2012. CIH responded to the strategy and our comments can be read here.

The Housing Strategy was followed, in January 2013, by the Fundamental Review of the NI Housing Executive. Key changes include the separation of the Landlord function from the strategic; the establishment of a regional housing body to deliver regional housing services, programmes and operational strategies; the creation of an independent social housing rent panel; significant enhancement of regulation and inspection; and the dissolution of the Housing Council. The outworking of these proposals will be interesting to track in coming months. Further details can be accessed on www.cih.org.

The Northern Ireland Welfare Reform Bill is currently at Committee stage and is being scrutinised by an Ad Hoc Committee on Conformity with Equality Requirements.

The Minister for Social Development has been able to secure a number of welcome operational flexibilities in terms of how universal credit, the new delivery mechanism for social security benefits, is administered in Northern Ireland. The most important for social and private landlords is that the housing costs element of Universal Credit can continue to be paid directly to the landlord rather than the claimant.

The Northern Ireland Federation of Housing Associations unveiled the global accounts for the sector, compiled by PwC in November 2012. In the 2011/12 financial year, private investment rose by 15% compared to 2010/11 while turnover topped £173m, up 2.33%.

Must reads:

The number’s game, the latest report from L&Q housing association and PwC on increasing funding and supply in hard times

Crossing Borders, a new report on rural housing markets in the Irish border regions

CIH Scotland’s briefing paper on the challenges of developing and managing mixed tenure housing
http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/Focus%20December%202012.pdf

The Welsh Housing Review 2012
http://www.cih.co.uk/publication-free/display/0pathDCR/templatedata/cih/publication-free/data/Wales/Welsh_Housing_Review_2012
A rights based approach to housing

Dr Padraic Kenna worked as a housing practitioner in the state and housing association sector in Ireland and the UK for many years. He now lectures in law at NUI Galway, is Chair of the FEANTSA Expert Group on Housing Rights and directs the Centre for Housing Law, Rights and Policy.

Housing in Ireland has changed significantly in the past decade. While the public and political focus has been on house prices, ghost estates and mortgage arrears, there has been a quieter development of human rights in housing. Indeed, the integration of Irish housing into European and global systems has also occurred in housing rights.

These rights are impacting on the work of housing professionals in many new ways, and this article considers some of these influences.

Housing rights

Housing rights are now firmly accepted by all states at international level through international treaties and agreements, many of which are directly enforceable at individual level. In Europe, housing rights are developing within both the European Union (EU) and Council of Europe. This latter organisation of 47 states has provided both the European Social Charter and the European Convention on Human Rights (ECHR). In Ireland, the ECHR Act 2003 (based on the original Convention) has recently led to a suspension of local authority evictions under the Housing Act 1966, and other decisions.

The EU through its treaties, regulations and directives impacts on housing in many indirect ways, but EU law is directly applicable across the EU at national and indeed local level. The adoption into binding EU law of the EU Charter of Fundamental Rights in the Treaty of Lisbon may have important developments. But housing rights at international level are primarily found in United Nations (UN) instruments.

United Nations

Both the UN Universal Declaration on Human Rights (1948) and the International Covenant on Economic, Social and Cultural Rights (1966), which have been ratified by Ireland, oblige the state to uphold the right “to a standard of living adequate for all, including adequate housing.” This involves a state guarantee to meet a minimum core obligation immediately (conditions below which no person should have to endure), guaranteed without discrimination, and then to progressively realise the full implementation of the prescribed rights to the maximum of the state's available resources.

Implementation of the rights involves legislative, budgetary, administrative and other means and there should be no regression of the rights granted. While the signing and ratification of these international agreements are voluntary, when a state ratifies, it accepts a solemn responsibility to apply the relevant obligations and ensure their compatibility with national laws, in a spirit of good faith. Thus, states become accountable to the international community, to other states which have ratified the same texts, and to their own citizens and others resident in their territories.
The provisions of these UN rights instruments are not directly enforceable by individuals before Irish courts unless legislated by the Oireachtas, although that is not to say that some national laws may not reflect similar obligations. States report to a UN Committee on a regular basis in relation to the implementation of the rights and these reports are published. In 2008, the UN General Assembly adopted an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which will enable UN approved NGOs to make direct complaints about violations of housing rights and the state must respond to that Committee. Ireland will shortly sign and ratify that Protocol.

Many housing providers and housing rights advocates question the vagueness of the UN obligations and the difficulty in defining exact obligations to be met. However, the UN provides guidance on the key elements of housing rights such as legal security of tenure, availability of services, materials and infrastructure, affordable housing, habitable housing, adequate location of housing and culturally adequate housing which enables the expression of cultural identity and diversity.¹

The European Committee of Social Rights (ECSR) monitors states’ compliance with the Charter through regular reports from states and the Collective Complaints system, whereby ECSR approved NGOs can lodge complaints against states for violations. The ECSR has established clear legal housing rights standards on contractual safety, availability, allocation, standards of adequacy, habitability, affordability and suitability of housing. However, the Social Charter remains at the level of an international treaty and is not individually enforceable in a court in Ireland.

The ECHR creates a supranational human rights appeals mechanism through the European Court of Human Rights based in Strasbourg. ECHR Articles which address housing rights are:

- Article 1 on the obligation to respect human rights
- Article 3 right to state protection from inhuman and degrading treatment
- Article 6 on the right to a fair trial or hearing in civil and criminal matters
- Article 8 on respect for privacy, family life and home
- Article 13 on the right to an effective remedy
- Article 14 prohibition of discrimination in the protection afforded by the other Articles
- Article 1 of Protocol 1 on the right to protection from the arbitrary deprivation of possessions.²

Ireland has integrated the ECHR into national law through the European Convention on Human Rights Act 2003. While the Act does not grant a direct right to housing, it may require the state to provide housing where it would prevent a breach of its ECHR obligations.

This Act of 2003 obliges all “organs of the State,” which includes local authorities, to act in a manner compatible with the state’s obligations under the Convention, i.e., they must not breach ECHR rights. Thus, the ECHR Articles must be respected in their laws, policies and actions.

In O’Donnell v South Dublin County Council³ the High Court held that the local authority were obliged to provide a second serviced mobile home for a family with three severely disabled children, in order to meet their obligations under Article 8 ECHR. Similarly, in O’Donnell v South Dublin

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³ [2007] IEHC 204.
County Council\(^4\) (a different case) the High Court again held that there was a breach of Article 8 where a disabled Traveller child was forced to live in an overcrowded and poorly maintained caravan. The local authority was obliged to act to address the violation.

More controversially, however, the ECHR has led to a Declaration of Incompatibility in relation to Section 62 of the Housing Act 1966. In Donegan v Dublin City Council\(^5\) the High Court held that the statutory procedure on evictions from local authority housing breached Article 8 standards on respect for home. In February this year, the Supreme Court upheld that decision, with the result that the law must be changed to comply with the ECHR or a different approach be taken by local authorities.\(^6\) It is understood that there are at least 50 similar cases in the courts system.

In relation to housing associations, there have been no Irish cases, but the significant English case of Weaver v London & Quadrant Housing Association\(^7\) held that such housing providers fell within the obligations of a “public body” under the UK Human Rights Act 1998 (similar to the ECHR Act 2003). The statutory duty to cooperate with the local authority in renting its houses, substantial public subsidy received, and the permeation of the sector with state control and influence, were persuasive factors for the court.

**The European Union (EU)**

While the EU Treaties do not directly refer to housing and states resist conceding housing policy or law making to the EU, increasing levels of EU social policy measures, provisions on state aid, public procurement, regulations on refugees and asylum seekers, construction products standards and even unfair contract terms in consumer contracts have generated many housing related cases.\(^8\)

Most housing providers are aware of the non-discrimination and social inclusion policies of the EU, but perhaps not so many of the EU Charter of Fundamental Rights (CFR), which became Treaty law in December 2009.\(^9\) While this respects the principle of subsidiarity of national housing laws and policies, it integrates the Council of Europe’s ECHR and Social Charter into EU law. The result is that EU institutions must comply with the CFR in their activities; it also applies to member states, but “only when they are implementing Union law.” Of course, many housing-related activities now contain an element of EU law and thus in carrying out any operations or policies such provisions apply and there is an obligation to comply with the CFR. While there is not a specific right to housing, Article 34(3) of the CFR states:

> “In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the Rules laid down by Community law and national laws and practices.”

The implications of this new measure have yet to be fully examined, but will, undoubtedly be the subject of many cases across the EU.

“...most housing providers rightly view their activities as the realisation of housing rights and will endorse the rights protection granted...”
Conclusion

Housing providers in Northern Ireland have become familiar with housing rights obligations, but less so in the Republic of Ireland. There is a need for training and impact assessments of existing and new policies. These would examine whether the policy or proposal engaged, interfered with or limited any ECHR rights, identifying the persons affected and considering the necessity, proportionality and equality aspects of the proposal. Indeed, it may be advantageous to take a pre-emptive approach, rather than face uncertain and expensive claims for alleged breaches.

In any case, most housing providers rightly view their activities as the realisation of housing rights and will endorse the rights protection granted.

It is now clear that while housing and human rights was seen as elitist and the province of lawyers in the past, consideration of housing rights and the avoidance of violations will become a key part of the work of housing practitioners. Already some rights-based cases have altered policy and practice, and housing organisations and professionals will need to act knowledgably.

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Reports of the UN Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living. See website: http://www.ohchr.org/EN/Issues/Housing/Pages/RaquelRolnik.aspx
Realising a ‘housing-led’ approach to addressing homelessness

Dr Bernie O’Donoghue Hynes, Head of Research with the Dublin Region Homeless Executive (DRHE), examines the contribution of the Central Statistics Office Special Census Report on Homeless Persons in Ireland towards realising a ‘housing-led’ approach to addressing homelessness.

On 6 September 2012 the Central Statistics Office (CSO) published a special Census report, Homeless persons in Ireland, detailing the results from the Census of 10 April 2011. Homeless persons were identified based on where they were on Census night with accommodation being identified in advance. Accommodation was identified using three sources, the Department of Environment, Community and Local Government (DECLG) and the Dublin Region Homeless Executive (DRHE), agencies involved in providing support to homeless persons, and the CSO.

Understanding homelessness based on living situations
Defining homelessness presents challenges. The DRHE includes in its understanding of homelessness a focus on the living situation of persons. This is in line with the approach reflected in the National Strategy, The Way Home 2008-2013 (Department of Environment 2008) and the DRHE service delivery model outlined in Pathway to Home (Homeless Agency 2009). It is an understanding that utilises the European Typology of Homelessness and Housing Exclusion (ETHOS) which includes persons who are roofless and sleeping rough as well as the houseless. Consequently, the DRHE has been carrying out biannual rough sleeper counts since 2007. The spring 2011 count was conducted on behalf of the CSO on Census night and 59 of the 64 rough sleepers discovered nationally were located in the Dublin Region. Framing the count within this typology facilitates some level of international comparison of data, a very positive development for the sector and the state.

Recognition of homelessness as a key national issue
The decision by the CSO to include an enumeration of homelessness in the 2011 Census is very welcome. It increases the profile of homelessness as a key policy and social issue as the CSO results are “essential tools for effective policy, planning and decision making purposes” (CSO 2011) for the state.

“Being included means being included in Irish society and making sure that you are taken account of in the decisions that will be made about our future. (CSO 2011)”

The DRHE has previously conducted large scale surveys on the extent of homelessness in the Dublin region. Most recently we relied upon our dedicated service user datasystem (called PASS) to revise the 2011 Housing Need Assessment for Dublin (Homeless Agency 2002; 2006; 2008; Dublin Region Homeless Executive & The Housing and Sustainable Communities Agency 2012). The methodologies and focus of these enumerations differ substantially from that of the Census. This means figures are not easily comparable. For example, the CSO state that some of the persons counted on Census night reside in properties classified as transitional or long-term supported housing where “residents may have tenancy rights” (CSO 2012, p.13). Households with tenancies would in general not be classified as homeless by DRHE. However, the CSO figure
represents a comprehensive national figure that moves beyond a restricted view of homelessness that the state must respond to.

**Is a register of service providers needed?**

Overall, the total number of persons enumerated in the state on Census night was 3,808 of which 2,375 were located in the Dublin Region. Men represented two thirds of the recorded homeless population, both nationally and regionally, with females tending to be younger on average than males. Of the 928 properties included in the Census, 492 (or 53%) were located in the Dublin Region providing accommodation for 62% of the population indicating a higher than national average occupancy rate for properties located in the region. The Census data also confirms that services must continue to be configured to support persons out of homelessness who, compared to the general population, have lower than average levels of educational attainment, poorer general health and higher rates of disability.

The residential properties identified by the DRHE for inclusion on Census night are part of a model of service working towards realising a ‘housing-led’ approach to service delivery, as outlined in the National Housing Policy Statement (DECLG, 2011). A ‘housing led-approach’ is informed by robust research demonstrating positive results in relation to the sustainability of tenancies, payment of rent, the cost incurred for the community and improved well-being of persons experiencing homelessness, including persons experiencing mental health and addiction difficulties (Fitzpatrick et al, 2010; Greenwood, 2011). The objective is to move people into permanent housing as quickly as possible so they can live in ‘normal’ conditions in the community (Houard, 2011). Choice is emphasised as people can determine where they live, the level of engagement with health/social treatments and whether to continue using drugs or alcohol. For this reason, the Pathway to Home model states that “transitional support should be provided in long-term housing by Housing Support Teams” (Homeless Agency 2009).

In the Dublin Region, services in receipt of Section-10 funding for homeless services are required to record data daily on service use on a dedicated IT system, called PASS. This enables the development of comprehensive support plans and case notes for individual service users while also enhancing the DRHE’s ability to plan, develop and monitor services and quality standards in the region.

<table>
<thead>
<tr>
<th>Identifying Source</th>
<th>Number of Properties</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>DECLG/DRHE</td>
<td>428</td>
<td>46%</td>
</tr>
<tr>
<td>Homeless Service Providers</td>
<td>454</td>
<td>49%</td>
</tr>
<tr>
<td>CSO</td>
<td>46</td>
<td>5%</td>
</tr>
<tr>
<td>Total</td>
<td>928</td>
<td>100%</td>
</tr>
</tbody>
</table>

However, as evident in Table 1, the identification of a significant number of properties providing accommodation to homeless persons by sources other than the DECLG/DRHE indicates that a significant lack of data may exist in the state relating to levels of activity and standards in relation to these services. There is no national register for service providers, a weakness in terms of monitoring the implementation of the national strategy which aims to:

- Eliminate long-term occupation of emergency homeless facilities;
- Eliminate the need to sleep rough; and
- Prevent the occurrence of homelessness as far as possible. (DECLG, 2008)

This is a deficiency that needs to be addressed at a policy level.

**Does state funding support a ‘housing-led’ approach?**

A review of persons aged 15+ both nationally and in the Dublin Region, illustrated in Figure 1, reveals a higher concentration of persons using emergency accommodation in the Dublin Region than in the rest of the state. Of the 1,648 persons using emergency accommodation aged fifteen and older, 74% (or 1,071) of persons were located in the Dublin Region. In addition, 86% of the persons in emergency accommodation nationally were located in properties identified and funded by the DECLG.
To some degree this may reflect a realisation of the housing-led approach in which there is a diminished role for transitional services and greater emphasis on moving people on from emergency accommodation into long-term housing solutions. A review of PASS data for the Dublin region confirms a reduced reliance on and investment in transitional housing. However, numbers of persons moving-on to long-term housing options, both supported (reported by the CSO) and unsupported (only partially captured in Census data) are meeting targets but are at a slower rate than persons entering homelessness. The most significant obstacle to addressing this problem is the lack of availability of affordable, quality accommodation.

The value of on-going collection of data on homelessness

The CSO have used the ETHOS framework to categorise the range of living situations that can be understood to represent the experience of being homeless or at risk of housing exclusion and the on-going capture of data on the extent and nature of homelessness. In Ireland it is necessary to facilitate a comparative evaluation over time of the effectiveness of our policy and service responses.

This is particularly important, given the growing level of mortgage arrears in Ireland at present and the possibility that increased demands will arise in the near future for access to homeless services. The importance of the Census in helping inform us about the nature of homelessness and housing exclusion means the repeat of this work in Census 2016 must be welcomed.

ETHOS operational categories and living situations for targeting under the DRHE housing led approach

<table>
<thead>
<tr>
<th>Conceptual Category</th>
<th>Operational Category</th>
<th>Living Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roofless</td>
<td>People sleeping rough</td>
<td>- Public or external space</td>
</tr>
<tr>
<td></td>
<td>People in emergency accommodation</td>
<td>- Night shelter</td>
</tr>
<tr>
<td>Houseless</td>
<td>People in accommodation for the homeless</td>
<td>- Homeless hostels</td>
</tr>
<tr>
<td></td>
<td>- Temporary accommodation</td>
<td>- Transitional supported accommodation</td>
</tr>
<tr>
<td></td>
<td>People in women's shelter accommodation</td>
<td>- Women's shelter</td>
</tr>
<tr>
<td></td>
<td>People in accommodation for immigrants</td>
<td>- Temporary accommodation/ reception centres</td>
</tr>
<tr>
<td></td>
<td>- Migrant workers' accommodation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>People due to be released from institutions</td>
<td>- Penal institutions</td>
</tr>
<tr>
<td></td>
<td>- Medical institutions</td>
<td>- Children's institutions/homes</td>
</tr>
<tr>
<td></td>
<td>People receiving longer-term support (due to homelessness)</td>
<td>- Residential care for older homeless people</td>
</tr>
<tr>
<td></td>
<td>- Supported accommodation for formerly homeless households</td>
<td></td>
</tr>
</tbody>
</table>

Source: Dublin Regional Homeless Executive (2012), p. 10

Bibliography
The new American dream: housing outside the bubble

If the American sub-prime market was the catalyst for the global housing market collapse that continues to play out in Ireland, the UK and other European countries, then the current state of the American housing market and what it may look like in the future must hold a level of interest for everyone with a stake in housing.

Joshua Kahr and Genevieve Francois provide a detailed insight into the current state of the housing market in the United States and the role of the American Government in stabilising and shaping the future housing system.

Joshua Kahr is the founder and principal of the Kahr Real Estate company. He is a nationally recognised expert in real estate market analysis, finance, and investment. In addition to articles that have appeared in academic and business journals, he is the author of ‘Real Estate Market Valuation and Analysis’ (John Wiley and Sons: 2005) and ‘Beyond the Bubble’ (Amacom Books: 2007). Genevieve Francois is Vice President of Kahr Real Estate Services.

Introduction
This article describes the current state of the housing market in the United States and discusses the different tools that the American government is using to encourage the development of new housing units for low income populations and public policy efforts toward maintaining housing affordability. These programmes are examined through specific examples from the city of New York. It also includes a brief overview of the history of rental and owner-occupied housing, the regulatory environment and a discussion of real estate taxes in the United States.
Rental housing market
The decision to buy or rent a home is based on the demand for housing as both a consumption good and as a financial investment. The demand for housing as a consumption good has traditionally been driven by the following household characteristics: tenure, size of household, the presence of children, household income and wealth, and tastes and preferences. As such, major drivers contributing to the recently thriving demand for rental housing in the United States include:
- the presence of progressively stringent single family lending practices
- the increasing rate of household formation of individuals under the age of 35
- the intensifying priority of physical mobility in light of potentially challenging and clearly more fluid job markets (i.e., the capacity to relocate easily)
- the influx of foreign born and minority-ethnic families
- the decreasing real value of median household incomes.

Without the existence of a viable rental market, these same conditions that are driving consumers away from homeownership could have produced a catastrophic collapse of the entire housing system in the United States since the bursting of the housing bubble.

Instead, the following article details how the United States has come to rely on rental residential real estate, why this product type is so pivotal to the framework of the American housing market and how the United State government ensures tenants have a functioning rental market by fostering a legislative and regulatory environment that supports property rights.

Homeownership versus rental
Vacancy rates for rental properties and homeownership rates continue to decrease as rental rates steadily increase in the United States, marking four consecutive years of renter household growth and a reversal of the trend of homeownership that defined the decade and a half prior to the current recession.

From 1987 to 1994, American policy makers unilaterally advocated initiatives to raise the level of homeownership in the United States. In 1994, the Federal Government, led by the U.S. Department of Housing and Urban Development (HUD), adopted the National Homeownership Strategy: Partners on the American Dream (NHS) with the explicit goal of raising single family homeownership above 67.5% by the year 2000.

The pro-homeownership sentiments of the mid-1990s can be summarised by the following quote from HUD:

“The desire for homeownership is deeply rooted in the American psyche. Owning a home embodies the promise of individual autonomy and of material and spiritual well-being that many people sought in coming to this country. In addition to its functional importance and economic value, homeownership has traditionally conveyed social status and political standing. It is even thought to promote thrift, stability, neighborliness, and other individual and civic virtues.”


From 1987 through 1994, the level of homeownership in the United States never exceeded 65% nor dipped below 63%. By 2000, as a result of the NHS’ 100 ‘Actions’ to be taken to increase homeownership, political support by both major political parties and the expansion of lending to borrowers who traditionally had not been homeowners, the national homeownership level exceeded the stated goal of 67.5% with a high point in 2004 of 69%.

The NHS maintained bipartisan support through both Democratic and Republican Administrations until it was quietly removed from HUD’s website in 2007. While it is unfair to place the blame for the spike in homeownership just before the recession solely on the political establishment, it is reasonable to say that the political environment was one in which regulators did not intervene to slow down the expansion of the mortgage market to sub-prime and other borrowers.

In the aftermath of the single family housing bubble, with the increase of foreclosures, the rise of unemployment rates, tighter underwriting standards and depression of home values, the national homeownership level has dropped substantially and may continue to do so in the immediate future.

According to The Joint Center for Housing Studies of Harvard University:

“The number of renters surged by 5.1 million in the 2000s; this is the largest decade-long increase in the post-war era. In part, this growth reflects disproportionate shares of young, minority and lower-income households who were traditionally more likely to rent before the bubble, and in its wake, have become renters again. This is not to say the impact has been limited to only a few select populations; the crisis and the aging of the population have also spurred increases in renting among the middle-aged, as well as households that are white, married and have moderate incomes.”

Lessons learned by reforming the ‘American dream’ of home ownership

In the United States, rental housing is the housing option of choice for a large majority of young, single, or low-income households.

Logically, it would seem that the housing crash has further driven homeowners to rent by having a negative impact on consumer perceptions of homeownership as ‘safe’ and creating financial barriers to homeownership. In addition, the belief that one could build substantial wealth through home equity has been challenged by the nationwide loss of home equity through the drop in prices and more dramatically though foreclosures. The credit market for borrowers for single-family homes is also more limited to those with sporadic earning histories, low credit scores, lower household incomes and meagre savings.

With ongoing tighter credit restrictions on single-family mortgages, the continuation of the as-yet unresolved foreclosure wave and the increase in echo-boomers (the 80.8 million persons born between 1986 and 2005 living independently heading households, we are entering a super-cycle of renter demand.

In the near term, it is likely that homeownership levels will revert to a level in the range of the historic norms of 63% to 65%. As indicated by the following chart, this theory is supported by the sustained decrease in homeownership rates since 2004, which peaked at 69% and dropped to 66.1% in 2011. Even the 2011 rate is a historic high; from 1960 to 1997, the homeownership rate did not break 66%.

**Source:** US Census Bureau
However, the working paper, ‘Post-Recession Drivers of Preferences for Homeownership’, conducted by Harvard University’s Joint Center for Housing Studies suggests that the greatest predictor of post-recession homeownership preference is simply whether one is already a home owner or renter. Key exceptions to this rule are owners that have a home where the outstanding mortgage debt exceeds the value of the home and those individuals who know someone that has ‘strategically defaulted’, these owners are far less likely to expect that they will own in the future and, as a result, are less likely to view owning as financially preferable to renting.  

Moreover, the decision to buy a home is based only in part on financial considerations – the ongoing costs of “taxes, insurance, maintenance, and the costs of borrowing, with these costs offset by the positive returns from expected appreciation on the value of the home.” In addition to financial considerations, household characteristics, including tenure as one of the most significant drivers of an individual’s demand for housing (as a consumption good) are major drivers of the decision to rent or buy, as previously discussed.

Tenure is a unique driver in that it is frequently emotionally charged and shrouded in prejudice. The preconceptions surrounding tenure may include the false impression that homeownership provides increased security and is associated with a higher social status. These views have continued regardless of the recent large number of foreclosures, the high level of debt required to own and the resulting growing number of owners in distress. Ultimately, much of the housing preference of the residents of the United States can be traced to the country’s history and the belief that ownership permits one to remain in one’s home indefinitely.

The fact that the recession has not done more, unilaterally, to undermine the preference of Americans to own in the longer term, while it has had the real world effect of forcibly removing numerous former homeowners from the homeownership market in the near-term, demonstrates the historical bias against renting in the United States.

This partiality toward homeownership may harken back to early American history, which was traditionally inequitable to tenants and will be discussed in more detail in the following section, or revolve around predilections by housing type. In general, the majority of single-family detached homes are more likely to be available for sale than for rent.
The supply of single-family detached homes in the United States, as per the 2010 United States Census Bureau, accounted for 63.1% of all owner-occupied housing units. Single-family attached housing constituted 5.9% of this total while attached housing with two or more units was 24.8%. This data shows that, with overall home ownership rates of 66.9% (as per the U.S. Census Bureau, Housing Vacancy Surveys) in 2010, there was a single-family homeownership rate of 42.2% in the United States in 2010. Furthermore, according to the 2010 American Community Survey, as of 2010 only 16% of all single-family units nationwide were rented, meaning the vast majority were primarily available in the for-sale market.

Regulatory environment in support of property rights

While colonists came to the United States from various countries and backgrounds, none had such a lasting effect on the American view of land systems as the British. As such, the American real estate market is reflective of British ideas of land use, land ownership and land tenure.

While there are laws that protect tenants, in general, the United States is far more ‘landlord friendly’ than continental Europe. In most states and municipalities, it is a relatively straightforward process to both evict tenants and foreclose on property owners. In general, it is not a question as to whether or not the landlord or lender will win; it is a question of how long it will take for the foreclosure or eviction to work its way through the legal process.

Foreclosure

The laws governing foreclosure are different in all 50 states. The length of this article does not allow for a full examination of them, but for the borrower, the key issue is how long does it take for the borrower to execute a foreclosure action and take title to the property. In New York, it could easily take two years; in other states, it could take a matter of weeks. As a general rule, in states where it takes years, the lender is much more likely to try and work out a solution with the borrower in order to save both time and expense.

If the borrower has some equity in the home; that is to say, it is worth more than the outstanding mortgage, the borrower should try to delay the foreclosure process with legal action and try to sell the home before the lender finishes the foreclosure process.

Alternatives to foreclosure exist and are frequently a preferable alternative for both the lender and borrower. When a borrower becomes late on its mortgage payments or defaults on its loan, the lender may be able to work with the borrower to find ways to restructure the loan, forbear some of the missed payments, or otherwise modify the...
terms of the loan. In some cases, there may be a government sponsored program to help borrowers in trouble, but the impact of these programs have been limited. The United States government discovered early on in the recession that it did not have the funds to bailout all residential borrowers.

If walking away from the property is the best economic option for the borrower, the borrower may, in concert with the lender, choose a short sale or to give the lender a deed in lieu of foreclosure. Another alternative is to simply not fight the foreclosure and let the legal process run its course. This is sometimes referred to as a ‘friendly foreclosure’. In a friendly foreclosure, the borrower often receives a promise that the lender will not come after the borrower for any other monies owed in exchange for making the foreclosure process relatively easier. This tactic may be used as a way to clean up title when there are second mortgages and other issues.

Another option that borrowers can choose is to file for personal bankruptcy to delay the foreclosure process. This will slow down the foreclosure process but at the expense of one’s credit and personal assets. As opposed to other countries, in the United States the bankruptcy process is relatively less damaging to one’s credit or one’s ability to start again in the long run than it is in other countries so it is a more viable option.

In conclusion, the foreclosure process assures that the rule of law will win out and the winner, frequently, will be the lender. Borrowers must repay their debts, and if they do not, it is a matter of time before they will lose their property. Additionally, the culture of the United States does not restrict the lender from exercising his right to be made whole. Lenders have been very aggressive during this economic downturn in taking whatever actions they believe will most ensure that they will be fully repaid.

**Landlord/tenant eviction**

The laws vary by state and municipality, but in general, in order for a landlord to evict a tenant in the United States, the landlord must first legally terminate the tenancy via written notice. Termination notices differ in type, procedures and delivery requirements on a state-by-state basis.

If the tenant does not move or rectify the issue constituting their just cause for eviction (e.g. paying rent owed) after being served with eviction papers, the landlord can file an unlawful detainer lawsuit. If the landlord wins the unlawful detainer lawsuit, the landlord will be given possession of the property and is granted the right to unpaid rent.

In order for a landlord to terminate a lease without cause, the tenant must be on a month-to-month lease and the landlord must provide a 30-day or 60-day notice to vacate. However, many cities do not permit terminations without cause and require that the landlord prove a legal reason for eviction, or just cause.

The causes to terminate a lease range from the common, such as non-payment of rent, to the less common, such as having pets when the lease forbids it, illegal activities such as dealing drugs or wilfully damaging the property. As a general rule, it is easier to evict tenants for overt violations of the lease, such as not paying rent, than it is to prove that a tenant has a pet, is engaging in illegal activities or wilfully damaging the property.

If a tenant chooses to fight termination notices and mount a defence, the tenant has the right to do so. Common grounds for a tenant’s defence include mistakes in the termination notice(s) and/ or the eviction complaint(s), management of the rental unit and prior management issues (e.g., if the tenant complained about something previously and the landlord is “retaliating”). A tenant's decision to fight the eviction process rather than quit or remedy the violation(s) can add significant time and legal expenses to the eviction process, but ensure that tenant's rights are attended to and respected.

In tenant friendly cities, such as New York, an eviction can take years; in less tenant friendly environments, it can take less than a month. The time and legal expense vary widely. That said, American landlords are, in general, much more aggressive in enforcing their rights than they might be in Europe. Most jurisdictions are very supportive of landlords and their ability to regain control of their property when a tenant does not pay. This attitude is integral to the ability of a rental market to function.
to function. After all, if a property owner cannot be assured that non-paying tenants can be evicted, the entire economic rationale for owning property as an investment disappears.

Incentives: the fiscal complexity of incentivizing the advent of a healthy rental market
The United States government passed the Housing Act of 1949 with the stated goal of providing “a decent home in a suitable living environment for every American family.”24 In recent decades, the government has created and funded numerous housing policy programmes and policies to this end. The following section will examine United States housing policy, focusing not only on specific subsidy programmes for low-income households, but also on the integral part played by zoning, real estate taxation and associated subsidies in maintaining the vitality of the greater housing market.

Real estate taxes
Property taxes in the United States are a principal source of revenue for the government and assist in funding valuable municipal services such as primary and secondary education, law enforcement, emergency services and municipal services. Taxes are assessed annually, in general, are collected on a quarterly basis and are supposed to be tied to the market value of the asset. Real estate taxes should not be confused with capital gains taxes or taxes on the income from investment in cash-flowing property, which are assessed and collected on a Federal and a state level. Property taxes are a sizeable, separate liability and are a continual burden on all property owners.

Although property owners frequently bemoan their cost, one distinct benefit of having real estate taxes is that it encourages development and the upkeep of one’s property. Due to the burden of taxes, properties cannot be ‘mothballed’ and held off the market for a substantial period of time. If the taxes are not paid, ownership will eventually revert back to the State, meaning that properties must either be used or rented.

While the average voter in the United States probably associates housing policy with the provision of subsidies and public housing for low-income populations, the reality is that the Federal government provides a much larger housing subsidy for the affluent in the form of tax benefits for homeownership.25

While no formal tax incentives exist for renters, homeowners can benefit from income tax deductions on mortgage interest and other tax expenditures for homeownership including the deductibility of property tax payments. In addition, the capital gains tax on the sale of residential properties is minimised or potentially eliminated and there are low-interest mortgages for first-time homebuyers financed by tax-exempt bonds.26

Furthermore, the estimated value of services provided by living in the home (e.g. imputed rent) is exempt from income taxation.

Real estate tax subsidies for the rental market are targeted squarely at real estate investors. These subsidies include tax credits for low-income housing, historic rehabilitation and low-interest mortgages financed by tax-exempt bonds. In theory, a portion of a tenant’s rent is allocated to paying his or her pro-rata share of taxes on a rental property, meaning that tenants benefit from the owner’s lowered real estate tax burden as the saving is passed-through to tenants in the form of lower rents. However, there are no direct federal tax savings programs for tenants. Simply put, the system is markedly skewed in favour of owners.

Government subsidy programs
The federal government provides subsidies for low-income households in three basic ways:
1. incentives for the construction and operation of housing
2. rent subsidies to low income tenants
3. providing states and localities with funds to develop their housing programs.27
In addition, municipalities often support low income households through land subsidies, zoning bonuses for low income set-asides, property tax abatements and rent regulation.

(1) Construction and operation incentives

Public housing: The first low-income housing assistance programs, established in 1937 by the Federal government, were supply-side or project-based subsidies, which include public housing. The modern version is most commonly known as Section 8. Through federal project-based subsidies, the government helps to finance the construction and, sometimes, the operation of privately owned public housing. The use of federal project-based subsidies has become virtually obsolete in the past two decades and has been replaced by the preservation and rehabilitation of existing Section 8 housing and, on a smaller scale, the limited creation of new Section 8 housing for the elderly and disabled.

Nonetheless, the scope of public housing cannot be underestimated. While some of these public housing projects have been demolished, many major cities including New York, remain directly involved in the ownership of real estate. In New York City, the agency responsible for the management and ownership of public housing projects is called the New York City Housing Authority (NYCHA). While NYCHA is no longer a significant builder of new housing, it plays a significant role in housing City residents. According to the 2000 Census, NYCHA Public Housing represents 8.6% of the City's rental apartments and is home to 5.2% of the City's population. This is a substantial portion of the rental market.

(2) Rent subsidies

Rental vouchers: The most dominant form of rental subsidies in today's economy are rental vouchers. These vouchers are provided by the government to low-income households and they are portable; in other words, the tenant finds a housing unit in the private market, and then uses the voucher to pay some or all of the rent. These vouchers are designed to cover the gap between an area's maximum allowable rent and 30% of the renter's income. This lessens the cost burden of housing on low-income households. Private developments utilising Low-Income Housing Tax Credits (LIHTCs) are limited in the per unit amount of rent they can charge as defined by the Federal government. This is discussed in more detail below.

In the wake of the financial crisis, this program has been greatly stressed, and the waiting list to receive the vouchers has become prohibitively long. Direct payments to landlords to provide housing for low-income populations can be very expensive when compared to other tools.

(3) Federal housing funds

Tax Exempt Bonds (80/20): Tax Exempt Bonds are designed to support and finance the private sector acquisition and renovation, or new construction, of multifamily housing properties by reducing financing costs or providing low-interest mortgages. In return, a specified percentage of the units will be set aside to rent to moderate and low-income families, and, in some cases, will be specifically targeted toward elderly residents.
Private Activity Bonds (PABs) are tax-exempt municipal securities used to finance residential rental projects. They include multi-family housing where the private developer/owner must agree to restrict 20% of the units to tenants at or below 50% of the metropolitan statistical area median income for a family of four persons (with adjustments for family size). Alternatively, they can restrict 40% of units to tenants at or below 60% of the metropolitan statistical area median income for a family of four persons (with adjustments for family size).

To be specific, the tax exemption that these bonds carry is that a buyer of the bond may, within certain limits, receive income that is exempt from Federal income tax. As a result, the interest that one would receive on these bonds is worth more than interest on taxable investments. This leads to an investor willingness to pay a premium for these bonds.

The U.S. Treasury limits the amount of PABs that may be issued by each state based on a population formula (currently $50 per capita or a minimum of $150 million per state). Each state makes its own policy determination regarding the amount, within its total PAB issuance capacity, that it wishes to allocate to finance ‘qualified’ multifamily housing as opposed to other qualifying real estate products.

Low-Income Housing Tax Credits (LIHTCs):
Developers may raise equity for and therefore fund a low-income housing development through the sale of low-income housing tax credits. While the credits may be bought by anyone wishing to avoid paying income taxes, they are most commonly an institutional investment product and are sold to banks, insurance companies and other large public companies. In essence, when the investor purchases the tax credits, the investor becomes a limited partner in the company that owns the building. The company is then restricted in the per unit maximum rents that may be charged. These limits are based upon a Federal policy that a low-to-moderate income family should not pay above 30% of its income (adjusted for family size) for rent and utility expenses. The Federal agency HUD establishes maximum rent levels for each metropolitan statistical area on an annual basis. Depending on the area, the maximum LIHTC rent level may be above, at, or below market rent levels.

In certain instances, real estate developers may also fund a LIHTC project in conjunction with bond financing. Notwithstanding the rent restrictions attached to LIHTCs, the institutional ownership of these properties, as well as the substantial equity investments that these institutional partners make in the properties, often create attractive mortgage lending opportunities with minimal risk to the lender.
In addition to these three basic subsidies, the American Government also employs:

**Land subsidies**
The public sector can provide land for low or no cost to the private sector in furtherance of the public sector’s goals. Generally, the land that is used is property that the government has taken back due to foreclosure for taxes. The biggest challenge of providing land subsidies is that healthy cities generally do not experience a lot of tax foreclosures; in cities that do, the land is usually worth little, which means that giving away free land isn’t much of an incentive.

**Zoning bonuses for low-income set asides**
On the national and local policy levels, there has been a recent movement toward the use of thoughtful growth initiatives that preserve open space, make better use of existing public transport infrastructure and encourage the construction of affordable housing. In the United States, most zoning and planning decisions are made on a local level. In a similar fashion, local zoning regulations can be used by municipal governments to encourage the development of low-income housing without the oversight and control of the Federal government.

Inclusionary zoning programs are a low cost alternative to expanding the supply of affordable housing. Among the most frequently used tools of inclusionary zoning are ‘developer set-asides’. The programs require developers to make a certain percentage of units in a new residential development affordable and available to low- and moderate-income households. Set-aside programs may be voluntary or mandatory. They generally provide some form of developer incentives, such as ‘density bonuses,’ which permit more units to be built than otherwise would be allowed under conventional zoning. Such incentives may also reduce impact fees, and in doing so, cut overall development costs.28

For example, the City of New York has been very aggressive in the use of this approach to ensure the development of housing for low and moderate income populations by the private sector. An example of this approach was a neighbourhood specific program in the Williamsburg/Greenpoint portion of Brooklyn where the city established a new inclusionary zoning program to encourage high-density development along the waterfront while simultaneously providing a land subsidy.

Height bonuses are especially valuable in residential developments in that investors/buyers will generally pay a premium for units that are located higher up in a building as they generally have better views.

However, these bonuses are not free to the developer. The developer must set-aside a percentage of the units based on whether the building will have a purely low-income household (below 80% of area median income as determined by Census data) or low-income/moderate-income household (below 125%) set-aside.

The idea of putting the affordable units in the worst location on the site is not the developer’s innovation. In this case, it’s being suggested by the city as a way for the developer to maximise value and to make it economically attractive to the private sector.

**Property tax abatements**
In the United States, all real estate owners other than not-for-profits, governments and religious organisations pay real estate taxes. One of the most powerful tools that municipalities can use in order to fulfil socially and politically beneficial goals is their ability to reduce or eliminate real estate taxes. In most cities, tax abatements on real estate taxes, but not on income taxes which are collected on a Federal level, are given to encourage the development and rehabilitation of housing for low and moderate-income communities.

In New York City for instance, it is common to require housing units to enter the ‘rent stabilisation’ program as a condition of receiving real estate tax abatements. Under section ‘421-a’ of the Real Property Tax Law, new multiple dwellings in New York City receive, under certain conditions, property tax abatements. For the duration of the abatements, the apartments are rent regulated. This program provides real estate tax exemptions and abatements to newly constructed units. The 421a benefits vary depending on factors such as location, method of

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construction and if requirements for affordable housing have been met.

There is also the ‘J-51’. This program encourages the rehabilitation of existing buildings through property tax abatements and exemptions. In consideration of receiving these tax abatements and at least for the duration of the abatements, the owner of these buildings agrees to place under rent stabilisation those apartments which would not otherwise be subject to rent stabilisation (e.g. those in buildings with fewer than 6 apartments or buildings constructed after 12/31/73). It also provides these benefits to residential buildings that were converted from commercial structures.

In 2011, there were 13,984 new housing units completed in New York City – across all five boroughs. In the same year, 11,007 units (79% of the total) received initial benefits under the 421-a program. The J-51 program had even more of an impact with 54,775 units receiving initial benefits in that year.

Rent regulation
Another governmental tactic for preserving housing affordability is the use of rent regulation, colloquially known as rent control, which sets a price ceiling on what rents landlords can charge their tenants. While this approach keeps rents set to a lower-than-market rate, it does not create new housing units; in fact, it can be argued that the cost of this approach is to suppress new construction for the benefit of keeping current tenants in their existing units.

In most cities in the United States, rent control is limited or non-existent. The notable exception to this is New York City where it is both prevalent and powerful. Unlike most cities which have rent control, when a rent-regulated tenant leaves a unit, the unit is not automatically deregulated. This is unusual. Most regulatory schemes permit the unit to go back to market when the tenant leaves as the rent control is usually tied to the tenant’s occupancy and not the actual unit. In New York, there are a few methods that a landlord can use to return the unit to market-rate. In general, the two methods that a landlord can use is to either spend a sizeable amount of money on improvements to buy the unit out of the system, or to prove that the current tenant has a high income and does not deserve the protection of a rent control system.

Conclusion
The United States government has actively participated in forming the American housing stock of today’s housing market. While there have been calls from some political camps for the Federal government to cease to intervene in the housing market, this is simply not realistic. It is also not representative of the post-World War II experience under both Republican and Democratic administrations. The question is not will the government intervene in the housing market, but for whom it will intervene and to what extent. Federal, State, and municipal governments have a wide range of tools at their disposal to encourage the development and maintenance of rental units for low-income populations. At the same time, as a result of the cultural and political history of the country, the government makes a substantial effort to ensure single-family homeownership for middle and upper income households as part of the ‘American Dream’.
Kevin Baneham is a practicing barrister, based in the Four Courts. He is an adjudicator with the Private Residential Tenancies Board and an accredited CEDR mediator. He writes here in a personal capacity on the new Residential Tenancies (Amendment) Bill 2012 and in particular on the need for a second look at how care support services are treated under the Bill.

The Residential Tenancies (Amendment) (No. 2) Bill, recently moved in the Oireachtas by Minister Jan O’Sullivan, represents the most significant set of changes proposed to the Residential Tenancies Act, 2004.

The Bill proposes the incorporation of the Rent Tribunal into what is now the Private Residential Tenancies Board (PRTB). It proposes to change the name of the PRTB to the Residential Tenancies Board (RTB), recognising the wider remit of the body. The Bill will introduce changes to how the RTB operates, for example streamlining mediation and introducing a new reason to fast-track a Tribunal where there are grounds of financial hardship.

The Minister for Housing and Planning has also indicated that as the Bill goes through...
the Oireachtas, she will propose further amendments to establish a deposit protection scheme as well as additional measures to address the situation where a tenant is overholding and not paying rent.

As the Bill now stands, the most significant reform is the extension of the Residential Tenancies Act to tenancies of approved housing bodies. This article will identify some of the issues this will raise for approved housing bodies, for example registration, dispute resolution and the place of leases under the Act. It will also look at what is already a controversial issue of how the Bill proposes to exclude certain tenancies of approved housing bodies from the scope of the Act.

Registration
The Residential Tenancies Act imposes an obligation on landlords to register tenancies with the RTB. It is important to note that it is tenancies and not dwellings which are registered. The registration fee is €90 per tenancy. The Act also provides that tenancies which go beyond four years must be registered again. As it now stands, the landlord must also pay a further registration fee.

It is obviously an issue for Approved Housing Bodies (AHBs) that, on a date following the passing of the Act, they will have to register all their tenancies which come within the scope of the Act. The RTB has, however, developed an online system to facilitate registrations. The Bill also proposes to simplify the information gathered on registration, for example by removing the necessity for the landlord to estimate the floor area or to give details of the number of occupants or bed-spaces.

It should also be remembered that the vast majority of private landlords are ‘amateur’ landlords, i.e. they let properties as an investment or because of changed personal circumstances.
Despite this, they are expected to fulfil their responsibilities under the Residential Tenancies Act. It is fair to question whether there is a rational justification for a landlord to have to re-register a tenancy simply because it has lasted more than four years. AHBs may also wish to raise the onerous financial imposition of having to register all tenancies at one time in the near future.

**Dispute resolution**

The RTB has replaced the courts in hearing disputes between residential landlords, tenants and, in some cases, neighbours. A party can seek mediation or adjudication to resolve a dispute and both parties to the dispute have a right of appeal to Tribunal.

PRTB adjudications and mediations differ from court hearings because they are held on an appointment basis and are private. The dispute is not aired in open court. PRTB hearings are informal, although parties should be prepared to explain and prove their case. Hearings are organised at one of seven locations: Athlone, Cork, Dublin, Galway, Limerick, Sligo and Wexford.

The PRBT now operates a fast-track priority procedure for disputes which relate to illegal evictions or cases of overholding or rent arrears. This can mean a hearing date within a few weeks of an application. The PRBT has introduced an online system and other efficiencies to improve the processing of applications generally.

If I was a housing officer of an AHB, I would welcome access to the RTB dispute resolution process. It is a specialist housing dispute resolution body, well-used to dealing with rent arrears and anti-social behaviour. I would welcome being allocated a specific time and place for the hearing, without having to wait in court to be called. Approved housing bodies will also welcome access to mediation as well as an avenue for tenants to raise any complaints they may have.

**The status of leases and the obligations of landlords and tenants**

Leases have been common in the rented sector because they outline the obligations of landlords and tenants. They are communication devices but also formal documents which need to be watertight for any subsequent court proceedings. They also provide certainty for landlords and security of tenure for tenants.

The Residential Tenancies Act lays out in detail the obligations of landlords and tenants. It also ensures that any provision imposed on a tenant in a lease which is inconsistent with the Act is void. Provisions such as those which oblige a tenant to maintain the interior of a dwelling irrespective of normal wear and tear or which provide that a deposit is non-refundable cannot be relied upon by the landlord.

AHBs should note that tenants can be given more beneficial rights than those provided in the Act. Similarly, tenants can benefit from any greater security of tenure provided to them in a fixed term lease. It is important to recognise that the provisions in the Act are a minimum protection to tenants and not a maximum.

The Amendment Bill recognises some of the particular characteristics of tenancies of AHBs. The Bill proposes a new ground to terminate a Part 4 tenancy, available only to AHBs. This ground arises where the AHB must return the dwelling to the state or to a housing authority. Like the other grounds to terminate Part 4 tenancies, the grounds are objective and not dependant on a breach or a clash of personalities.

AHBs should be aware that, if they agree to an extended fixed term lease to a tenant, they will not be able to rely on any of the Part 4 grounds to terminate the tenancy, for example to return the dwelling to a local authority. By virtue of the Act, the tenant will be able rely on the greater security of tenure of the lease and the AHB will not be able to recover possession. The dwelling would be returned to the local authority subject to the tenancy.

The Amendment Bill prevents tenants of approved housing bodies from assigning or subletting tenancies and restricting the rights of occupants to succeed on the death of Part 4 tenants. These provisions recognise that tenancies of AHBs are allocated to people who have been assessed as having a housing need.
The incorporation of approved housing tenancies into the Residential Tenancies Act means that they are moving away from landlord-tenant obligations based on contract to obligations based on statute. This opens the way for AHBs to ensure that their leases provide clearer explanations of what obligations arise in the tenancy and to ensure that they comply with the Act.

The exclusion of certain AHB tenancies
The proposed exclusion of certain tenancies of AHBs from the scope of the Residential Tenancies Act has attracted controversy since the publication of the Amendment Bill in July 2012.

Before looking at how the exclusion is framed in the 2012 Bill, it is useful to examine how the Residential Tenancies Act now deals with exclusions.

Section 3(1) provides that the Act only applies to dwellings which are subject to a tenancy. This means that only tenancies can come within the scope of the Act. Accommodation such as hostels, therefore, which are not tenancies, cannot come under the Act as occupants do not have exclusive possession of where they live.

The Residential Tenancies Act also provides that certain tenancies which come under the Act are not covered by the Part 4 security of tenure provisions. The other parts of the Act apply, i.e. registration, dispute resolution and the obligations imposed on landlords and tenants.

Those tenancies now excluded from Part 4 are tenancies tied to employment, section 50 student accommodation and where a building is divided into two units and where the landlord lives in one unit. The rationale for the exclusion is that people, for example, who live in section 50 student accommodation, should not have security of tenure beyond their time as students.

The Amendment Bill provides that tenancies of AHBs where the tenant, or any member of the household, is in receipt of care support services will be excluded from the scope of the Residential Tenancies Act.

‘Care support services’ is defined to include a medical service or a personal service the provision of which is the assistance to address a mental or physical requirement or any service provided by section 39 of the Health Act, 2004. Section 39 empowers the Health Service Executive (HSE) to fund organisations which provide ancillary services to those it provides.

There are two matters of controversy. The first is the policy basis for excluding tenants with care support needs, especially when the definition is so broad. The second issue is whether the proposed exclusion is clear and certain.

It appears to me that the definition of care support services is broad; everyone in Ireland at some time will receive care support services as provided for in the Bill. According to the HSE Annual Report of 2011, some €3.4 billion was spent by the HSE on section 39 and section 38 funding (the appendix does not distinguish between the two). It includes funding for medical and GP services, home helps, palliative care and counselling services.

The current definition of care support services does not provide that the recipient must have a high level of need, but covers all recipients. It covers services which are delivered in the dwelling but also at any other location. It is not clear what a service is – for instance, how many consultations make a service? Also, what happens to a tenant who starts availing of a care support service during their tenancy (for example a home help) – will they no longer be covered by the Act? And would a tenant come under the Act if they stop receiving
It is essential that it is clear to AHBs and their tenants exactly who comes within the scope of the Residential Tenancies Act. Even if an AHB believes that a tenancy is not covered by the Act or the lease says that the tenancy is outside the Act’s scope, a tenant will still be able to challenge this and argue that they are covered by the Act. This could lead to the RTB considering applications from tenants of AHBs saying that they come within the scope of the Act. It could also lead to tenants arguing in the District Court that the RTB has sole jurisdiction to hear, for example, a landlord’s claim for possession or rent arrears.

There was previously a similar lack of clarity over the exclusion of apartment management leases. The Act did not specifically exclude apartment leases (e.g. those of 500 years) and, in the case of S & L Management Company v. Gary Mallon, an apartment owner successfully argued in the Circuit Court and then the High Court that his lease came under the scope of the Residential Tenancies Act. In the High Court appeal, lawyers for the PRTB argued that the Act clearly did not contemplate apartment leases as coming within the scope of the Act, referring to the rent of five cents per year and that the apartment had been purchased for €200,000. The High Court, however, looked at section 3 of the Residential Tenancies Act and held that it applied to all residential tenancies unless clearly excluded. The Residential Tenancies Act has since been amended to clearly exclude apartment leases.

I understand that the concern regarding care support services arises out of the scenario where care support services are an integral part of a tenancy and those services are discontinued by the HSE or other body. There is the concern that the tenancies would not be sustainable without care support. This can be addressed by including these tenancies within the scope of the Act but by devising new grounds to terminate a Part 4 tenancy, where care support ends, or to exclude them from the scope of Part 4 in the same way that section 50 student accommodation is excluded.

This strikes a better balance of catering for the specific requirements of tenancies with high support needs, while bringing the whole sector under the Act, with the benefits which this brings to landlords and tenants.

**Note:**
This article was submitted prior to the taking of the Second Stage of the Bill. On the 15th November 2012, the Minister announced that tenancies of approved housing bodies would be included within the scope of the Residential Tenancies Act and that the Government would not be proceeding with the proposed exclusion as discussed in this article.

The Minister said: “Section 3 as published provides for the exemption from the provisions of the Act of tenancies in which care and support services are provided to the tenant as part of the tenancy agreement. The decision to exempt these types of tenancies was made after extensive consultation with the sector and on the basis that the services provided could be more effectively delivered outside the confines of the Act. However, as a result of further consultation with the approved housing body sector following the publication of the Bill, I have decided that it will be possible to extend the remit of the Act to even more of the approved housing body sector than originally envisaged, and I propose to amend the Bill on Committee Stage to provide that there will be no additional exemptions for approved housing body tenancies, save those provided for in the 2004 Act.”
Knock knock, who’s there?

A leading Irish housing professional reflects on the year that was

I can hardly believe that the year 2012 has gone! Last January, I had great hopes that this would be the year of achievement; that by year-end things would have turned the corner. Looking back now at my hopes for 2012, it did not achieve its full potential - or perhaps it was a year of preparation. In either case, 2013 has a heavy responsibility to be the year of achievement and delivery!

2012: what did I hope for you?
A recovery in the housing and rental market, or at least some signs of renewed confidence; concerted action on the growing problem of mortgage arrears; a worked out response to address the jump in housing need measured in the 2011 assessment; proper reform of the planning system; and what about the commitment to introduce a deposit protection scheme in the private residential sector and those NAMA properties?

2012: what were your main achievements?
Things don’t seem to have gotten any worse and we can’t underestimate the achievement that is. Of late, there seems to be modest renewed action in the housing market – perhaps those selling are more realistic about what price they can hope to achieve? The publication of the Property Price Register is a real achievement, but the information is not as comprehensive as it needs to be or as user-friendly as it could be. The main capital investment in social housing output has been in urban regeneration, but progress has been sluggish. Those with a disability now have a strategic plan that sets targets to meet their housing and care needs in a more integrated way, but the next few years will have to follow that up with real action.

This year has also seen the Approved Housing Bodies really take centre stage in the delivery of social housing – plans for the regulation of the sector, both tenant-landlord relations and also governance and finance, have a bit more to go, but are moving closer to bearing fruit.

So what’s on the to-do list for 2013?
There is a lot on this year’s agenda for local authorities – the commitment to introduce a new social rented payment, to move people from rent supplement to a local authority based payment called Housing Assistance Payment, will be a substantial challenge for local authorities to implement in the next year or two. The Rental Accommodation Scheme did meet its targets in this regard, but the volume of transfers did not stem the tide in the numbers claiming rent supplement.
There are also plans to introduce a new national framework for a local authority rental system, together with a new housing assessment process and a national housing needs assessment. Add to the list: unfinished estates, emerging problems with building standards, standards in the private rented sector, a new tenant purchases scheme, what to do with land zoned for housing that is surplus to requirement and that adds up to a lot for the sector to take on within current staffing and resources constraints.

Approved Housing Bodies will also be busy. The voluntary regulation code will require some time, for those who want to engage with it, but the inclusion of the sector under the Residential Tenancies Board, will precede this, if the legislation goes through, and may require some adjustment as well as finding the money to pay the registration fee! The sector is also likely to have to become more experienced in accessing private finance.

Next year will also see the end of bedsits in the private residential sector – long planned for and certainly overdue. But the move will need to be closely monitored to make sure that low-income tenants are not literally left out in the cold.

Renewing and nurturing confidence in the housing market, while at the same time being true to the 2011 Housing Policy Statement’s commitment to tenure neutrality, will be a challenge for the Department of the Environment. The continued restriction in capital funding will also limit the types of responses the Department can hope to make to housing need.

Ireland is hosting the EU Presidency for the first half of this year and, while it won’t have a focus on housing per se, you can expect all hands on deck to make sure the 6 months run as smoothly as possible. This is bound to have an impact on the already stretched policy making machine.

2013, wish us luck diary and fingers crossed that next year I can update you on a year of achievement rather than aspiration.

Anonymous
Making informed decisions on future housing policy

Professor Rob Kitchin, Director of the National Institute for Regional and Spatial Analysis (NIRSA) at the National University of Ireland Maynooth, provides a comprehensive overview of all existing housing-related data and explains why it is fundamental for sound housing policy.

A persistent criticism of Irish government policy is that it is formulated through a combination of anecdotal evidence, clientelism and localism, rather than being informed by robust and sound data, with an objective analysis of potential outcomes and scenarios. Policy-making should be guided by strong evidence assessed against utilitarian ideals and principles. This in turn leads to public policy that works for the wider interests of society, seeking to create fairer, more just, better organised, and more efficient and effective services and infrastructures. Without this evidence base and informed analysis, policy creation and decision making is sub-optimal and there is a risk that it is shaped primarily by the views and desires of a small group of politicians, civil servants and powerful lobby groups.

Underpinning evidence-informed policy making is detailed, valid and reliable data. Data captures information about phenomena. Strong data is intelligible, distinguishable, has associated metadata and can be linked to other data to enable wider analysis. Data enables analysts to track, evaluate and compare phenomena across time, space and scale. It provides the raw material to input into models to determine the potential causes and effects for different courses of action, and run predictions and simulations.
Social, economic and environmental data in Ireland is highly variable in its availability and quality. Data produced by organisations such as the Central Statistics Office, Ordnance Survey Ireland, Geological Survey Ireland, Environmental Protection Agency, and the Central Bank meets international standards and is robust, though it often lacks a detailed spatial resolution (in that it is restricted to national, regional or local authority level). Data related to property, planning, welfare, health, education and social issues is often more difficult to access and is generally locked inside government departments and agencies with only limited headline information released to the public. In some cases, important data is restricted in use because it is commercially owned and subject to a fee for use; for example, data licenses and copyright and intellectual property rights, such as the national address data provided by Geodirectory, a company owned by OSI and An Post. Producing an all-island analysis is even more of a challenge because of a number of issues affecting the marriage of datasets: data can be generated in slightly different ways, using different questions, data units and categorisation, and is outputted at different spatial scales. This leads to problems of data matching and comparison. With respect to housing and planning, there are a number of key datasets available for analysis, some of which have only become available in the past couple of years. They vary in both their statistical geography (spatial resolution) and temporality (how often they are collected and released).

Census

The Census is by far the most detailed source of social, economic and demographic data in Ireland (www.cso.ie/census). It provides a wealth of information on population, households, housing, economy, health, education, transport and commuting, with data released at a number of scales including the new ‘small areas’ (80-100 households), enumerator areas (in cities), electoral districts, local authorities, provinces and national. The household and housing data is very detailed, providing information of housing type, age,
heating, water and sewage systems, occupancy and mortgage/rental status. Other useful derived information for planning and housing concerns social deprivation. The data is generated every five years. It therefore provides a very comprehensive view of Ireland, but on a relatively long timeframe.

**DECLG**

The Department of Environment, Community and Local Government (DECLG) provides housing and planning data such as housing completions, planning permissions, commencement notices, land zoning, and rental registrations (http://www.environ.ie/en/Publications/StatisticsandRegularPublications/HousingStatistics/). Whilst the data is produced on an annual basis, and therefore more timely than the Census, its spatial resolution is not as fine, with the smallest scale being local authorities. It is therefore possible to get a sense of development within a local authority, but not how this is concentrated into particular locales. Since 2010, DECLG has also provided a comprehensive dataset with respect to unfinished estates, detailing the status of each estate with regard to completion, occupancy, and the status of roads, paths, lighting, and sewage systems. Since 2012, DECLG’s Myplan.ie mapping system has been live providing a detailed overview of all zoned land in the country and other associated planning data such as floodplains.

**Central Bank**

The Central Bank provides data concerning mortgages and mortgage arrears, and household net worth and debt, on a quarterly basis, although its spatial scale is restricted to the national scale (www.centralbank.ie). The Central Statistics Office provides house price data on a monthly basis for houses and apartments, but the data is restricted spatially to the national level and Dublin/rest of the country, making it impossible to know what is happening within local markets (www.cso.ie).

**Other data sets**

Both Myhome.ie and Daft.ie provide quarterly...
overviews of asking prices at local authority level. Daft.ie has also provided an analysis for 1,100 areas across the country (see www.daft.ie/research). Most recently, the Residential Property Price Register (RPPR) was launched by the Property Services Regulatory Authority (PSRA). It provides sale price for individual properties for all residential sales, including cash sales. The data includes the address of each property sold, the date of sale, and the price. Details about the properties sold are limited, with no information about the size of each property (e.g., number of bedrooms) or site size or if a property is a house or apartment (although it does report if they are new or second hand). It also only includes property sold since January 2010.

All of this data, which is released in tabular form, is available as interactive maps and graphs through the All-Island Research Observatory (www.airo.ie), a resource dedicated to making data available in an accessible way to all citizens.

Shortcomings
These different sources of data provide a relatively broad brushstroke understanding of housing and planning in Ireland. However, they all suffer from either a lack of spatial resolution, or a lack of timeliness which would enable a much deeper and richer analysis. They are also limited in the kinds of data they release, usually focused on a small sample of variables rather than providing a wider selection.

Moreover, there are some significant gaps where we have little to no data. For example, there are no publicly accessible datasets concerning commercial property such as office, retail and industrial units, or land holdings. There is some broad analysis published by property companies such as Savills, Lisney and CBRE, but they do not release the underlying data.

The Society of Chartered Surveyors Ireland also release an annual report of market sentiment based on a survey of all its members. However, we have little detailed knowledge of different segments of the housing market, such as renters and their future plans regarding housing, or mortgage holders, how they are coping with the recession and their aspirations. Similarly, there is little publicly available data about NAMA - the state’s largest property organisation - and its assets and plans.
With respect to a historical analysis, it is very difficult or impossible to construct detailed datasets on issues such as land zoning, development patterns, localized housing markets, and the effects of property tax incentives. And beyond the data, there is a gap in the skills base to manage, process, analyse and interpret data across institutions.

These gaps in the available data means that, whilst it is possible to produce a picture of housing, planning and development in Ireland, the picture is not as detailed as it could and should be. Nor is it updated and refreshed as regularly as it needs to be. In some cases, for example with respect to commercial property and land, the picture is very sketchy, and constructing a detailed historical perspective is very challenging indeed. What this means is that our understanding of property and development is less advanced than is desirable.

That said, the data which does exist is robust enough to provide very useful inputs into policy formulation. This means that there is little excuse for not using it when assessing future housing and development policy. What is needed over the next few years is a commitment to data generation across relevant government departments that has a higher spatial resolution, is more timely, fills the gaps in our knowledge base and is widely and freely available to all interested parties. This needs to include unlocking data presently contained within institutions, georeferencing all data as a matter of standard practice, developing data visualisation and statistical and modelling tools to enhance interpretation, and rolling out data skills training, including translating analysis into policy. Such data and initiatives will enable us to produce evidence-informed policy that best serves the interests of all citizens.

“...whilst it is possible to produce a picture of housing, planning and development in Ireland, the picture is not as detailed as it could and should be. Nor is it updated and refreshed as regularly as it needs to be.”
Restructuring of the Northern Ireland Housing Executive

Housing Ireland takes a look at the key proposals for restructuring delivery of social housing in Northern Ireland

Minister of Social Development, Nelson McCausland just recently made a written statement setting out the strategic direction for delivery of social housing in Northern Ireland, including a fundamental restructuring of the Northern Ireland Housing Executive (NIHE), a landlord with 90,000 dwellings and c3,000 staff. The aim is to create effective structures for the social housing sector that will:

- provide a sustainable housing system fit for the 21st century
- support business improvements to benefit tenants and taxpayers
- develop a sustainable financing model that provides access to private funds for future investment
- improve regulation and inspection of landlords
- provide effective services and good quality housing for tenants.

Key proposals at a glance:

- Department of Social Development (DSD) will have responsibility for overall housing strategy, policy, legislation and funding
- A Regional Housing Body will deliver regional housing services, programmes and operational strategies. It will work closely and engage formally with local authorities - in effect the non-landlord functions of the NIHE
- The landlord function for NIHE’s 90,000 homes will become a separate entity which will focus on service to tenants. It will be able to access private funding to ensure current deficits in finance for investment can be addressed
- There will be significant enhancement of the Department’s Regulation & Inspection Unit and function
- An independent social housing rent panel will be established which will agree annual rent levels based on a rental policy
- The Housing Council will be dissolved. The new social housing structures are expected to be delivered by mid 2015.

Commentary

The housing system, whether public or private sector, will benefit from a root and branch strategic overhaul. The challenges facing housing are easy to identify: supply, access to finance, affordability, standards and regulation of existing stock.

It is necessary now for the sector to consider how to make the best use of what is a very valuable asset. Accessing private finance for investment in the sector is a significant driver of this reform. Leveraging alternative finance could help address the needs of tenants in a sustainable manner. Of course this necessitates a new model. This new model, in time, will have to consider if the 90,000 stock of housing will be transferred to a ‘single entity’ or dispersed across a number of housing associations.

Minister McCausland’s department will retain responsibility for housing strategy, policy, legislation and funding. However, the Regional Housing Body’s ‘formal engagement’ and ‘close working’ with local authorities will enhance the new housing remits within land use and community planning of councils. It is vital that the expertise of housing professionals is deeply rooted within the new bodies to maximise their effectiveness in delivery.
The ‘significant enhancement’ of the department’s regulation and inspection unit and function will be of relevance across all forms of tenures. CIH encourages the Minister to explore the range of regulation and inspection options that exist from the totally independent models to the customer and tenant focused examples that are seen in neighbouring jurisdictions.

Immediate reaction to the announcement has included some speculation that rents will rise. Without more detail as to how the new model will materialise, such comments may prove to be premature. What is certain is that an independent social housing rent panel will have an important remit in protecting tenants and controlling the cost of housing.

**Conclusion**

This is a complex and long term change programme, however it is undoubtedly an exciting time for housing. Legislative changes will have to be considered and each strand of the proposals will need detailed design and development. This is the start of the transformation of the housing system for which the Minister has set a time frame of two years. It is imperative that the needs and considerations of the end user – the tenant – are kept to the forefront throughout this whole change process. It is a huge undertaking for housing professionals in Northern Ireland.
A day in the job of...

Bronagh D’Arcy, 
Director of Development at Túath Housing

Túath Housing is one of the fastest growing housing associations in Ireland, letting over 500 new homes in 2011. The association was established in 2000 and is approved and registered for voluntary housing with the Department of the Environment, Community and Local Government. It currently manages 1,700 homes in over twenty local authority areas in the Republic of Ireland, serving the housing needs of local communities.

The association is managed by a team of board members, drawn from a variety of professional backgrounds, who donate their services and time for free. The association is a not-for-profit company, a member of the Irish Council for Social Housing and has charitable status.

Túath Housing provides social housing at low rents to households on council waiting lists including families, older people, people with disabilities and the homeless.

Q. How long have you worked in housing Bronagh?
A. I did my degree in Housing at the University of Ulster and on completion worked in the Northern Ireland Housing Executive and four housing associations over some nineteen years.
Q. Was it something you intended to do or fell into?
A. If I’m honest I fell into it. I had thought about social work but was deterred on being told that there was a 45 minute interview where I would be assessed to see if I was of a certain disposition.

I saw a picture of students with hard hats, outdoors with the sun blazing, in the university prospectus and decided I liked the look of that instead. However, it was a misleading advert as I got to go onsite the grand total of once in my first year and it was a freezing, cold, wet and miserable day!

However, as the course developed, I got more on site learning and eventually went on a work placement in my third year, which more or less decided for me that this was the type of work I wanted to do. I took a job as a Development Officer in 1997 and have been working in housing development ever since. I count myself very lucky to be working and even more so, to be enjoying what I do, (most days anyway).

Q. Do you think of yourself as a housing professional or practitioner?
A. I would see myself as a housing professional in that I have completed my qualification in housing and am a member of the Chartered Institute of Housing. I believe that it is essential that housing is seen as a career which requires certain skills and abilities, just like any other profession. Anyone involved with social housing will know that there is much more to it than most people think.

Q. What motivates you to go to work each day (other than paying the mortgage!)?
A. I enjoy my job which I suppose is what motivates me to keep turning up each day. I work with a brilliant team of professional people in the office as well as with all my local authority, state and voluntary sector colleagues.

Perhaps you have to be of a certain disposition to work in social housing (mad?), but I genuinely find that whilst housing people are serious about the work they do, they also enjoy a laugh and a chat. I really like the fact that I am not at a desk 9 to 5 each day and that since I have taken on my current role in Túath I have probably seen every corner and part of Ireland by now.

Q. What does your average day look like?
A. There is definitely no average day. I will go into the office with a list of what I am going to do that day and by 5pm I may not have even touched it. This can be frustrating but it is probably another reason why I like my job.

Q. What are the most rewarding aspects of working in housing with Túath?
A. I think the biggest reward for me is seeing a scheme through from start to finish in the knowledge that we are providing good quality accommodation that will improve the quality of life for people and families. Providing a safe, decent and affordable home for people is a huge thing and I very much like the thought of helping people in this way, especially when you see how people turn the houses or apartments into homes for themselves and their children.

Q. And what are the biggest challenges?
A. I think the introduction of private finance has been a big challenge and a very steep learning curve for the sector. Even though I have had experience of working in a social housing environment where private finance was the norm, I have found the...
transitional process to private finance here a big challenge. It is very frustrating to put a lot of work into good schemes for them to fall at the last hurdle, for example, where a developer will not wait for approval of funding or something untoward comes out of the woodwork during the conveyance. The list of problems we encounter is endless, especially with today's uncertain financial climate and dysfunctional property and banking sectors. We have had to learn to expect the unexpected. When a scheme is finally handed over to the housing management team for allocation, we all breathe a sigh of relief.

Q. Have there been any embarrassing/funny/poignant moments over the years that you'd like to share?
A. There are plenty of embarrassing moments in my career. Thinking back, although it was not funny at the time, I was once involved in the opening of a scheme where a lot of thought had been put into the whole affair with the Mayor officiating, chairs laid out for the dignitaries etc - all the usual pomp and protocol that goes with the opening of a scheme. However, the plans went haywire when some tenants walked in and sat on the chairs laid out for the Mayor and the dignitaries and showed no signs of moving. The Mayor took it well of course and at one stage was even sitting on the knee of a tenant she knew from a previous role. When I look back now, I can see the funny side but I am sure my face was a picture at the time. To end the day on an even worse note, I left our Chief Executive's briefcase in a taxi and had to ring every taxi cab firm in Dublin trying to find it as I could not remember whose taxi I’d gotten into. I didn’t get it back for two days!

Q. How does the wider policy context impact on your day-to-day work and what do you see as the main challenges facing the housing sector?
A. It is an exciting and challenging time for the sector where innovation and collaboration will hopefully allow scarce resources to go further. Opportunities to provide social housing are still available and it is essential that we deliver. Regulation of the sector will be a challenge but an overdue and very necessary one. The trick will be how to ensure that the sector is made more ‘professional’ without losing its ethos of volunteerism and in many instances its grounding in local communities. I think that co-operation and informal and formal partnership working and mergers between housing associations, where synergies exist, will be the order of the day in the coming years.

The interests of tenants need to be put in front of the interests of housing associations and I believe that the new regulation will be the start and driver of this.

Q. What do you like to do to relax outside of housing?
A. I mainly spend any free time I have ferrying my three young children to their numerous parties, football training, and horse riding etc, so relaxation does not feature in my vocabulary. I might get the chance to go for the odd walk with some friends to catch up or the occasional night out which I enjoy when I can.
About Us

We work with and support Local Authorities, Approved Housing Bodies and the Department of the Environment, Community and Local Government in the delivery of housing and housing services.

Our vision is to make a real difference to people’s lives by promoting sustainable communities.

We offer a broad base of shared and centralised services through our practical, technical and research expertise.

Our Goals are to:

1. Promote the delivery of housing and innovation
We provide professional and technical input into the development and implementation of regeneration programmes and advise on good practice in housing management. We provide advice to Local Authorities and Approved Housing Bodies on new ways of delivering housing such as leasing.

2. Provide expert policy advice and research on housing
We assist with the implementation of relevant legislation and we provide input to housing policy development. We undertake and support research to inform housing policy and practice.

3. Support excellent management and good practice in housing
We manage the online Housing Manual to provide accessible information on housing matters, liaise with the Housing Practitioners’ Forum and consult local authorities on emerging issues. We provide a range of centralised and shared services for local authorities, such as:

i. managing the housing land bank under the Land Aggregation Scheme.

ii. providing a loan underwriting service for all Local Authorities’ ‘House Purchase Loans’.

iii. supporting local authorities and the Department of the Environment, Community andLocal Government to resolve unfinished housing estates.

iv. assisting and advising on procurement.

v. advising on the rollout of the Mortgage to Rent Scheme.

For more information about the Agency’s work, please contact:
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