

GUIDANCE ON CHANCEL REPAIR LIABILITY

If you have recently bought or are in the process of buying your own house, you may have come across the term 'Chancel Repair Liability', a form of taxation which strikes fear into the hearts of property lawyers and which is set to become a hot topic as the year 2013 approaches.

So...what is a 'Chancel'?

The Chancel is the part of a church which is normally situated at the eastern end of the building which is separated by the Communion Rail and which is reserved for use by the clergy and the choir i.e. the bit you aren't allowed in. Back in medieval times, chancels were maintained by wealthy land owners who, at the time, owned large estates which encompassed vast areas of land and property.

Okay...so what is 'Chancel Repair Liability'?

Chancel repair liability is a form of taxation which dates back to medieval times when every parish had its own priest or rector. This was, in those times, a very important position, and empowered the rector or priest with a number of rights which included the right to charge taxes or income from the land encompassed within their parish. One form of taxation which was imposed was the charging of the cost of repairs to the church, which were split between the rector and the parishioners. Traditionally, the rector was responsible for the chancel and the parishioners would be responsible for the western end which was where they sat.

This sounds archaic...how does it affect me?

Unfortunately, chancel repair liability is passed down to successive landowners and, although the majority of large estates of land have been broken up into much smaller pieces, the properties that formed part of them retained the liability of the original estate. Liability is now imposed by the Chancel Repairs Act 1932.

This liability hit the news back in 2003 when the case of *Cantlow v Wallbanks* came to light. The Wallbanks owned a farm which was situated within the boundaries of the historical parish. The church needed repairs and the Wallbanks were requested by the Parochial Church Council to pay for those repairs. Although it seemed vastly unfair, the courts ordered that the Wallbanks pay for the repairs of the church (estimated to be in the region of £230,000 plus VAT) as well as the legal costs of the church which were estimated to be in the region of £250,000! To pay for these costs, the Wallbanks recently sold their farm at auction following an eleventh hour agreement with the Church of England which released the property from any further liability, the Church requiring a 'small' agreement fee of £37,000 in addition to the costs already accounted for.

Wow...that sounds serious, how do I know if it affects my property?

A 'Chancel Check' search can be undertaken to establish whether your property is situated in an area that could potentially be subject to chancel repair liability. The cost of such a search is small, generally costing less than £15.00. These searches are not, however, conclusive and a more specific search can be undertaken to establish whether your property is subject to chancel repair liability. The cost of this type search varies depending upon where your property is located, and is usually several hundred pounds.

What do I do if a search shows that my property may be subject to chancel repair liability?

Insurance is available to property owners that wish to protect themselves against chancel repair liability. The premiums for such insurance vary depending upon the value of the property and whether actual liability has been ascertained or not.

So what happens in 2013?

The government has taken action, passing a Transitional Provisions Order which came into effect on 13 October 2003. Under this Order, all chancel repair obligations will come to an end if the Church fails to note its interest in a particular property on the register at HM Land Registry before 13 October 2013. Although this sounds great in theory, there is one school of thought that the Church will be investing a lot of time and money into establishing exactly which properties within their parish have an existing liability and making sure the church's right is registered. The saleability of properties with a registered chancel repair liability would obviously be detrimentally affected and one has to wonder why the government did not take steps to abolish this archaic liability all together.

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