

## **ARCHITECTS' ALLIANCE 18<sup>th</sup> May 2010**

### **Presentation to the Environment Joint Oireachtas Committee**



## **REGISTRATION OF THE TITLE 'ARCHITECT' Part 3, THE BUILDING CONTROL ACT 2007**

### **Main Paper by Brian Montaut:**

- Introduction**
- Registration of Title**
- Remedies**
- Summary**
- Conclusion**

### **Graduate Paper by Michael O'Neill**

#### **Introduction:**

- Chairman and Members of the Committee:
- Architects' Alliance welcomes this opportunity to present the real concerns we have for our families and our futures. We are very grateful to the Committee for scheduling this meeting at such short notice.
- I am Spokesperson for Architects' Alliance. My name is Brian Montaut. I have earned my living and been acknowledged as an architect in Ireland since 1983. With me is Gary Solan, who has been in business as an architect for twenty years with projects at home and abroad. And Michael O'Neill, a graduate architect also with over 20 years working experience. I am sharing time with Michael who will address you after me.
- Our membership and support comes from across the State. For example, there is Margaret Kirwan who is here from Nenagh; Thomas McMenamin in Raphoe, studying part-time for a UK MSc in Architecture; Christophe Krief, Dublin, who already holds a Masters Degree in Arts & Architecture; Tom Byrne in Ennis, recipient of this year's Green Apple Conservation Award; and Liam Hazel, from Skibereen, in practice for over 32 years. Liam hopes the Act will be amended to include a Great-Grandfather Clause!
- In addition, we are authorised to speak on behalf of the fifty members of the Galway Architects & Engineers Group - established in 1996 and whose standing should be unchallengeable.
- Traditionally there have been several alternative routes towards becoming an architect. In Ireland that diversity is coming to an end. But for now it remains alive in our membership. We are all fervent about architecture. In our home communities we are known as successful, competent architects and we long ago satisfied the legal requirements for using that hard-won title. But today we are all similarly excluded. Threatened with fines and imprisonment. Why? Because we do not meet new standards tailored to suit our competitors.

## Registration of Title:

- Unlike most of the Royal architects, almost every one of our members is self-employed and therefore no financial safety net is available from the State during periods of slack business.
- Consequently, last November's sustained, Royal radio campaign was inevitably and directly harmful to us. Only a few listeners will know that the Broadcasting Authority of Ireland later found the so called 'public notice' to be misleading, and that an apology was subsequently broadcast by RTÉ.
- But the damage continues and cannot really be ended whilst the Register remains prematurely open to public enquirers.
- The immediate problem is that the Registration system is still not fully operational – even now, six months after the publication of the Register.
- As it stands, we are excluded from the commercial benefits which Royal architects receive through being named automatically in the Statutory Register of architects.
- The proposed registration fees have not been agreed, nor the exorbitant technical assessment charges. The alternative and permanent mature entry route (the PRAE) does not exist. The selected technical assessors are novices and cannot claim any competence. Complaints made against Royal architects cannot be processed and are on hold.
- The road to regulation of the profession was paved in the 1997 Strategic Review of the Construction Industry, published by the Department of the Environment. A recommendation was made for protecting the titles of "Architect" and of "Quantity Surveyor". The relevant part of Clause 3.29 reads, albeit clumsily:  
*The proposals should ..... acknowledge the established right of those in practice, without formal qualifications, for many years (via a "grandfather clause").*
- This vital provision was neglected in the BCA 2007, despite two attempts to introduce a "Grandfather Clause", made during the guillotined readings of the Bill.
- Instead, an uncertain and costly Technical Assessment procedure has been devised by our competitors. Open to us only if we first prove that we are already long established, market-tested architects!

## Remedies:

- It should be plain that the fundamental difficulty with the BCA 2007 can be remedied by the inclusion of a self-extinguishing "Grandfather Clause", as is found in other legislation. This is not open-ended, our numbers are necessarily finite.
- The troublesome and irrational difference in academic standard set by the BCA 2007 and by the Directive is also an easily made correction, provided only that vested interests are duly ignored.
- The Statutory option of becoming a member of RIAI Ltd (the Institution) should be purged from the Act.

- We endorse the Competition Authority's recommendation for an independent Registration Body. In order to make this realizable, we support the creation of a single, self-funding Registration Body for all Construction Professionals = whose responsibilities to consumers, after all, are alike.
- Closing the Register until Registration becomes fully operational will stem the harm caused by its premature publication.
- Finally, in case the bringing of amendments on behalf of non-Royal architects seems troublesome, ask RIAI Ltd whether it is true that it has been suppressing knowledge of its own, essential amendment to the Act.

### **Summary:**

- There are many inherent faults in Part 3 of the Act and there is much to complain of in its implementation. Architects Alliance will, in the question period which follows or at any another time:
- Answer all supposed justifications for the non-inclusive aspects of Registration.
- Correct the confusion of a Technical Assessment system with a "Grandfather Clause"
- Offer a workable and transparent answer for the missing Prescribed Register Admission Examination.
- Explain how the Act fails to protect against rogues and positively diminishes the rights of both consumers and architects.

### **Conclusion**

- The private and elitist membership requirements of RIAI Ltd (the Institution) are now the law of the land.
- Together with Government, it has succeeded in creating a Royal Trinity where distinguishing between the supposedly separate parts, or should I say departments, is made uncertain. We have RIAI Ltd (the Institution); RIAI Ltd (the Registration Body) and RIAI Ltd (the Competent Authority). At any difficult juncture you will be told "Its not me, its him." No wonder the Competition Authority warned of conflicts of interests.
- For today, you might test the explanations you hear by considering:  
"Does this describe an inclusive or an exclusive approach?"  
"Who really benefits?"  
"Which of the three Royal departments is actually addressing me?"
- Last week, Architects Alliance asked the EU to investigate the gilding or Gold-plating of the Directive. A Directive that needed no new legislation for its complete transposition into Irish Law.

**Thank you for hearing us today.**

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END

## **Chairman and Members of the Committee, distinguished guests.**

My name is Michael O'Neill and I am a qualified architect of 20 twenty years standing having qualified from Bolton Street DIT in 1990.  
I appear before you this afternoon to address the rights of Graduate Architects which have not been supported by the Building Control Act 2007.

I understand that the Registrar's position is that one standard should be applied and that it should be MRIAI.

To apply this standard universally I believe will be divisive, retrograde and undermines existing established and statutory rights.

It fails to adequately support the right to earn a living to which post graduate and self-taught architects are entitled under Irish law.

**The basic standard that entitles Irish persons to call themselves "architect" under EU Law is well known to the RIAI and is NOT that of MRIAI.**

**Four kinds of persons were specifically referred to in the Architects Directive DIR 85/384/EEC, two persons with qualifications and two persons affiliated to the RIAI.**

- **Dipl.Arch.DIT**
- **B.Arch.NUI**
- **ARIAI**
- **MRIAI**

**This was written into the Architects Directive DIR 85/384/EEC and the Mutual Recognition of Qualifications Directive DIR 2005/36/EC.**

**Irish Statute S.I. 15 of 1989 transposed the Architects Directive into Irish law.**

**The first two persons named, the holders of Dipl.Arch.DIT and B.Arch.NUI set the bar at the level of Graduate.**

These are people who have passed a full time five year course.

**Allow me to spell this out - Graduates are entitled to call themselves "architect".**

**The Building Control Act 2007 fails to acknowledge this - it adopts instead the standard of a private organization.**

**The Building Control Act 2007 - and by implication, the Registrar - is not working to the standards agreed with the EU.**

**Who benefits from this?**

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ARIAI is the "Associate" affix and this can include some **non-qualified persons**.  
MRIAI outranks ARIAI in the Institute and the "Member" affix also includes some **non-qualified persons**.

So not only is the MRIAI standard not the right standard, their ranks are known to include unqualified persons as well.

**Yet the RIAI/Registrar and the Building Control Act 2007 fails to adequately recognise the rights of self-taught architects!**

**Who benefits from this?**

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DIR 2005/36/EC does not allow raising of the bar, it consolidates Directives on the Mutual Recognition of Qualifications  
Within its well-worded provisions is a means of updating the course skills to cater for scientific and technical progress.

**This does not allow the Registrar to prevent natural persons with the required qualifications from accessing the profession.  
This process of raising the bar above the requirement of the EU Directive is known as Gold Plating and I have written to the EU about it.**

**Who benefits from this?**

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**Are there questions to answer at Government Level? Yes.**

How was the government persuaded to ignore the rights of graduates to use the title and so fail to allow them to be automatically registered?  
How was the government persuaded to ignore the rights of established self-taught architects to use the title and so place their livelihoods and families wellbeing at risk?  
A simple transposition of the persons named in the EU Directive into the Act would have addressed the former and the insertion of a Grandfather Clause would have dealt with the latter issue.

**This was not done - who benefits from this?**

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These are the questions that have to be answered.  
Failing to answer them and provide the necessary remedies will leave many competent professionals disenfranchised.

Thank you very much

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