LANDLORDS: SUPPORTING A FUNCTIONING PROPERTY MARKET

A Comparative European Study

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Notes

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Background

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Historically, Ireland has had a high percentage of home ownership which was enabled by a system of subsidies. Home ownership reached a peak of 80% of all private households in 1991. However, since the 1990s, this has steadily declined, as the private rental sector – once the forgotten tenure – became a viable option.

According to the Central Statistics Office (CSO), the average house price in Ireland reached a new record of €359,000 in 2022, up from €343,250 the previous year. This trend is unlikely to revert. Exceptionally high construction costs coupled with inflation are only adding to the to the overall price of housing for aspiring purchasers, and exacerbating the affordability issue. Government subsidies and reduced restrictions on lending criteria have not only failed to alleviate cost pressures, but have injected excess capital into the market and pushed average prices beyond the reach of those on an average wage. Most recently, the Organisation for Economic Co-operation and Development (OECD) warned that Government incentives like the help-to-buy scheme have the potential to further increase house prices, particularly in areas where there are housing shortages. [1]

As the cost of housing has outstripped standard wage growth, a new generation of young people find themselves unable to purchase a home and are therefore reliant on the availability of rental properties. The total number of people renting in Ireland in Q1 of 2019 was 910,300 and in Dublin, over one quarter (25.9 per cent) of dwellings were rented privately in the same period. The profile of renters reflects that the majority of tenants in Ireland are under the age of 35 – many are young professionals who meaningfully contribute to Ireland's economy, and who are unable to purchase a home due to a combination of insufficient stock and the increasing cost of buying a property.[2] The situation has since intensified, as the Irish Government responds to the ongoing conflict in Ukraine. The facilitation of the arrival of 70,000 Ukranian refugees is a compassionate reaction to a grave humanitarian crisis. It is also one which will place considerable pressure on existing housing and rental stock at a time when ordinary demand is exceeding supply. Recent Government forecasts suggest that 180,000 Ukranian people could be seeking refuge in Ireland by the end of this year. Current levels of property stock will be unable to sustain this.

This acute shortage of rental properties risks damaging Ireland's reputation as a country which facilitates and encourages international investment. In a report published earlier this month, business representative body Ibec noted that the lack of available housing has become a "critical barrier to continued growth and development" in the economy.[3] If Ireland is to continue to engage and retain talented, educated professionals and attract the investment of global companies, adequate supply of rental accommodation is essential. While many of these professionals may not wish to live in Ireland permanently, their participation in our workforce and our society, will only be made possible if they have somewhere to live.

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1) Housing minister rejects warnings government scheme may push up house prices, Breakingnews.ie, 9th January 2023 available at https://www.breakingnews.ie/ireland/housing-minister-rejects-warnings-government-scheme-may-push-up-house-prices-1415991.html
2) Oireachtas Library and Research Office, Houses of the Oireachtas, Number 3 of 2020.
3) Ibec Better Housing Better Business Report January 2023

At present, 'small landlords' (those with one or two tenancies) make up around 85 per cent of private landlords and more than half (53.5 per cent) of privately rented tenancies in the sector. These landlords are often described as "mom and pop" landlords as many have either inherited a property through family, or have invested in a single property as a means to secure a pension. While the rise in institutional investment has changed the make-up of the rental sector, the proportion of properties owned by landlords with more than 100 residential tenancies still only accounts for about 6% of privately rented tenancies registered with the Residential Tenancies Board (RTB). Small landlords are therefore the dominant player in the rental market and their participation in the market is critical.

Yet, in five years (2017-21), the total number of landlords associated with tenancies registered with the RTB has fallen by more than 15,000 and is now at 156,555 with overall tenancies falling by 64,000 from 340,952 in 2017 to 276,945 in 2021 (CSO). Many small landlords cite their leaving the rental market as being a result of a perceived lack of support from the Government – 44 per cent of landlords who sold their properties reported doing so as a result of unfavourable taxation treatment.[4] Some 32 per cent listed the regulatory environment as the reason for departing; primarily the introduction of Rent Pressure Zones (RPZs) and eviction bans. This exodus of small landlords from the market must be stemmed in order to avoid a critical situation turning into a catastrophe.

To mitigate this crisis, it is imperative that the Government supports the sector in a meaningful and sustainable way, so that small landlords can play a leading role in stabilising the housing market - by recalibrating their attitude to the sector, and recognising its strategic importance. As an example, small landlords can be a useful tool in facilitating the housing of those on council waiting lists at affordable rents, in exchange for tax reliefs or other such subsidies. Collectively, the implementation of these provisions would signal the Government's support for small landlords and the crucial role they play in the provision of rental stock.

To date, Ireland has failed to recognise the contribution that small-scale landlords can make in helping to solve the current housing crisis. As a result, taxation incentives and subsidies have been misdirected at other sections of the housing market – therefore, progress has been minimal. Social housing is one such case as successive Governments have missed social housing targets. While new-build social homes should have hit 9,000 last year the total constructed homes fell well below the target, at 6,500. It is plausible to argue that there is no realistic prospect of the social housing sector growing to previously seen levels in earlier decades of the State. These same subsidies and taxation reliefs can be directed towards those small landlords with few rental properties, to encourage and incentivise them to stay in the market and provide certainty to current and future tenants. This approach has proved to be an effective measure in stabilising the housing market in other European countries.

Prompt action on behalf of the Government is needed to stem the flow of small landlords who are currently leaving the market. We must obey the empirical evidence from across Europe, which proves that small landlords are the single-best solution to solving the housing crisis.

4) RTB Survey November 2022

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Analysis of European supports for landlords

Analysis of European supports for landlords

Context

Private landlords provide 21% of European Union (EU) citizens with homes. Germany (pre-1989) has traditionally been the only country across the EU in which the private rental market served as the largest sector in its housing system. The relative decline of the private rental sector (from 1980-1990) could be seen in all EU countries, bar Greece, France and Sweden. However, in more recent times, the revival of the sector has become evident across a number of our European counterparts.

To a significant extent, the decline in the European private rental market is reflective of past emphases in Government policy, and is more marked in jurisdictions such as the UK, Portugal and the Netherlands where rent controls were strict, and where subsidies and reliefs were directed at other sectors. By contrast, in Germany, fiscal supports to landlords ensured adequate, quality supply of rental accommodation, and the establishment of a well-functioning market for both landlords and tenants. Such supports included grant and tax aid (respectively) which improved living conditions for millions of private tenants. There are also isolated examples of such progress in southern Europe, for instance in Lisbon and Oporto.

There is now extensive empirical evidence to demonstrate that Europe's long-term attempts to solve affordability problems through controlled rents have directly resulted in a deteriorating quality of existing stock and have inadvertently created additional entry/access barriers for low-income households. Adequate, affordable provision of quality rental accommodation can play a central role in achieving numerous economic and societal objectives – from social cohesion and an improved quality of life for tenants, to attracting investment and retaining talent. It is clear, therefore, that new sources of revenue and innovative financing mechanisms are required to subsidise and assist landlords in increasing supply in the private rental market. The following evidence demonstrates clearly, and decisively that such investment works.

{5} Housing Policy in Europe, at https://www.europarl.europa.eu/workingpapers/soci/w14/text1_en.htm.

Finland

Prior to the 1990s, Finland had been dominated by rent control and the strict regulation of the rental market, more broadly. From 1967 until the beginning of the 1990s, the Finnish Government authorised the level of rent that landlords could charge tenants, deciding this on an annual base. The acceptable level of rent was dependent on a number of factors, to include the age and size of the dwelling. As a direct result, landlords were, in many cases, unable to cover maintenance and other costs, leading to a substantial loss in rental stock as landlords left the market. Central and Statistics Finland notes that the number of available rental properties fell by 11% in the decade between 1975 and 1985.

Beginning in 1991, the abolition of rent controls was explicitly cited in the programme of the conservative Government; and implementation of the policy followed thereafter. The change in regulation came in two phases - first, in 1992, new tenancies were deregulated, and from 1995, existing tenancies were deregulated, allowing landlords to charge market rent for the first time in almost three decades. As a direct result, supply of private rental accommodation increased by 50% between 1990 - 1995.[6]

Today, the Finnish rental market remains stable; and is predominantly made up of small-scale, buy-to-let investors who tend to purchase properties for pension and investment security purposes.

6) Government Institute for Economic Research, Helsinki - https://core.ac.uk/download/pdf/153491818.pdf

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Germany

Germany has a tradition of renting as a secure and long-term option, with home ownership relatively low in comparison with other European countries. According to 2018 Eurostat data, 48.5% of German households are tenants. Landlords benefit from tax deductions to facilitate depreciation allowances, as well as mortgage interest, tax relief, deduction of maintenance costs and the potential to deduct losses from the income tax base. Losses from residential lettings can be offset against tax on other income. Investment can be depreciated at 2% per annum. Corporate bodies are taxed on capital gains, but not cooperatives. For individuals there is no tax on capital gains except on investments of less than 10 years, in order to reduce speculation. Renovation and modernisation costs can be offset against income tax purposes, together with interest payments and other operational costs.

Where a new residential lease is concluded within an area with a “tense housing situation”:

(a) rent must not exceed the sum of (i) 10% higher than relative comparative rent or (ii) subject to specific conditions, the level of rent in the previous lease; and (b) the rent must not increase by more than 20% over a period of three years and, in any event, must not be more than 10% higher than the comparative rent. Certain exceptions apply, including in relation to student housing.

Landlords cannot increase rental prices within the first 12 months. The landlord is allowed however to increase the rent up to 15% within a 3-year period but this increase must be appropriately justified.[7]

7) See Your Guide to German Rental Laws and Tenant Rights (housinganywhere.com)

The Netherlands

The housing market in the Netherlands comprises of 4.4 million owner-occupied homes (60% of total housing stock) and 2.9 million social (32%) or private rental homes (8%). So called 'accidental' landlords (those who have inherited property through family or other means) are taxed on rental income net of operating costs and on capital gains as per any private business. There is rolling relief on capital gains that are invested in another property. Professional landlords are treated as investors, and benefit from a much more favourable and equitable tax regime compared to other European countries. Since 2001 landlords' taxable income on rental properties is calculated as 4% of the net asset value (i.e. value less debt) irrespective of the rental income and operating costs. On this they pay 30% tax. The actual cost of repairs is not taken into consideration. No tax is paid on capital gains.

France

France, like many EU countries, has introduced a myriad of tax incentives over the decades to encourage individuals to invest in rental properties - with mortgage finance also becoming more readily available. Private landlords with a rental income below €15,000 can choose to deduct a fixed 30% for costs, instead of actual costs, as agreed under the 'micro-foncier regime.' The principles behind the French subsidy system were agreed in 1977 between the French state and representatives of landlords. The agreement specifies the financial aid that the French state would provide through both production subsidies and personal subsidies. The original agreement has been subsequently modified but remains the basis for rental policy, particularly relating to the involvement of private landlords in the provision of affordable housing. In certain densely populated areas: (i) upon renewal, rent may not exceed[8] the previous rent, except within the variation of the rent reference index and (ii) rents (including initial rents) may be capped by reference to a pre-determined "reference median rent."

A landlord can only increase rent once a year if the lease agreement provides for it in a review clause. The initial rent charge must run for at least 12 months before any increase. Any further increases can only occur following a 12-month period.

Overall, France has managed to make rental housing stable and affordable for households of varying types through a three-pronged approach. Firstly, the rental sector is equally divided between public housing providers and individual, private landlords, with a limited unsubsidised sector. Secondly, universal rental assistance is available for low and moderate-income households and as a result, there are tax advantages to invest in subsidised rental housing. Finally, extensive regulation ensures stable leases for tenants, providing security to both landlords and tenants alike.

8) A review of the housing market in France set out here - https://www.brookings.edu/essay/France-rental-housing-markets/

Italy

The number of rental agreements registered in Italy increased steadily from 2011 to 2021 with only a slight fluctuation. In this period, 2020 had a significant decrease in rental agreements when the number dropped to 1.5 million, which was last observed around 2013. In 2021, the number of rental agreements in Italy increased again to 1.7 million.[10]

Beginning from 2020, Italy extended the 'Cedolare secca' flat-rate tax scheme to commercial real estate category C/1 which applies to properties of less than 600 square metres. In addition, and the draft law on tax simplification has changed the method of calculating the tax base for residential property leases entered into before 1st January 2020, so that only the rents received contribute to the taxable income. For taxation of rental income of residential properties with contracts entered into after 1st January 2020, only money received is subjected to tax. Rent level increases are limited for leases with agreed rent, which can be stipulated by joint agreement by organisation representing tenants and owners in municipalities with higher population density.

In the private sector, freedom of contract is the main principle and only indirect Rent Moderation measures are in place. If the tenancy agreement does not contain an index clause, a landlord can only increase the rent by offering the tenant a new tenancy agreement including the increased rent. If the tenant rejects this offer, the landlord may request the court to terminate the agreement. The court will only do so if it deems the proposed rent increase to be reasonable.

Norway

Rental income derived from renting an apartment in Norway is taxable with a tax rate of 22%. Deductions can be made for costs related to the letting, such as insurance costs, heating, general maintenance and other charges.

Turkey

Individuals do not pay tax on income received from the rental of real estate if it does not exceed TRY 6,600 per year for residential properties and TRY 49,000 for commercial properties. In other cases, the tax is calculated on a progressive scale of between 15 to 40%.

In June 2022, The Turkish Grand National Assembly passed a new rule limiting rental price increases to 25% of the previous year's rent.

[10] Published by Statista Research Department, Oct 27, 2022.

Czech Republic

In the Czech Republic, revenues from long-term rental properties are taxable. Both non-Czech property owners and Czech residents are subject to this tax under these two conditions:

1. Anyone residing in the Czech Republic for less than 183 days a year must pay income tax only on revenues formed in the Czech Republic and
2. The owner's annual taxable income must be over CK 15,000 (lower amounts are not reported to the Tax Authority and are not taxable).

Tax allowances can be allocated for renovations and repairs, maintenance fund (but only for repairs approved by the authorities and covered by this fund), property tax, property insurance, and fees involved in the building's management, though not including energy fees (electricity, gas).

Depreciation of the property is also included as a case whereby relief can be allocated. This deprecation can apply to the property itself, equipment and repairs of more than CK 40,000. The time and amount of depreciation are determined by current regulations and can also be offset for tax reasons. Landlords can increase rents by up to 20% over a three-year period.

Belgium

In Belgium, for individual landlords, the 'imputed rental income' is taxed, as opposed to the taxation applying to the actual rent charged. In theory this is net income minus a 40% reduction for imputed costs. Mortgage interest and other operational costs are also tax deductible.

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Conclusion

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Based on comparative evidence throughout Europe,[10] it is clear that a strong private rental sector supported by a range of financial subsidies and tax relief can ensure sufficient levels of quality accommodation by incentivising small landlords to both invest in the market and to continue to let their properties to tenants. It is clear that if Ireland is to solve its current housing crisis, the Government must pay greater attention to the private rental sector and work to ensure that its full potential can be unlocked. There is now a strong and urgent argument to be made for the Government to provide the necessary incentives to small, private landlords to support them to stay in the market, facilitate new forms of medium and long-term tenure and allow landlords to foster social cohesion by housing those on Local Authority waiting lists at affordable rents in exchange for commensurate tax reliefs.

These incentives can include:

- 25% tax rate
  - *Institutional investors currently pay an effective rate of 0%*
- Capital taxes reform
  - *rollover relief and inheritance relief*
- Return of s23
  - *Double tax write offs on certain expenses such as refurbishments*
- Low interest loans -
  - *Supported by State-backed funds*
- Regulatory changes to remove misdirected policies
  - *Rent Pressure Zones (RPZs)*
  - *Blanket eviction ban*

The hemorrhaging of the small, private landlord from the rental market can only be arrested if the Government provides the necessary support to the sector. Small landlords are a vital cog in the private rental market and are of significant strategic importance to the viability of the overall housing market; it is therefore vital that their participation in the market be encouraged and incentivised. This will help to provide affordable, adequate rental accommodation and ensure a viable market which can sufficiently service the needs of all participants.

10) Housing Policy in the EU Member States, Directorate General for Research, Working Document, Social Affairs Series,

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