Chancel Repair Liability

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**CHANCEL REPAIR LIABILITY: what is it and how could it affect my property?**

One of the most common questions that clients ask us is about chancel repair liability. This article looks at these understandable concerns, and tries to clear away some of the uncertainty surrounding the subject.

Chancel liability is an ancient liability which means that the owners of affected land have to make a financial contribution toward the upkeep of certain churches (strictly speaking the chancels, or area around the altar, of those churches). The fact that a property is near to a church does not necessarily mean that it is more likely to be affected by chancel repair liability. To add to the uncertainty, a property could be affected by chancel repair liability without the fact ever being recorded in the deeds. Though the liability is rare, it does crop up, and both sellers and buyers need to be aware of its potential existence.

The law changed on 12 October 2013 and it was hoped that this change would bring an end to the uncertainty as to whether a particular property was affected. It was hoped that a property would be ‘cleansed’ of any risk of chancel repair liability if the property was sold after that date. Sadly, confusion still exists and it may well be that both property sellers and buyers still face risk of liability even if they sold or bought property after October 2013.

Chancel repair liability is in the news at the moment and the case that is often mentioned is the Wallbank case. The headlines focused on the fact that a couple ended up having to pay around £350,000 because of chancel liability. If you looked a little deeper at this case however, it became clear that the Wallbanks were aware of the liability when they bought the property, and that a large part of their costs related to their legal fees. This point is important, and the Church of England has been keen to point out that it is not aware of any recent case where someone has bought a property without knowing it was subject to chancel liability, and has later been required to pay for chancel upkeep.

If this is the case, then what’s all the fuss about? Basically, it’s down to uncertainty. Where we act for purchasers, those clients expect us to give them certainty as to any liability they may face in the future. At the moment, we can’t say to a purchaser with absolute certainty that chancel repair liability may not become a problem at some time in the future. It may well be the case that a notice of liability may be registered against the property at Land Registry, even though a transaction completed after the October 2013 deadline. This could have an impact on the value of the property and its future marketability. Until this situation is resolved, uncertainty will continue.

Given this unhappy position, what should property purchasers do? Because of the uncertainty that still surrounds this issue we advise all our clients to carry out a very affordable chancel repair liability search. If this search reveals that the property is in an area which is potentially affected by chancel repair liability, then it is open to the purchaser (or indeed the seller) to put in place an indemnity policy to cover future loss associated with chancel repair liability. We discuss the various policy options with clients to ensure that the right level of cover is chosen. The cost of such policies starts at approximately £50.00 and rises depending on the terms of cover required. Policies are available which can be handed on to a future purchaser of the property. In this way, you won’t have to worry about receiving a notice of chancel repair liability.

*Please feel free to contact us if you’d like to discuss this issue further, telephone us on 01522 687500 or email**enquiries@pagenelson.co.uk*