

Are you at risk of being liable for chancel repairs?

A couple have been forced to sell their home because of an ancient law that makes them liable for major repairs which are being carried out at the local church.

The law dates back to the reign of Henry VIII and chancel repair liability enables approximately 5,200 pre-reformation Church of England and Church of Wales parishes to demand money from owners of particular properties on former monastery land to fund repairs to buildings. These homeowners are called lay rectors, and they are liable for keeping the chancel – the space around the altar at the liturgical east end of the building – windproof and watertight.

The couple inherited the farm in 1990 and were presented with a bill for £230,000 by the parochial church council shortly afterwards.

After an 18-year legal fight they lost their case which was decided by the House of Lords in December 2008 and are now having to sell their property to use the money to pay for repairs, buy themselves and whoever purchases the farmhouse out of the liability, and meet their own legal fees which currently stand at £250,000.

The couple are responsible under a "chancel repair liability" clause that arose when the church gave the farm 1.1 hectares (2.75 acres) of land. In exchange for the land, the owners of the farm were named as lay rectors and agreed to pay for some church repairs. The couple were unaware of any repair issues with the church when they inherited the property but have been chased for money since 1990.

They are now waiting to hear whether the church will allow them to buy out the liability as without this they are extremely unlikely to ever be able to find a buyer.

Some within the church have previously claimed that many PCCs do not like to enforce the chancel repair liability but are forced to do so because they have to show they have collected all money they are entitled to before being eligible for grants.

What can we do?

We advise any prospective purchase to instruct us to carry out a chancel repair liability search against the property they propose to buy and this is one of our standard searches which we carry out if a mortgage is being obtained. The search only costs £17.25 and this is certainly money well spent! If potential liability is revealed we can then arrange indemnity insurance for you to insure against the risk of liability.

The future

The Land Registration Act 2002 provided that by 13 October 2013 an entry must be placed in the register of any affected properties in order to bind successive owners. However this will only protect new owners who will only be liable if the entry is registered, existing owners will remain liable until a property is sold.