



Comhairle Contae Thiobraid Árann
Tipperary County Council



Document Number		Document Title	POLICY DOCUMENT IN RELATION TO PUBLIC ACCESS TO BUILDING CONTROL DOCUMENTS		
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AMENDMENTS FROM PREVIOUS REVISION

Amendment	Reason for amendment
Where scanned documents are provided to the applicant they must be stamped with the copyright stamp and the copyright form signed and returned to this office by the applicant. A scanned copy is acceptable.	To ensure that drawings issue with copyright stamp -“This document is for inspection purposes only and no other use can be made of the material without the consent of the copyright owner”
<u>Where scanned documents are provided to the applicant, copying fees will not apply, other than for the certificate in accordance with regulation</u>	Version 1 was silent on scanned documents
Fee to apply to Retrieved Files	TO COVER COSTS
Files will be held in the viewing office for no more than ten working days	TO ENSURE FILES ARE RETURNED TO BOXES IN TIMELY MANNER
APPLICATION FOR RETRIEVAL VIEWING SCANNING AND/OR COPYING OF Fire Safety Certificate Application or Disability Access Certificate Application	TO INCLUDE RETRIEVAL AND SCANNING

This document sets out the policy in relation to public access to building control documents in Tipperary County Council.

Introduction

Circular Letter BC 15/2004 which replaces Circular Letter BC 12/04 sets out National Policy on Public Access to Building Control Documentation. Circular Letter BC 15/2004 is attached at Appendix 2 for reference. This document outlines Tipperary Fire Service's procedures for complying with CL BC 15/2004 and ensuring appropriate public access to Fire Safety Certificate application files which form part of the suite of Building Control Documentation.

Public Access to Fire Safety Certificate Documents

The Freedom of Information Act, 1997, which applies to Local Authorities since 21 October 1998, reinforces the right of access to public records, subject to qualified exemptions e.g. in the case of commercially sensitive and personal information.

Tipperary Fire Service will allow the public access to view Fire Service Fire Safety Certificate Application files and Disability Access Certificate Application files by prior appointment and in the presence of a member of Tipperary Fire Service staff. Files will be held for viewing for **10 working days**.

A maximum of six files may be viewed at any one time. A subsequent appointment may be required if in excess of six files are to be viewed. Fees apply to copying of files and these are detailed in Appendix 1.

Copying Documents

Photographing of documents is not allowed. Where a member of the public requires copies of the documents that are contained in the Fire Safety Certificate Application file or Disability Access Certificate Application file they can obtain these copies by

1. Completing the application form attached at Appendix 1, and
2. Forwarding the appropriate fee.

The application form includes the required "Declaration" that the material is required for the sole purpose of inspecting the material at another time and place. This "Declaration" must be signed before the copies are issued.

All copies of maps, drawings plans etc. that are to be issued must be stamped with the following wording:

"This document is for inspection purposes only and no other use can be made of the material without the consent of the copyright owner"

Maps

Members of the public can be given copies of maps received with Fire Safety Certificate applications or Disability Access Certificate Application file provided the OSI maps are stamped originals or are copies showing a copyright licence number.

Appendix 1

**APPLICATION FOR RETRIEVAL VIEWING SCANNING AND/OR COPYING OF Fire Safety
Certificate Application or Disability Access Certificate Application**

**To: Chief Fire Officer
Tipperary Fire & Rescue Service
Tipperary County Council
Civic Offices
Limerick Road
Nenagh
Co. Tipperary**

I, _____ of _____
(NAME OF PERSON) (ADDRESS)

Telephone no: _____ Email Address: _____

wish to obtain from Tipperary County Council upon payment by me of the appropriate fee, the following material:

(BRIEFLY DESCRIBE THE MATERIAL BEING REQUESTED)

Which formed part of the Fire Safety Cert Application/Disability Access Certificate Application/ decision

Reference No. in Register: _____

Brief Description: _____

Name of Applicant: _____

I hereby declare that the material is required for the sole purpose of enabling the material to be inspected at another time or place or otherwise facilitate the exercise of the right of public inspection and that no other use will be made of the material without the licence of the copyright holder in accordance with Section 74 of the Copyright and Related Rights Act, 2000.

Signed: _____ Fee Enclosed: € _____

(SIGNATURE OF THE PERSON)

Date: _____

Tipperary County Council hereby grants access as requested and stamps all relevant documents (plans, maps, drawings) with a stamp indicating the documents are for inspection purposes only and that no other use can be made of the material without the licence of the copyright holder.

Stamp of Tipperary County Council

Signed: _____
(SIGNED ON BEHALF OF TIPPERARY COUNTY COUNCIL)

Date: _____

NOTE: Scale of Fees for Retrieval of Files:€50.00 per file and €5.00 for each subsequent file.

**APPLICATION FOR VIEWING AND/OR COPYING OF FIRE SAFETY CERTIFICATE DOCUMENTS
/DISABILITY ACCESS DOCUMENTS AVAILABLE FOR INSPECTION/PURCHASE BY MEMBERS OF
THE PUBLIC**

Documents available from DATE OF RECEIPT of application to DATE OF DECISION

- a) Copy of the fire safety certificate application/disability access certificate and of any particulars or further information received or obtained by the Authority from the applicant in accordance with regulations under the relevant Act
- b) Copy of any submission or observations in relation to the application which had been received by the Authority

Documents available from DATE OF DECISION

- a) All of the above, and
- b) Copy of any report prepared by the Authority in relation to the planning application;
- c) Copy of decision of the Authority in respect of the application and a copy of the notification of the decision given to the applicant;

The aforementioned will be made available within three working days from date of receipt of:

- a) Completed application form,
- b) Appropriate fee as per attached scale of fees.

Where scanned documents are provided to the applicant they must be stamped with the copyright stamp and the copyright form signed and returned to this office by the applicant. A scanned copy is acceptable.

SCALE OF FEES FOR PURCHASE OF DOCUMENTS

Where scanned documents are provided to the applicant copying fees will not apply, other than for the certificate in accordance with regulation.

Maps/ Drawings	Cost
A0*	€5.00
A1*	€5.00
A2	€5.00
A3	€0.50
A4	€0.20

* Please allow up to 5 working days for copying of A1 & A0 sheets

Reports/Application Forms Certificate etc.

Compliance Report copies €0.15 per A4 sheet to a maximum of €12.50

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Other forms/reports €0.15 per A4 sheet

Copy of—

(a) an entry in the register,

(b) a fire safety certificate,

(c) a document which indicates

that a dispensation or a relaxation

has been granted

€12.50*

*(Per S.I. 496 of 1997, 23 (3) (a), (b), (c) as amended by S.I. 351 Of 2009 12(1), (2), (3).

i.e. 12. (1) Article 23(1)(b) of the Principal Regulations is amended by inserting “a revised fire safety certificate, a regularisation certificate, a disability access certificate, a revised disability access certificate or the submission of a 7 day notice,” after “fire safety certificate,”.

(2) Article 23(2)(a) of the Principal Regulations is amended by inserting “a revised fire safety certificate, a regularisation certificate, a disability access certificate, a revised disability access certificate,” after “fire safety certificate,”.

(3) Article 23(3)(b) of the Principal Regulations is amended by inserting “a revised fire safety certificate, a regularisation certificate, a disability access certificate, a revised disability access certificate or a 7 day notice, ” after “fire safety certificate,”.

Scale of Fees for Retrieval of Files:€50.00 per file and €5.00 for each subsequent file.

Appendix 2

Circular Letter BC15/ 2004

Revised DRAFT (4.1.2005)

Circular Letter: BC15/2004
January 2005

Re: Public Access to Building Control Documentation

A chara

Circular BC 12/2004

I am directed by the Minister for the Environment, Heritage and Local Government to refer to Circular Letter BC 12/2004 dated 21 October 2004 on the above subject.

The Department has received a number of enquiries from local building control authorities seeking clarification in regard to access to, and copyright of, documentation on building control files in local building control authorities.

Accordingly, the Department is issuing this revised and expanded Circular Letter in lieu of Circular Letter BC 12/2004, which is hereby withdrawn.

Building Control Regulations 1997 (SI No 496 of 1997)

Under Article 21(1) of S.I. No. 496 of 1997, building control authorities are required to maintain and update a Register which includes particulars for particular buildings relating to

- Commencement Notices
- Fire Safety Certificate Applications
- Dispensations/Relaxations
- Outcome of Appeals to District Court (Enforcement Notices); and
- Outcome of Appeals to An Bord Pleanala (Fire Safety Certificates)

Under Article 21 (2), the Register must be kept at the offices of the building control authority and must be available for inspection during office hours.

Freedom of Information Act 1997

The Freedom of Information Act 1997 – which applies to local authorities since 21 October 1998 – reinforces the right of access to public records, subject to qualified exemptions e.g. in the case of commercially sensitive and personal information.

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Building Security Details

• See letter dated 1 December 2004 from Louth County Council re security implications of making available, for general public inspection, security details on drawings submitted in connection with applications for Fire Safety Certificates (FSC) for retail outlets, financial institutions etc. e.g. floor plans, construction details, entry/fire alarm details etc [Please consult Paul Overall ODPM and Dr. Bernie Stewart DOF (N. Ireland) on how "security sensitive" drawing details are protected in making building control drawings available for inspection by (a) general public (b) building/legal professionals in England and Wales; and Northern Ireland].

Copying

Appropriate building control documentation should be available for inspection and copying (at a charge to cover the cost), by or on behalf of interested parties, during normal office hours.

Copyright and Related Rights Act 2000

Sections 74 to 77 and Sections 237 to 241 of the 2000 Act deal with copyright in the context of Public Administration.

Section 74 (2) provides that where material is open to public inspection pursuant to a statutory requirement, or is on a statutory register, the copyright in the material is not infringed by the copying or making available to the public of that material for the purpose of making that material available for inspection at another time and place, or otherwise facilitating the exercise of any right for the purpose of which the requirement is imposed, by or with the authority of the person required to make the material open to public inspection or as the case may be the person maintaining the register.

Section 74 (3) provides that where material is made available to the public under this section, the person granting the access to the material shall ensure that it bears a mark clearly indicating that it provided for the purposes of inspection and that no other use of the material may be made without the licence of the copyright holder.

Section 74 (4) states that material may not be provided under this section unless the person granting access to the material has obtained from the person requesting the material a declaration [in such form as may be prescribed], indicating that the material is required for the sole purpose of enabling the material to be inspected at another time and place or other wise facilitate the right of public inspection.

[Please check with relevant Section in DETE if any form of Declaration has been prescribed by Minister for Enterprise Trade and Employment in Regulations made under the 2000 Act]

The Copyright and Related Rights Act 2000 therefore require

• *the local building control authority to stamp each document (including maps, drawings, and plans) to be made available incorporating wording along the following lines:*

"This document is for inspection purposes only and no other use can be made of the material without the consent of the copyright owner".

• The person wishing to copy such documentation must sign a Declaration that the material is required for the sole purpose of inspecting the material at another time and place.

Accordingly, it is recommended that each building control authority should have available –

(1) a stamp with the appropriate form of wording based on in section 74(3) of the Copyright and Related Rights Act 2000; and

(2) Declaration forms as set out at section 74 (4) of the 2000 Act.

Section 240 of the 2000 Act mirrors the provisions of section 74 of the same Act as regards material open to public inspection or on a statutory register.

Maps

Ordnance Survey Ireland (OSI) has advised this Department that local [building control] authorities can give to members of the public copies of maps received with [Fire Safety Certificate] applications **provided the OSI maps are stamped originals or are copies showing a copyright licence number.**

[Send draft C/L to OSI for early observations-Marian O Driscoll should have name of OSI contact; see her e mail dated 12 October 2004, on file]

General

Section 45(c) of the 2000 Act provides that a person infringes the copyright in a work where he or she, without the licence of the copyright owner, in the course of a business, trade or profession, has in his or her possession, custody or control, or makes available to the public, a copy of the work which is, and which he or she knows or has reason to believe is, an infringing copy of the work. Accordingly, it appears that if a building control authority accepts into public records, or makes available to the public, copies of infringing copyright material, where they know or have reason to believe that it is infringing copyright material, then they may be in breach of the 2000 Act.

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Michael McCarthy
Principal Officer
Building Standards/
Environmental Assessment

- To each Building Control Authority
- To each Building Control Officer
- To each Chief Fire Officer

Sign Off

 Acting Director of Services:  Date: 16/5/17
Dave Carroll