

Chancel Repair Liability and Chancel Repair Searches

1. INTRODUCTION

Following the case of “Aston Cantlow” an owner of a farmhouse located on former church land was found liable to pay £95,260.84 towards the repair of the local parish church. The impact of this decision and its consequences are still being played out.

2. CHANCEL REPAIR LIABILITY

2.1. WHAT IS A CHANCEL REPAIR

Chancel repair liability is essentially an obligation to be responsible for the repair of the church chancel and the obligation passes with the land, regardless of whether the owner of the land knows of the liability or not.

2.2. CHANCEL REPAIR SEARCHES

2.2.1. In the past enquiries could be made of the Seller or search agents could (at some expense) be instructed to view the Public Records Office in Kew to search the Parochial Records. However, these enquiries and searches were only undertaken if the solicitor knew the Property concerned was located in a parish with a medieval parish church and the Property had some connection to it (irrespective of the fact that land does not necessarily have to be located near the church to be encumbered with the liability).

2.2.2. However, in the last couple of months a new search has been launched that only costs about £7. The new search is generated by postcode or map reference and simply states whether there exists any liability towards chancel repair in the parish. Like new converts we have diligently been doing these new searches as part of our standard development searches and a large number of the results state that the property may be liable to a chancel repair liability. Once this search result is known appropriate action can be taken to investigate the situation further.

3. CONCLUSION

Chancel Repair Liabilities are rare and nearly all churches in practice rely on general church funds and on voluntary subscriptions to fund repairs, but the Aston Cantlow case was a very high profile case due to the large sum involved and by the defendants' attempted use of the recent Human Rights Act as their defence.

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Whilst currently few claims are made by churches against property owners each year things could change following Aston Callow as the Church has suddenly realised that it has a potentially lucrative right to claim the cost of repairs to the church from its property owning parishioners.

We cannot predict whether the liability will be demanded by more churches in the future as this will be a political decision by the Church in the next few years, as any increase in claims will certainly be met with bad publicity at what is seen by many as an unjust historic right.

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If you wish to discuss the issues discussed above further in relation to your particular circumstances please contact either Tim Hardesty, Adrian Job or Andrew Annette on 01276-686222.