

STATES OF JERSEY



REG'S SKIPS LIMITED – PLANNING APPLICATIONS (R.118/2010): COMPENSATION AND FURTHER ACTION (P.130/2010) – FOURTH AMENDMENT

Lodged au Greffe on 19th October 2010
by Senator F. du H. Le Gresley

STATES GREFFE

REG'S SKIPS LIMITED – PLANNING APPLICATIONS (R.118/2010):
COMPENSATION AND FURTHER ACTION (P.130/2010) –
FOURTH AMENDMENT

PAGE 2, PARAGRAPH (a) –

For the words “to Mr and Mrs R. Pinel, (the proprietors of RSL), as compensation for costs incurred as set out in R.118/2010;” substitute the words “to Reg’s Skips Limited being reimbursement of legal fees and other costs incurred until 25th February 2008, as set out in R.118/2010 and a further *ex gratia* payment of £50,000 to Mr and Mrs R. Pinel, the directors and beneficial owners of Reg’s Skips Limited, as compensation for pain and suffering caused by the failings in the processes and actions of the Planning and Environment Department over a 4 year period from 2004 to 2008”.

SENATOR F. du H. LE GRESLEY

REPORT

It is important to state at the outset that the Committee of Inquiry's terms of reference did **not** require the Committee to make a recommendation for compensation. The States are not therefore bound to accept the recommendation in R.118/2010, paragraph 19.2 (ii) that **the States should compensate Mr and Mrs Pinel, as owners of RSL, in the sum of £157,000.**

Having met with the Committee of Inquiry on 15th October 2010 I have come to the following conclusions –

- (1) The sum of £157,000 is not compensation but **reimbursement** of legal fees and other costs incurred by Reg's Skips Limited up to 25th February 2008 when the company formally instructed lawyers, Sinels, to pursue alternative grounds of appeal.
- (2) The Committee of Inquiry found that "the true failing in this case was a corporate one and the responsibility for that has to be shared quite widely, including at the political level where justified". (R.118/2010, Paragraph 1.15)
- (3) It is for the States to decide any level of **compensation** which should be paid to the directors and beneficial owners of Reg's Skips Limited, Reg and Rita Pinel, for pain and suffering caused by the failings in the processes and actions of the Planning and Environment Department.

When P.29/2009 was debated by the States on 1st and 2nd April 2009 many members were uncomfortable with being asked to act as type of Court of Appeal and this view was clearly expressed by Senator Le Marquand in his speech –

"Effectively, what we are being asked to do in a whole number of ways today is to act as if we were a super Court of Appeal over and above the Court of Appeal and to seek to overturn its decisions. That is absolutely and completely and utterly and totally wrong. That is not the function of a legislature. That is why we have courts."

I agree with this viewpoint and I therefore do not think it would be appropriate for States members to ignore the carefully researched findings and conclusions of the Committee of Inquiry and for us to have a debate again on the outcome of the *voisinage* case and subsequent appeal.

Reg's Skips Limited was the defendant in the *voisinage* case and the appellant in the appeal. The company incurred legal bills totalling £132,000 and other costs totalling £25,000 up to the 25th February 2008 when the grounds of appeal were changed. If we accept the Committee of inquiry's recommendation, the company should be reimbursed the sum of £157,000.

Reg and Rita Pinel received a public apology from the Minister for Planning and Environment on 16th September 2010. The Minister concluded his Statement with the following words –

“To conclude I unreservedly and wholeheartedly apologise to Mr. and Mrs. Pinel and to the others who have been let down by the Planning Department. I will seek to ensure that the errors of 2005 and since that time are not repeated and I will look at the issues of compensation raised by the Committee of Inquiry.”

On the 28th September 2010, during the debate on P.97/2010, the Minister for Planning and Environment also said –

“We have agreed the principle of paying compensation to Reg and Rita Pinel for the distress caused to them...”

I conclude from this that, on behalf of his Department, the Minister has accepted **corporate responsibility** for the failings and I believe that it is now time for the States, at **the political level**, to apologise to Mr. and Mrs. Pinel and pay to them a sum of £50,000 for the pain and suffering caused by the failings in the processes and actions of a government department.

Financial and manpower implications

The financial implications are self-explanatory and there are no manpower implications from this amendment.