

2015.06.23

### **5.7 Deputy S.Y. Mézec of the Minister for Treasury and Resources regarding the development of the Esplanade Quarter:**

Can the Minister, as the shareholder representative, advise whether it was the States of Jersey Development Company's understanding that the buildings should "be progressed on a fully-let basis in order to reduce the risk" as stated by the then Minister for Treasury and Resources on 4th February 2014, and if it was not, what did the S.o.J.D.C. believe his instructions to be?

#### **Senator A.J.H. Maclean (The Minister for Treasury and Resources):**

The States of Jersey Development Company did not and do not believe that the building should be progressed on a fully-let basis. The position with regard to pre-lets is set out in P.73/2010, which is the proposition agreed by this Assembly that established S.o.J.D.C. to be our development company. Under the heading "Managing Risk" there is a subheading, "Sales", which states, and I quote: "If it is proposed that a specific development is undertaken directly by S.o.J.D.C. before committing to construction costs S.o.J.D.C. will have to secure a sufficient level of legally binding presales or pre-let to fund the costs of constructing the first phase of a scheme. This will remove part of the sales risk of a particular development project and will ensure that there will be no financial liabilities relative to a particular development's construction costs." That is the end of the quote. This does not say that S.o.J.D.C. must only proceed on a fully-let basis. S.o.J.D.C. has proceeded in accordance to its operating protocols set down in P.73, which was agreed by this Assembly. As I said last week, the minutes of the meeting did not record any specific instruction from the former Minister for Treasury and Resources.

#### **5.7.1 Deputy S.Y. Mézec:**

The Minister was quoting a document from 2010 and here we are talking about a statement from 2014. So were the S.o.J.D.C. operating at any point on the basis that buildings were to be progressed on a fully-let basis? If so, from when to when, how long, and if not why was this statement made at all?

#### **Senator A.J.H. Maclean:**

We have covered this particular point time and time again. Since clearly I am not being clear enough I will try again. P.73/2010, under the proposition agreed by this Assembly, was an M.O.U. of which I have just read out a clear extract which makes it abundantly obvious that S.o.J.D.C. were operating on the basis of not the 200,000 square feet, which was historic and related to Harcourt, or fully-let basis of particular buildings. The only matter, and the Chief Minister has referred to it earlier this morning, is that at the time that the former Minister for Treasury and Resources made comments in this Assembly there was indeed a tenant that was likely to take one entire building, and in fact more than one entire building, but let me be absolutely clear, S.o.J.D.C. were operating under the M.O.U. and under the terms laid out that I have just read to this Assembly that they had to cover the construction costs of a particular building with a pre-let and that is exactly what they are doing.

#### **5.7.2 Deputy M. Tadier:**

Clearly it is not quite the case when the Minister refers to a document from 2010 which did not specify what sufficient pre-lets meant. There was no definition one way or the other and therefore the fully-let basis was not contrary to what was outlined in 2010. The difference is that subsequent to that the sole person who was responsible for S.o.J.D.C. and to be accountable to this Assembly stated that he was quite clear that S.o.J.D.C. should proceed on a fully-let basis, therefore sufficient lets in his mind meant fully let. Can he confirm that S.o.J.D.C. understood that clear instruction is the question?

#### **Senator A.J.H. Maclean:**

I think I have made it clear that certainly with regard to the minutes of the meeting that was referred to there is nothing in those minutes that gives any indication of a clear instruction and certainly nothing that deviated from the position that was in place under P.73/2010. A moment ago the Deputy said that it was not clear what the level of pre-lets were. In fact it makes it absolutely explicit in the M.O.U., which I read out a moment ago, that S.o.J.D.C. will have to secure a sufficient level of legally binding presales or pre-lets to fund the cost of constructing the first phase of the scheme. That is going to be assessed and it has been assessed in the case of building number 4, the first one, by an independent valuation. That valuation has been undertaken by the institution providing the funding to S.o.J.D.C. S.o.J.D.C., of course, as our development company, and like any other development company, go to the market place to find funding to be able to start construction. That valuation confirms that the cost of construction of building 4 is covered as a result of the pre-let that is now in place, the legally binding agreement now in place.

**5.7.3 Deputy M. Tadier:**

This is not relevant. This is not to do with the 2010 document and the M.O.U.s and the interpretation of S.o.J.D.C. This is about a statement given in this Assembly in good faith which should have all those codes of practice surrounding it where it was told that S.o.J.D.C., you have to only proceed on a fully-let basis. They either understood that instruction or they did not. If they did not understand that instruction then they are not doing their job or the communication has broken down. Either way it is the job of the Minister for Treasury and Resources, whether the previous one or the current one, to come back to this Assembly and tell us when the understanding changes so can he state: does he stand by his former statement that his predecessor was mistaken or is it now the case in the revised or well in history that we are receiving this morning that the Minister was correct and that S.o.J.D.C. were the ones in the wrong? Because it has to be an either/or.

**Senator A.J.H. Maclean:**

My predecessor made some comments in this Assembly which have been pulled over for some considerable time and in part have been taken out of context. But notwithstanding that fact and all the surrounding information that was part of the answer given by the Chief Minister this morning, the fact of the matter is that S.o.J.D.C. were under and are under no obligation and no illusion other than that which was laid out under that proposition P.73 and the M.O.U. I do not think I need to go through that again. It has been clearly stated and that position has not changed and is not changing.

**5.7.4 Deputy G.P. Southern:**

Once again I have to draw attention to the words of the M.O.U. which suggested that the level of pre-lets should have been sufficient to cover the cost of the building and not what actually happened was a level of pre-lets sufficient to take out a bank loan. The 2 are different, are they not?

**Senator A.J.H. Maclean:**

Yes, of course they are different and, in fact, let me be clear about this point as well. The borrowing from S.o.J.D.C. for the construction of building number 4, that is the first building which has the pre-let in place, that borrowing covers the construction of the building in total. The value of the building far exceeds in fact the construction of that building and that has been independently verified by valuers for the bank that are providing that funding.

**5.7.5 Deputy S.M. Brée:**

I would hasten to try and correct the Minister but the lender's valuation is based on the ability of the borrower to service the loan. It is not, and neither would any lender do this ever, it is not about verifying that the borrower can meet a condition imposed on it by this Assembly. The 2 are totally divorced from one another. The bank is looking at risk. This Assembly is also looking at risk but a different type of risk. The Minister has also made mention that - the question I have is the Minister

has made mention many times about the conditions in P.73 and M.O.U. having been met but he has already stated today that he undertook no due diligence or independent verification. Can he please confirm what he is basing his statement that the conditions have been met?

**Senator A.J.H. Maclean:**

I think the Deputy knows the answer to that question, we have already covered it. He is right, it is about assessing risk. Both the bank and indeed the company and those responsible for the company, both the directors under their responsibilities, under Companies Law, and of course the Board of Directors, all have responsibilities. In terms of assessing whether the obligations have been met in terms of the pre-lets for this particular building, that was undertaken by the lending institution. Yes, it is not just about servicing the debt, it is also the value of the building and the valuation has come out in excess of the construction costs of the building, and that is based purely on one pre-let agreement that is in place. Indeed one fully expects the building will be fully let and of course on that basis the value therefore increases still further.

**Deputy J.A.N. Le Fondré:**

Point of clarification, Sir? Only from the last speaker. The speaker made a comment that the valuation is based purely on the value of the pre-lets ...

**The Deputy Bailiff:**

Sorry, Deputy, if I call on you to ask a question during question time you can ask a question but it is not a question of asking for a point of clarification. This is not a speech. This is answer and questions.

**Deputy J.A.N. Le Fondré:**

It is just I think the Minister may have inadvertently ...

**The Deputy Bailiff:**

I am afraid we are running out of time that can be allocated to this question, so I call on Deputy Mézec for a final supplementary.

**Deputy S.Y. Mézec:**

No further questions.

**The Deputy Bailiff:**

I think question 8 has been withdrawn, Deputy Tadier, am I correct?

**Deputy M. Tadier:**

That is right, Sir.