

From: Darius Pearce
Sent: 13 March 2014 13:24
To: Steve Luce; Steve Pallett; Michael J. Paddock; John Le Maistre
Cc: Scrutiny
Subject: FW: Statement on the Public Markets

Dear Sirs,

I have been advised that the matter of the Public Markets arose at a hearing this morning. I have been advised of the content of the submissions made to your panel and I wish to append my own comments to those made this morning.

It should be noted that in all likelihood the Public will face the expense of a judicial review as for decades the funds from the Public Markets have been misappropriated into the general fund. It was only when I challenged this and pointed out the law that things were changed. The monies misappropriated in this way, (I have confirmed this with the previous three Inspector of Markets), remain unaccounted for.

Statement to Scrutiny

Back in December 2012 Jersey Property Holdings attempted to illegally charge GST on the rents in the Public Markets. The move is illegal because any business which is undertaken 'for the benefit of the whole community' is exempt from both income tax and GST under the law.

In 2013 legal proceedings were commenced against market traders, who wished the States of Jersey to comply with the law, with Darius Pearce, due to his greater experience in Court proceedings, as the test case. In a first hearing the Master of the Royal Court concluded that the Public Markets were not owned by the Public but by the States of Jersey, despite the register clearly indicating that the property was owned by 'the Public of Jersey'. The Master struck out the defence. On appeal before the Royal Court the defence was re-instated. The case now moves on.

The leases of the tenants expired on 24th December 2013, to date new leases have not been entered into.

The Public Markets Law originates from 1804 with amendments in 1885. In all that period of time the Markets have operated on a 'self-sufficient' basis whereby all the costs of administering and maintaining the markets have been paid for by the leaseholders. The rents under the law are supposed to be set to cover these costs and no more. In that way the public enjoy the benefit of the markets at no public cost.

In the latter half of the 20th Century, the States of Jersey began to break the law. Rents were collected in excess of the cost of administering the markets and were transferred to the 'general fund' maintained by the States of Jersey Treasury fund. In the last lease the rents charged exceeded the cost of administration by £250,000 per year or 62.5%. When this was queried it was agreed that this illegal practise would cease and that these funds would be placed into a 'Markets Fund'. This overcharge of rent has naturally resulted in higher prices for the goods supplied in the Public Markets over the years.

The States of Jersey under the new leases are seeking to impose additional layers of management onto the Public Markets to avoid lowering the rents even though rents are falling all around the town. The Law states that the Inspector of Markets shall have full responsibility for the operation of the Markets under the oversight of the Minister of Transport and Technical Services. The States of Jersey have sought to move the maintenance staff under the management of the Transport and Technical Services Department and impose additional costs of management on the Market tenants. They are also attempting to place the administration of the Markets under Jersey Property Holdings and in so doing impose additional costs of management on the tenants of the Market.

At a time when concern over the cost of food is high amongst the Public, the cost would be greatly lowered if rents were charged in accordance with the law rather than in accordance with trying to generate as much revenue as possible in order to 'over-manage' the market, such over management leading to no effective leadership and no clear vision for the future of the market.

Many market tenants would prefer simply to stick to the Law, exactly as enacted by our ancestors, a law which has served the markets well for two centuries. Too many cooks will spoil the broth. The markets are at serious risk of failing if the intended over-management is allowed to proceed.

Darius Pearce