

Dear Connetable,

My name is Alan Luce, I am one of the few people who fell foul of JPH pursuit, I had taken my case along with Julian Mallinson to the Complaints Board for review and subsequent opinion.

### **My personal position**

For the record I am submitting my bundle of papers as provided to the Panel for your Scrutiny Panel to review. I cannot add much more as they are exhaustive and chronological.

Firstly I must thank your panel for seeing beyond the headlines and initiating a review, I must also thank my Lawyer Dr John Kelleher and his team at Carey Olsen, who without question supported me with sound opinion and at the end, as difficult as it was to accept, pragmatic advice to “pay and move on with your life” as any litigious redress would be pitted against a mighty and financially bottomless resource. A taxpayer funded resource, which is a irony.

“I would rather deal with Glaswegian gangsters” (I personally have some great Glaswegian friends) was a key phrase delivered to me in deciding my accepting the sad status-quo as dictated by JPH and paying a levy or fine to sell my house. In accepting it was not because I wanted to - because I had to in the Royal Court I now perjure (and warned so prior to the Complaints Board hearing) myself in questioning how owns the land, ironically the same court transacted the gift with clauses that have largely been overridden by JPH.

I must also thank, Deputy Carolyn Labey who has been our conduit to raising this issue within our assembly, in the face of a lot of negativity, a strong lady that believes in what is right and proper and of course Geoffrey Crill and his boards Review.

Key to my still banging on about an injustice is the public who’s kind words meant so much when taking on this department. The media, who are obligated to fact check everything prior to publishing and who have wholeheartedly supported my (our) plight. The roles of SOS Jersey in publishing a paper that is pure and simple in its meaning in that the way government has exploited the spirit of the Queens gifting in a avaricious and persecutory manner. Sir Phillip’s submissions and opinions expressed the same sentiments, yet furthermore questioned the unfairness of a heavy handed methodology in gaining their way.

Strong words published “the government has extorted monies from these Islanders” and “unfair, discriminatory and against natural justice” openly published by learned law professionals would in most circumstances not be taken lightly, certainly not disregarded. The 64 homes at Le Bourg that suffered a seawall breach and rebuild had the backfill gifted to them, surely a modus operandi of that of a good neighbour.

The distain will multiply dramatically when JPH starts its crusade against the “Jersey 400”. As living with this issue I have collated over 2,000 images and many documents, all from public resources (Jersey Archive to name one) and it clearly shows “encroachments” by the greatest offender “the public of Jersey” which have been created/commissioned/instructed by the States surveyor (1938 I believe) and under the draftsmanship by the States surveyor. Most of these falling after the date submitted to me as when my alleged breach was stated (in history) to have happened, it will be with great jiggery-pokery if these easily attained documents are not acted upon, indeed due to the prescient set on my “case”.

Certainly I feel vindicated in having such highly respected people adding their gravitas to this unfortunate debacle, with the overwhelming hope that sensibility and pragmatism will prevail.

A very close friend once said “Alan, don’t say anything that you wouldn’t want read out in court”. To this I hold no fear nor does it seem the former most senior Judge in Jersey. Public of Jersey you’ve let the machine drive you in an incorrect and costly outcome before.

The only key issues I can add to those papers that will be submitted is the humanist element that these actions taken had on my personal life, health, well-being and disenfranchisement. No submission will ever be able to relay the feelings and despair felt; as unless you’ve walked that path. My prime reasons in bring the actions against me into the public attention, initially through

the media and now the assembly is the process of debating this issue after 5 years. If not controlled it will proceed to be stealthy perpetrated by an unfettered JPH in an un-transparent manner against single stand alone property owners, who like myself will capitulate, not because they are wrong, because they cannot take on an invincible (and in the main secretive) resource. JPH like pursuing sellers as they are vulnerable as they hold the ace card.

### Why

- Did the JPH actions come about.
- Did the minister Deputy Noel sanction these actions prior to any debate (his comments are disturbing as the (Hansard 120917 Oral Questions) “You will not find any social housing on the foreshore. The housing that is on the foreshore tends to be at the upper end of our market”
- Did the government gift land to homeowners at Le Bourg, “it would be morally wrong to charge” Deputy Noel stated
- Has the minister accepted the previous ministers actions, or is it the executives actions being maintained
- Has JPH not publish intent in an openly public manner from the outset
- Has other clear encroachment (based on my criteria) not been pursued since - I paid so don't discriminate, collect in the same manner
- Had JPH not refuted my position publicly or proven to me that my property indeed encroached
- Has it been sellers only pursued, right next door is a house gable end on the sea wall
- Not reveal the boundary line publicly; the only motive must be seen as divide and conquer individuals, without doubt a class action by the 400 will therefore be averted
- Did this exercise not be scoped and understood prior to actions -it is a meaty exercise for LOD
- Can the costs involved, executive time, Law officers time, states members time and now scrutiny's time be justified. A simple cost to benefit exercise must show it is not a financially viable exercise. I anticipate 100's of thousands of pounds used in legal or other resources (non chargeable as in house I would suspect)
- Exploit a genuine gift from our monarch to its people - a massive own goal that the U.K. government will have a storm over
- Pit inexhaustible public resources against the public
- Treat Ports of Jersey in a different manner to a personage (the land was transferred to PoJ on the same day as the gift at no cost) they are the same legal identity
- In the face of very few allies are JPH single minded in continuance
- Does The minister think this is in the public interest
- Has the modus operandi changed from “deeds of sale” to “ratification of boundary”
- The secrecy

What is lacking as I stated earlier is the fact that behind each action is a family, an elder home owner, a divorcing couple, a terminally ill person wishing to regularise assets, an inheritance issue or an individual that will suffer trauma and a massive overwhelming stress.

Financial damage is such a small component of this process, the feeling of government betrayal and duplicity and isolation in your fight for justice is overwhelming.

Imagine the problem. Then try and live with it?

- You need to sell your house to pay tax and social security and depose debt
- You have a buyer at £ [redacted] (asking price was £ [redacted])
- You take the house off [redacted] market as buyer requ [redacted]
- Your estate agent get a letter from JPH stating boundary issues that they obligate them to tell the potential buyer
- It takes 15 months for this to be regularised
- Your lawyer battles on your behalf
- Your property tumbles in value to the £ [redacted]
- And you have to pay circa £ [redacted] in addition al fees and hidden costs
- Your trusted and expert lawyer (the Les Pas lead council and Historian) acts as best as the can against a non negotiable JPH
- Try managing family, business and relationship with that at the forefront of your life for 15 months
- The inclusive Jersey media have a clear run in discrediting this action without JPH rebuff

- No resolution despite a clear finding in your favour by a States constituted independent panel to right wrongs
- Letters written to all states members eluding g potential litigation

In my case I was selling to release debt and to pay back the mortgage that became renewable every 6 months due to the uncertainty of asset security. I watched the value of my house tumble from a early days sale demanding “take it of the market now” offer of £ [REDACTED] to £ [REDACTED] due to the blighting of the house as a securable asset.

The JPH will never sue a property owner over this matter or pursue a rental property or seemingly large commercial entities. They should face a discrimination allegation also, it has been 5 years to get to this stage. If I was to pay now it would be 5/40s cheaper!

As the inability to sell dragged on for well over 15 months and with increasing inability to pay debts a incredibly stressful extended timescale with health, relationship and family all suffering. You cannot think of anything else or function rationally... an incredible life changing time.

Key now is about the lack of trust, trust in government (machinery not assembly), trust in a pragmatic solution being reached as the momentum appeared to be on our side, public opinion, media commentary and a damning tribunal review, when all avenues dissipated in the face of JPH in intransigent “not going to accept these comments” stance, I decided after 60 years in Jersey to leave. If the machine acts in this manner on this, what-else awaits Jersey?

I believe totally this was conceived as a wonderful cash making scheme devised by a in post civil servant that could see a money generating method to prove that JPH was worthy of its being in existence ( the auditor general would not agree). I believe that in holding the ace card of boundary ratification (something that could not be contracted with the crown) that pursuing sellers would be a gentle ride. Well public opinion has scuttled that, people are not lying down and purely accepting as is not human nature, an Englishman’s home is his castle and homeownership is a hard worked for privilege not available to many with the now increased cost. I worked extremely hard and Roche de la Mer was the sum of my efforts, only to become a noose around my neck as the inability to sell was burdened upon me and indeed as with Julian.

I have as an exercise for your panel itemised what I consider to be my costs, some figures I accept are “up for dispute perhaps” but never the less it puts into context the financial ramifications of this action for me personally.

As to health since 2015 I have been on heart pills, blood pressure pills and suffered a stress breakdown, there was some very dark moments as there was seemingly no way out, I thank close friends for genuine support; I moved away as many of my friends know probably not to return, my biggest mental issue is and I regret it is that this has been life defining and even now writing this anger and stress in equal measure as the past is relived.

Please Scrutiny take onboard the personal anguish suffered having been strongly metered out by a mighty and heavy handed government.

As a final personal note it is regretted that in the height of my struggle my bitterness sometime got the better, justifiably some say, my overwhelming hope is that others do not suffer the same struggle, that pragmatism ultimately prevails, that the JPH admit a failing in judgement, scoping and execution; moreover adopt a sense of does it really matter in the current big picture.

Just sort it or after all your “fine work” JPH maybe there’s a astute “owner of a Fief” waiting in the wings saying thank you for collecting on the fief’s behalf, now here’s my claim. Or indeed the Privy council take the view as owners “we should be paid 600 years worth of that. It’s a can of worms.

**For your information (never previously disclosed) for scrutiny exclusively (please redact amounts)**

Roche de la Mer compensation claim, However the following is factually correct;

- CO legal fees £ [REDACTED] should have been more as was kindly reduced.

- LOD legal fees £ [REDACTED]
- Valuation fee £ [REDACTED]
- Compensation [REDACTED] plus

#### Hidden losses

- The loss of tenant rent from position of sale to actual sale (November 2015 to December 2016) [REDACTED].
- [REDACTED] sed cost of mortgage due to questionable security 1% on £ [REDACTED] [REDACTED]

#### The following open to dispute/litigation or arbitration/calculation

- The protracted sale, some 15 months.
- The loss of a sale at £ [REDACTED] (£ [REDACTED] loss) Ultimately sold for £ [REDACTED] due to blighted deeds.
- The additional mortgage [REDACTED] ym [REDACTED] for the 15 months [REDACTED] t only unnecessarily paid £ [REDACTED].
- P [REDACTED] al trauma and worry caused. £arbitrary
- Delays caused and financial pain suffered £arbitrary

The above might not seem to JPH as reasonable, however it is a fair assumption that a level of the pain and suffering was caused.

This does not of course cover the personal time I have dedicated to seeking retribution, or of Carey Olsen helpful steers.

Kind regards  
Alan Luce

*I have no issue with this document being published, please redact the financial numbers (only numbers)*

**Below are a summary of the questions that need to be asked of the minister. It was my intention to speak at the Complaints Board Hearing (in 2018 but still applicable today) on the points I have raised in these Questions, then actually ask these questions of JPH officers, as the minister did not bother to attend.**

*....Ownership of the foreshore historically (the potential claimants being the Crown or individual seigneurs; the key point being that we have no recent decided case on the general proposition of ownership of the foreshore but it is nonetheless clear that there are decent arguments to be made to say that the Crown did not own the foreshore everywhere; it would be very expensive in a given case to litigate the point given that it will draw in centuries of records and require a putting together of disparate pieces of evidence – simply look at the articles by Richard Falle and John Kelleher)....*

Where in directing these questions the reference to asking specifically the JPH or the Minister Dfl, this must be accepted these questions refer ultimately to and are directed to, the Government and the People of Jersey for whom JPH and minister act.

#### **Attitude of the crown**

- A. What was the Crown's attitude to 'encroachments' on the seawall/foreshore in recent times?
  - A. Did the Crown ever encourage PoJ to act in their best interests?
  - B. Were these encroachment actions divulged to the crown in negotiation on the gifting?
  - C. Why has JPH act differently to the Crown in enforcement?
- B. Why did the JPH acting “as owners” see not fit to have pursued encroachments whilst leaseholders although an obligation to the Crown to pursue?
- C. What did the Crown intend to be the extent of the Vice Cache clause?

D. Will amounts collected be accounted back to the Crown as landlord?

**Policy**

A. Has this retrospectively crafted policy been acted upon disingenuously, deceitfully and in a non public manner?

B. Why has the legal fraternities views been ignored on this policy?

C. Why did the policy take so long to draft and release? Now third draft!

D. Should landowners been fined prior to a policy approved by the States?

E. Who masterminded this concept of exploiting the Queens gifting in this manner and who initially sanctioned this action?

F. Why did the JPH pursue encroachments without policy and without States Assembly approvals?

G. Why did JPH pursue the offenders detailed in their submission Pre-gifting and pre-policy?

A. On what criteria?

B. How where these brought to the notice of JPH?

C. What was the Modus Operandi then whilst acting for the crown?

D. Was this selective?

H. Why was RDLM not previously fined?

A. The Crown did not make any claim in relation to encroachments.

B. It was not on the JPH agenda.

I. Can the JPH categorise or identify any and how many encroachments pursued that fall outside the following:

A. Sellers of properties.

B. Properties being developed.

C. Notifications to the department.

D. Notifications though planning applications.

J. On what date or stage did the Minister sanction the RDLM encroachment fines?

K. Was the La Bourg gifting exercised by JPH "as owners" is this not agreed as a prescient?

L. Is the JPH open to Insurance subrogation on floods, past or present as the body responsible?

M. Why has the JPH insisted that encroachers now pay an insurance premium?

A. Have they delegated their responsibility?

B. Is this legal?

N. The JPH state that the policy is retrospectively written, and that the clauses for identification are now determined.

A. Sales

B. Planning

C. Direct contact with the department

Can the JPH declare how many Properties are in the "fines" pipeline and does this include commercial entities or businesses?

- O. Has the JPH learnt any lessons in the implementation of this action, or is the policy still appropriate?
  - A. Why not a Islandwide strategy?
  - B. Why not a public strategy?
- P. The JPH altered their terminology in collections post BDLM,RDLM and PCLM if so why?

### **Roche de la Mer**

- A. Why are the references made to the referral to the Minister of TTS, not Dfl?
- B. Why were the constant questions on the Ministers Approval unanswered?
- C. Why write to Broadlands?
  - A. With such level of disclosure on process?
  - B. Why was the statement made as to the extent of the encroachment - as being serious, this stated prior to any site visit?
- D. Why did the JPH have meaningful dialogue with the prospective purchasers?
- E. Why were all the ancillary costs only added after the agreed amount and not a wrapped amount?
- F. Why does the JPH place the onus at the purchase point and elude “bad legal advice” when they know you cannot contract with the Crown?
- G. It is very astonishing that despite many requests on the caveat “subject to Ministerial Approval” these remain unanswered. At what stage was the Minister or the Assembly aware of this action. It seems not until a “fait accompli”.
- H. ... it's is accepted that Mr Luce did not create the encroachments..... is it right and fair that JPH see it fit to continue to collect funds against a natural justice ?
  - A. This is the son being guilty for the crimes of the father.
- I. Why a disregard in information reference the vertical north face of the wall, cottages on the wall and openings in the wall disregarded?
- J. How can the JPH assert a relief, when they cannot confirm the wall is built in the correct place?
  - A. If the wall is not built in the correct place, has the JPH itself encroached?

### **Legal/professional advice**

- A. Why has all paid for legal advice been ignored or consciously disregarded in such a dismissive manner?
- B. Why was I fined over the actual offender, is this legal?
- C. Why has there been no discernible knowledge base established (ref adjoining Properties, seawall build etc.)?
- D. Why does the JPH feel it has acted responsibly in disregarding legal opinion, letters to CM, the Bailiff and the Attorney General?
  - A. Is the People of Jersey's claim on these foreshore encroachments strong?
  - B. With evidence abound, why did JPH assert they are correct in disregard compelling research?
- E. Why was the spirit of the free gifting to the people from the Crown ignored?
- F. Why is JPH continuing against what the legal fraternity has termed as not in the public interest?

- G. Will the JPH pursue through the courts any encroachers that will not pay?
- H. What is the governments position of granting planning consents over Crown Estate?
  - A. Is this a government responsibility?
- I. Why has JPH eluded a perjury is being committed in questioning this process?
- J. Does JPH anticipate the ignorance on a unclear and undefinable boundary to be a contentious issue and engage costly litigation in the future?
  - A. Is the People of Jersey's position strong on this?
  - B. Is the assembly briefed on the risks?
- K. Has there been any litigation up-to this point (Skinner) or settlements out of court?
  - A. Royal Court notification in submission.
  - B. What was the outcome?
  - C. What was the cost to the PoJ?

### **Valuation and survey**

- A. Why the JPH restricted panel of favoured valuers?
  - A. Why a pre-negotiated fee with JPH panel of valuers?
- B. On what criteria will commercial encroachers be valued will this be as defined in the policy (p38) ...to be charged at a significant proportion of the anticipated profit from that development...?
  - A. Value of site, enhanced commercial value?
- C. Why was it better for me to acknowledge a guilt on encroachment prior to seeking the valuation?
- D. By the JPH own admission the natural negotiation process was unfair as the bargaining was non existent.
  - A. Do the JPH admit leverage was an extraordinary strength when dealing with sellers (who needed to sell) and who's only option was to pay to pass contract?
- E. How many foreshore valuations are currently in the pipeline?
  - A. How many Railway walk encroachments are being pursued?
  - B. Is the intention clearly to pursue all encroachments?
- F. If RDLM was the most "serious of encroachments" how does Prospect Place rank, we have party walls so indelibly linked?
- G. Why a discount scale?
- H. Why was Paul Labesse an unsuitable valuer for the purposes of this exercise?
- I. Why was there no negotiation over the details of the valuation (double count)?
- J. Why was the wall claimed to have a concave inner side, when the previous year this was submitted by BDM as incorrect?
  - A. How can this discrepancy be overlooked?
  - B. Is this legal or fraudulent as conflicting information was held?
- K. Why did JPH allow my lawyer to write a massive joint spec to the valuers based on their assertion that the "wall had a batter and was wider at the bottom than the top" when clearly they had BDM evidence on the wall to the contrary?

- L. Will the JPH allow a new alternative valuation based on this revealed deception with a reversal on the fine paid?
  - A. And recovery of unnecessary legal fees?
- M. Does JPH consider my building to have added strength and integrity to the seawall over a weakening detraction?
  - A. Is therefore the formula applied to Seymour Villa also applicable in this instance?
- N. In terms of value definitions JPH has written ...are considered that may justify a transaction at less than the best consideration... ..land of no value per se....there is not a marketplace for such land... ..there is no other party which the Public can seek to sell to... the valuer must also accept this as the status quo, or is the circumstances not a fair bargaining tool?
- O. Indeed the valuer BNP mooted a fair consideration on PCdIM valuation of £ [REDACTED], why was the settlement actually higher and not as commercially assessed?

### **Process and timeline**

- A. The encroachment issue was addressed in very quick order, indeed first mover on the reasons for gifting, was this communicated to the crown?
- B. The timeline was a 15 month process as there was clearly no policy?
- C. Why no commercial motivation in speedy conclusions?
- D. Why was the first contact to an estate agent over the actual landowner?
  - A. Does this breach my privacy?
  - B. To exert maximum pressure at a time of sale?
- E. Why write to two properties in one letter?
- F. Why was it seen fit to fine me over the actual offending perpetrator?
  - A. Is this justice?
- G. Why has the JPH taken the current action and what was the Modus Operandi deployed?
- H. Why was the final negotiation point (attempted) to be based on my financial standing?

### **Discrimination, contracts and threatening behaviour**

- A. Why only sellers? Not all encroachers?
- B. Why only defined by geographic?
  - A. Not all Island areas?
- C. Why no pursuance of patently obvious encroachments, next building, sharing party walls?
- D. Why no planning advice or statement to developers etc. issued on this major issue?
- E. Why has JPH not treated all encroachments across the board in an even handed manner?
  - A. A moratorium was suggested.
- F. Why have some Properties compensation still not been addressed after the issuance of the policy?
- G. Has JPH identified the scope of this endeavour?
- H. Why no discussions in mitigation or over the vagueness over title?
- I. Why as the feudal or details of the gifting being overlooked. This is the key point, why does JPH not wish to discuss?
  - A. It is the theft of this land that is the issue, good title therefore must prevail?

- B. Why have I been fined for the crime of others? Is this natural justice?
- J. Why was the ultimate threat of demolition used even when JPH are aware of the prescient of "Fogarty"?
- K. Why was the prescient of "la Bourg" not considered appropriate?
- L. Why are the onerous clauses in the contract, what is the fine paying for, what is given in return?
- M. Why is it appropriate that I pay for sloppy contracting by the LOD? Why in presenting errors of such magnitude to the Royal Court acceptable?
- N. If something has been taken, the onus is to prove your accusations, why therefore no proof or evidence ever submitted to substantiate JPHs demand/claim? Is this a justified honest process?