

STATES OF JERSEY
Public Accounts Committee
Public Hearing

TUESDAY, 11th JANUARY 2011

Panel:

Senator B.E. Shenton (Chairman)
Connétable J.M. Refault of St. Peter (Vice Chairman)
Senator A. Breckon
Mr. A. Fearn
Mr. C. Swinson
Mr. K. Keen

Witness:

Mr. D. Flowers (Director, Jersey Property Holdings)

In Attendance:

Ms. M. Pardoe (Scrutiny Officer)

[12:02]

Senator B.E. Shenton (Chairman):

For the purposes of the tape, I will ask you to introduce yourself and then what we will do is we will work our way round the table introducing all of ourselves and that way the transcript gets the voices assigned to the right person. So ...

Director, Jersey Property Holdings:

David Flowers, Director, Jersey Property Holdings.

Ms. M. Pardoe:

Mel Pardoe, Scrutiny Officer.

Senator A. Breckon:

Senator Alan Breckon, a member of P.A.C. (Public Accounts Committee).

Connétable J.M. Refault of St. Peter:

Constable John Refault, Vice Chairman of the P.A.C.

Senator B.E. Shenton:

Senator Ben Shenton, Chairman of the P.A.C.

Mr. C. Swinson:

Chris Swinson, Comptroller and Auditor General.

Mr. K. Keen:

Kevin Keen, independent member of the P.A.C.

Mr. A. Fearn:

Alex Fearn, independent member, P.A.C.

Senator B.E. Shenton:

Right, I just have to do a little bit of housekeeping and read you the following. The proceedings of the panel are covered by parliamentary privilege: Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunity of Scrutiny Panels, P.A.C. and P.P.C. (Privileges and Procedures Committee)) (Jersey) Regulations 2006. Witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something they know to be untrue. This protection is given to witnesses to ensure that they can speak freely and openly to the

panel when giving evidence, without fear of legal action, although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering our questioning. Thank you for, as I say, coming along today. We saw Mr. Oberk(?) from the Law Officers Department and Andy Skate and Peter Thorne from Planning yesterday. We have Ian Gallichan coming in from Housing later on today. We may call further witnesses in due course once we have had a good look at our findings from this first tranche of hearings, so there is a possibility that we may call, for example, a developer or the Ministers in due course. You are here because under Jersey law Property Holdings is responsible for reviewing property transactions under Standing Order 168.

Director, Jersey Property Holdings:

That is correct.

Senator B.E. Shenton:

Can you just, for the purposes of the Committee, run through why this is the case and what Standing Order 168 asks you to do?

Director, Jersey Property Holdings:

Okay. I have got some notes here, I hope you do not mind me referring to them.

Senator B.E. Shenton:

No, that is fine.

Director, Jersey Property Holdings:

Standing Order 168 sets out a number of conditions under which the Minister for Treasury and Resources may act on behalf of the States Assembly to approve property transactions. The Minister can only receive a recommendation under Standing Order 168 from an organisation established by the States for the purpose of managing States property assets; hence Jersey Property Holdings is such an organisation and therefore makes those recommendations. Property Holdings reviews the proposals from other departments and looks at the property implications. We receive ministerial decisions for these transactions and we consider the property issues and, where there are any concerns, we usually refer these back to the relevant department for a resolution or clarification and we do this in order that we can make a positive recommendation to the Minister.

Senator B.E. Shenton:

Right. When you say “property issues” what do you mean by “property issues”? Is this boundaries and finances and so on and so forth?

Director, Jersey Property Holdings:

Any technical property issues to do with valuations, boundary disputes, the nature of the transactions.

Senator B.E. Shenton:

You mentioned valuations, you have to be satisfied that the valuations for the properties are correct and any transaction ...

Director, Jersey Property Holdings:

We do a due diligence on the property assets.

Senator B.E. Shenton:

When you looked at the Jersey Homebuyer, according to the papers that we have, you considered that some of the detailed aspects of the scheme had not been fully developed. Could you just elaborate on this point?

Director, Jersey Property Holdings:

My principal concern was that the undertaking given to the States to bring forward supplementary planning guidance to define the detailed mechanisms to govern the arrangements for the proposed Homebuyer scheme had not been produced. As a result of that, I advised the Minister for Treasury and Resources that, in my opinion, the Homebuyer scheme has yet to be fully established.

Senator B.E. Shenton:

All right. But although you made those findings, did you consider that the transactions could still go through on that basis and, if so, why?

Director, Jersey Property Holdings:

I presented the Minister with 2 options: firstly, to delay approval of the proposals for La Providence until such time as the requirements for Homebuyer had been properly established in accordance with the undertakings given to the States Assembly, and there were certain consequences of taking that course of action, not the least being that a number of prospective purchasers had already made arrangements for funding

and incurred costs in surveys, et cetera. My second recommendation was to consider the proposal on its merits as a property transaction outside of the proposed Homebuyer scheme. In the context of the second opinion, I consider there was no financial risk to the public. The potential financial risks I considered were as follows: firstly, that the public might acquire a property from the developer which it subsequently could not sell or for which it might receive less than it had paid. I considered that risk to have been effectively removed as the process of acquisition disposal being back to back meant that there was no risk that the public would not have somebody to sell on to. The second possible risk was that the public might be carrying some form of liability for the condition of the properties and, in particular, inherent defects. I received assurances from the Law Officers Conveyancing Department that the contracts had been written in such a way that any guarantees or liabilities in respect to the properties would not transfer from the developer to the public; they would go directly from the developer to the purchaser. So those were the risks that I considered. But also there is clearly a possibility in each case that the public might not receive the full amount of the deferred payment or that that payment might not be received for some considerable time. I did not consider that to be a financial risk because the public would be in no worse financial position after the transaction than it had been before. There was the prospect that it might not get the reward but it was certainly not a financial risk. So even if the whole of the deferred payments were not received, there would be no financial loss to the public, as such.

Senator B.E. Shenton:

The actual bond that was written for the States of Jersey to acquire their 35 per cent (I realise everything else may have changed, but we will say 35 per cent) was written in

a way that it had a value on the bond which became payable. Did you consider if property prices fall the impact that may have on the Homebuyer?

Director, Jersey Property Holdings:

Yes. Firstly, the way in which the bond has been structured is that it is a percentage of the value of the property at the time of sale, subject to a minimum payment equal to the discounted sum at the time of purchase, so that the States would receive at least the amount of the discount at the time of purchase. There is a risk, or a potential risk, that the property market could drop but I did not consider that a 45 per cent drop in property values was a significant risk.

Senator B.E. Shenton:

Although from the homebuyers' point of view, it would not have to be a 45 per cent drop to lose money, just any drop in the value of the market would ...

Director, Jersey Property Holdings:

Yes. From a homebuyer's perspective, in the event ... I considered the possibility of insolvency or mortgage default but the position that the States holds as holding the second charge is a very strong position in that, in the event that there is a default or a potential recovery by those holding the charge over the property, the person holding the second charge is offered the property, provided he pays out the person who has the first charge. So in that situation the States could step in, acquire the property and then have some degree of control as to whether or not the occupants of that property were re-housed or continued to occupy the property. So there was some degree of protection for the purchasers. The States could, for example, if a property had been

acquired with a deposit of, say, £50,000, acquired for £250,000 with a mortgage of £200,000 (that being the first charge) then the States could step in and acquire the property for £200,000 and could sell that property for circa £400,000. So the States is in a very strong position holding second charge over that property.

Senator B.E. Shenton:

But if the property prices have fallen by £50,000 and the homebuyer put a £50,000 deposit, the States would get their money back under the bond, the mortgager or the bank would get their money back, but the homebuyer would lose his deposit, basically. Yes, it would lose the whole £50,000.

Director, Jersey Property Holdings:

Yes. The homebuyer would definitely. In the event of a default, the homebuyer would lose their deposit but the States could decide to re-house the occupants in social housing and sell the property and would recover probably more than they had expected under the deferred payment.

Senator B.E. Shenton:

Has the States got any power to forego the deferred payment or alter it should the original homebuyer find himself in a real hardship case?

Director, Jersey Property Holdings:

I understand that there was an agreement that the Minister for Housing may elect to forego the deferred payment.

Senator B.E. Shenton:

Do you know if this was set out with proper structure and properly in order that the Minister for Housing could do this?

Director, Jersey Property Holdings:

I think this comes back to the issue as to whether or not all of the conditions required by Scrutiny had been met.

[12:15]

Senator B.E. Shenton:

So what you are saying is the Minister for Housing, per se, in this sort of circumstance has the power to let someone off a debt of £50,000 if he so wished?

Director, Jersey Property Holdings:

It would be considerably more.

Senator B.E. Shenton:

Or considerably more. Yes.

Director, Jersey Property Holdings:

The whole of the deferred payment in many cases was about £150,000.

Senator B.E. Shenton:

So do you know what checks and balances are in place to prevent cronyism, favouritism, or whatever, with regard to the Minister for Housing having this power?

Director, Jersey Property Holdings:

I am not aware of any mechanism or process that has been established to do that. It is not something that would fall into Property Holdings' remit.

Senator B.E. Shenton:

This would be purely in the power of the Minister for Housing as an individual or as a body corporate?

Director, Jersey Property Holdings:

That is my understanding of the documents that I have read.

Senator A. Breckon:

Can I just come back to the ministerial decision, David? Could you just confirm the actual requirement of a ministerial decision, what is the purpose of it?

Director, Jersey Property Holdings:

The purpose of the ministerial decision, well, there are 2 ministerial decisions in this situation: one is the Housing Department's decision, because they are the part of the States that is administering Housing, and then there is the ministerial decision which is made by Property Holdings for the recommendation to the Minister for Treasury and Resources, which is a mechanism which was put in place to avoid the States being swamped with a huge number of property transactions. So the Minister for

Treasury and Resources acts on behalf of the States Assembly and receives a recommendation with technical advice from Property Holdings.

Senator A. Breckon:

That is under Standing Order 168.

Director, Jersey Property Holdings:

It is under Standing Order 168.

Senator A. Breckon:

Okay. Can I just come back now to the ministerial decisions in this case. There was one from Housing, MDH2009/49 of 29th May, which asked the Minister for Treasury and Resources to accept the recommendations of the then Minister for Housing, that was for the purchase of these properties. I think you are aware of that.

Director, Jersey Property Holdings:

Yes.

Senator A. Breckon:

Okay. Then in response to that there was a ministerial decision of 4th June from Property Holdings to the Minister for Treasury and Resources, and then there was another ministerial decision of the Housing Department of 11th June. The reason I say that is the ministerial decision of 4th June records content of the ministerial decision of 11th June, so a week later something has been recorded a week before, if you are with me on that.

Director, Jersey Property Holdings:

I think that, in that case, that ministerial decision has not been properly dated.

Senator A. Breckon:

Yes. Okay, then. But these are the public's access to what is going on, and I am not saying that is your fault, but that is the situation. I understand the second one and Property Holdings was dated 4th June but signed on 18th June. I wonder if you could share with the Committee the reason for that fortnight's delay and any tension there may have been between Property Holdings and Housing about the adequacy of Homebuyer and the tests applied to it.

Director, Jersey Property Holdings:

Firstly, I think I need to say that the Housing Department was of the opinion that as the States would only be acting as a go-between between developer and purchaser and would, effectively, only own the properties for a matter of minutes with no risk, that this really was not an acquisition by the public under Standing Order 168 and, therefore, they proceeded with their ministerial decision up until the end of May with the view that this would not be reviewed by Property Holdings. So we received the requirement to review this ministerial decision fairly late in the day and, in fact, we received it after there had been a public announcement as to the details of the transactions. We therefore had a very limited amount of time to do the necessary due diligence and that was done right at the beginning of June. When I first presented information to the Minister for Treasury and Resources, he required me to go back and do a level of due diligence into areas that we would not normally have done for a

property transaction, and I produced a report for the Minister, which is referred to by the Comptroller and Auditor General in his report dated 11th June. I have referred in the evidence I have given so far to some of the comments which I made in that report, in particular, recommending or advising the Minister that, in my view, the Homebuyer scheme had not been properly founded but recommending that it could be that the property transaction could be accepted under the terms which had been set out. I also recommended to the Minister that it was not imperative that a decision be made on this matter on 12th June (the date that I presented the report) but that a decision would potentially be required by 17th June to avoid delays which might prejudice the transaction. I recommended that further advice be sought from the Greffier and the Attorney General, in the absence of the Solicitor General, as to the legal status of the Jersey Homebuyer housing scheme. So there were really, basically, 2 options: one is to verify the legal status of the scheme and accept the ministerial decision under the terms that had been presented, or consider it as a property transaction. The Minister for Treasury and Resources subsequently issued a note to the effect that he had approved the transaction as a property transaction, purely as a property transaction.

Senator A. Breckon:

Did he qualify that with any concerns?

Director, Jersey Property Holdings:

I think they are referred to in the Comptroller and Auditor General's report.

Senator A. Breckon:

Is there anything you are able to share with us about what they were?

Director, Jersey Property Holdings:

I think simply echoing the comments that I had made earlier in my report.

Senator A. Breckon:

When you were looking at this, were you aware of the terms of the Gateway scheme and, without knowing who the applicants were, of their means and how they were applying and any tests there might have been on that?

Director, Jersey Property Holdings:

No. We did not consider that the mechanism of the operation of the Gateway scheme was something that fell within Property Holdings' remit. We were advised that only simple measures had been put in place by Housing.

Senator A. Breckon:

Under P.74 that was approved by the States, there was wording in there that says a number of tests should be applied to the people applying. Were you aware of any of those circumstances, or not?

Director, Jersey Property Holdings:

No. I think that those are questions which I think you really should be putting to Housing but they are not part of our Property Holdings remit.

Senator A. Breckon:

So from a financial point of view, you would not be aware of any applicant and their circumstances, whether they were creditworthy or what their circumstances were?

Director, Jersey Property Holdings:

I am aware, but only after the event, of the details of the transactions because I was advised of those details by the Conveyancing Department.

Senator A. Breckon:

When you mentioned before about how long it would take, it sounds as if it was spinning a coin, buying and selling. Do you know how long it took to sell the 46 houses and for them to be bought again, from the first one to the last one?

Director, Jersey Property Holdings:

No, I do not. But I ...

Senator A. Breckon:

Would you be surprised to know it was 6 months?

Director, Jersey Property Holdings:

I know that each individual transaction was a back-to-back transaction and that is the issue with regard to were the public at risk. So the back-to-back transaction means that we buy and sell at the same time so it is guaranteed that the States would not be exposed to financial risk.

Senator A. Breckon:

But were you generally led to believe that more or less 46 would happen within weeks, if not at once?

Director, Jersey Property Holdings:

A degree of urgency was expressed, hence the comments that I made in my recommendation to the Minister for Treasury and Resources that time was of the essence and he needed to make a decision by the 17th.

Senator A. Breckon:

He therefore took 2 weeks to sign a ministerial decision that you prepared on the 4th, he signed it on the 18th?

Director, Jersey Property Holdings:

The ministerial decision that was prepared on the 4th was subject to the report which I had produced on the 11th, which was presented on the 12th and the Minister for Treasury and Resources gave due consideration to the issues which I had raised and accepted the recommendation that this should go forward as a property transaction.

Senator A. Breckon:

Thank you.

Senator B.E. Shenton:

When we were speaking to the Law Officers yesterday, they said that we should not really consider the La Providence scheme as a Homebuyer scheme as such; we should perhaps refer to it as the La Providence scheme, a bespoke scheme to deal with the

sale of the houses at La Providence. You will no doubt be aware of how shared equity schemes operate in the U.K. (United Kingdom) and there have been calls for us to amend legislation in Jersey to allow shared equity, because at the moment shared equity schemes are not allowed under Jersey law.

Director, Jersey Property Holdings:

That is correct. The Homebuyer proposals were not a shared equity scheme, although they are often referred to as such. It is a deferred payment.

Senator B.E. Shenton:

That is right. The deferred payment scheme of La Providence was done under an ancient law, which I cannot remember the project or law ... 1882. What are the advantages of doing it under an ancient law as opposed to establishing a proper shared equity scheme?

Director, Jersey Property Holdings:

You are asking my opinion: my opinion is it is the only way in which it could have gone forward without significant delay.

Senator B.E. Shenton:

Is that the only advantage?

Director, Jersey Property Holdings:

That was my understanding, is that there was a lot of dialogue with the Law Officers Department as to how a scheme of this nature could proceed and that this was the only way that it could go ahead.

Senator B.E. Shenton:

Would it be usual under a shared equity scheme for the person holding the second charge, that is, the States of Jersey, to have a minimum payment amount due to them?

Director, Jersey Property Holdings:

There are many different shared equity schemes. I am aware that there are some where there is a requirement for a minimum payment, yes.

Senator B.E. Shenton:

All right. Okay. In your opinion, do you think that this Homebuyer scheme should have been set in legislation and brought to the States in legislation as opposed to the way that it was done?

Director, Jersey Property Holdings:

I think the original intention, if you look at the proposition, is that it would come back to the States; in fact, that was Scrutiny's recommendation, but with reference to Hansard, the Minister for Planning advised the States that he had agreed with the Chairman of the Scrutiny Panel that this was not going to be necessary and that, effectively, a working model for the Homebuyer scheme would be prepared and that this would be enshrined on a supplementary planning guidance.

Senator B.E. Shenton:

All right. In terms of discount, did Property Holdings get involved in looking at the discounts that were to be offered to the individuals?

Director, Jersey Property Holdings:

No, we did not. We did not look at the discounts. There are some issues in relation the level of discount as to whether the properties should have been discounted to the value of social rented property.

Senator B.E. Shenton:

All right. You have mentioned that one of the parameters of the policy is to look at valuation. Do you look at the valuation of the plans?

Director, Jersey Property Holdings:

Yes. The overall valuation of the properties was carried out some time before the transactions were completed, but that is not abnormal in a property transaction and the property market may move up or down from the time that the deal has been concluded and usually it is only under exceptional circumstances you would change the price paid. But in this situation the value of the properties is ... I am not saying irrelevant, but it is not the highest issue; the issue is what is to be negotiated with the developer as to the payment for the properties. My experience, certainly in the U.K., is that while Planning guidelines, Planning policy may set down the proportion of social houses or affordable houses in any particular development, this is usually a matter of negotiation with the developer as to what that proportion finally is arrived at. So, for example, the previous Mayor of London had set a level of 50 per cent social housing

but no developer ever produced 50 per cent social housing and most of them settled around somewhere between 15 per cent and 20 per cent maximum.

[12:30]

So although you may set guidelines, it comes down to what can be afforded because the developer may turn round and say: “You are asking me to do something which means that this scheme is unaffordable and, therefore, we have to agree a compromise.” So we could have gone in and said: “You will provide 46 houses at social rented value”, which is around £200,000, and the developer would have said: “Well, I am not going to proceed with the project.”

Senator B.E. Shenton:

You mentioned that sometimes valuations are set some time before the actual transaction takes place. I am a layman, but I am well aware that the property market does move. When you say some time before, are you talking about sort of 18 months before? Could you have a significant movement in property value?

Director, Jersey Property Holdings:

In Jersey we do not have exchange and completion but whatever price is set on the mainland at exchange is the price that is paid at completion and the period between exchange and completion may be a couple of months, usually not more than that, but it may be much less; it might be simultaneous exchange and completion. The question is whether or not the valuation of the property is key to the transactions that are going on because, basically, you have a number of purchasers who are quite

willing to pay the prices that were quoted, we had a developer that was prepared to sell those properties to the States at a lower price and that money then, the discounted amount, is something which the States can potentially receive when certain conditions are met when the properties are sold.

Senator B.E. Shenton:

Right. So, for example, in this scheme the valuations were set some significant time before the actual transactions went through but there is ...

Director, Jersey Property Holdings:

From a States perspective, if the valuations were too high, and we had insisted that the properties were revalued and the price reduced, then the amount of the discounted sum received by the States would have reduced. So why should we do that?

Senator B.E. Shenton:

There would be, obviously, an advantage to the homebuyer.

Director, Jersey Property Holdings:

The homebuyers were happy to pay the amount that they paid. Property transactions are all about willing buyer, willing seller; valuations are indicative.

Senator B.E. Shenton:

It is a question which you probably cannot answer, but do you think the people that took part in the scheme knew what they were taking on? Because it is quite a

complicated scheme with a first charge and a second charge and a minimum amount payable under the bond, and so on and so forth.

Director, Jersey Property Holdings:

I am really not sure I can answer that. All I can say is that they are receiving in some cases quite large properties, 3 to 4-bedroom properties, at at least 45 per cent less than market value and that amount, the discounted amount, does not need to be paid until they sell that property and, therefore, it seems like it is a pretty good deal.

Senator B.E. Shenton:

Did you have a look at what happens with regard to inheritance for the properties and the position?

Director, Jersey Property Holdings:

I am aware of the conditions that were set which are that the discounted amount must be paid if the property is sold for any reason so, I suspect, it would only be when the purchaser is forced to sell the property, either through divorce or through default or upon death. So the only concern I would have from an overall property perspective is that Homebuyer, effectively, is giving properties which will be lifetime properties because there is no incentive for the occupiers of those properties to sell.

Senator B.E. Shenton:

But we were quite surprised that a number of properties were sold to people in sole names as opposed to the couple. On the death of that individual they would not necessarily have the right to pass the property on to their heirs.

Director, Jersey Property Holdings:

That is correct.

Senator B.E. Shenton:

The property would have to be sold and the bond repaid to the States.

Director, Jersey Property Holdings:

Yes. Although the Minister for Housing, at his discretion, may decide that the property can remain or the status quo can remain and I would expect that with a husband and wife situation that is not an unrealistic thing to do because, if they had not been properly advised to apply for the property jointly and severally at the beginning, then I would think that is a reasonable circumstance for the Minister for Housing to use his discretion.

Senator B.E. Shenton:

Although I think within the actual contract it says that it can only be sold to a first-time buyer. I do not think that there is the power of the Minister to negate what is set in a contract, which is part of a law court.

Director, Jersey Property Holdings:

Basically, the amount of the discount is payable under certain circumstances and those circumstances are if the property is transacted and there is an undertaking or there is a letter, as far as I am aware, which gives the Minister for Housing the ability to waive that. So what we are talking about is if a husband or a wife (whoever is the

named owner of the property) might die, then the Minister for Housing has the ability to say: “Right, this is unreasonable because this is a family unit in a family property and we will forego the receipt of that discounted amount until there is a genuine sale of that property into the open market.”

Senator B.E. Shenton:

My understanding was that the contract said that if the property is transacted, it passes to someone who qualifies, and that is set in the contract. So if the owner of the property dies, obviously they cannot carry on owning a property and the property has to be transacted, so the Minister would not have that power, would he?

Director, Jersey Property Holdings:

The property is transacted so it comes then, through whatever is in the will, to the wife or the spouse and what we are talking about is whether that then triggers the repayment of the discounted amount. What I am saying is there appears to be the opportunity to consider that situation on its merits and for the Minister for Housing to elect that that amount should not be repaid.

Senator B.E. Shenton:

Can I just ask, Chris, is that your understanding?

Mr. C. Swinson:

It would be helpful to go and look at the documents that David is referring to and to check if they stack up.

Senator B.E. Shenton:

Yes. Okay.

The Connétable of St. Peter:

Just a quick one for you, David. Are all the properties category (a) or are some of (j) cats?

Director, Jersey Property Holdings:

I am not sure.

The Connétable of St. Peter:

So they could be for non-local qualified people who are coming on (j) cats, presumably.

Director, Jersey Property Holdings:

They could be. I am really not sure.

The Connétable of St. Peter:

You are not aware whether the purchasers were (a) or (j) cats?

Director, Jersey Property Holdings:

No, I was not party to the gateway that was used, I am simply aware of the names and the amounts of the transactions.

The Connétable of St. Peter:

With regard to the first-time buyer, was that the first-time buyer in perpetuity within the contacts?

Director, Jersey Property Holdings:

I believe so, yes.

The Connétable of St. Peter:

It would be useful if we could, as Chris says, see a copy of the contract of sale. I do not know whether you are in a position to make them available, David, through your partners?

Director, Jersey Property Holdings:

I think the intention was that the properties would satisfy a requirement for affordable housing and that the States had agreed and had been presented with information at that particular time that there was a greater requirement for affordable housing than there was for social rented. So if you look at the overall transaction, the States facilitated the delivery of 46 affordable houses and the prospect of £8.5 million which, if you divide that by 46, is not far short of the amount of money to build 46 social rented houses. So it does look like a potential for a win-win, provided all of the discounted amounts are received.

Senator B.E. Shenton:

Although you say the chances of receiving all those within a reasonable timeframe is ...

Director, Jersey Property Holdings:

Property is never short term, it stays around for a long time, and particularly when there is a limited amount on the Island, that we always have to look at the long-term perspective. I am sure that when in many years' time these discounted amounts begin to be paid (because they would eventually have to be paid on the transaction) that the States would be very pleased that somebody did this many years ago because it is a windfall.

Senator B.E. Shenton:

Did you look at every single transaction that went through or ...?

Director, Jersey Property Holdings:

No.

Senator B.E. Shenton:

Were you surprised at the size of the deposits of some, given that it is a social scheme?

Director, Jersey Property Holdings:

I am aware that there were some quite large deposits but there were a limited number, I think probably about 7 or 8.

Senator B.E. Shenton:

Okay. Is it the case under Jersey law that ... because it was quite surprising to see the number of sole purchasers in the scheme, and this is not something we have looked

into, but is it the case under Jersey law that if you are a couple and the male has owned a property before but the female has not, you could apply in the female's name and get a first-time buyer discount?

Director, Jersey Property Holdings:

I believe that is correct, yes.

Senator B.E. Shenton:

So this may explain why there are so many single ...

Director, Jersey Property Holdings:

There are 14. Where have you taken your cut-off point? Is it 10 per cent of the ...

The Connétable of St. Peter:

No, I have taken ones that just say single owners, that record as ...

Director, Jersey Property Holdings:

Oh, single owners, sorry.

The Connétable of St. Peter:

Yes.

Senator B.E. Shenton:

I understand there is in the pipeline, or they would like to be in the pipeline, some further homebuyer schemes. What would you like to happen from a Property Holdings perspective before any more of these schemes land on your desk?

Director, Jersey Property Holdings:

We have received a draft copy of the supplementary planning guide, which we are currently reviewing, and so we will put our comments back to Planning in respect of that.

The Connétable of St. Peter:

Are there any significant areas which they have addressed within the new supplementary guidance that was not in place for Homebuyer?

Director, Jersey Property Holdings:

I do not believe so. I think the principles and the mechanism for Homebuyer were as had been demonstrated at La Providence. The only issue which we had or Property Holdings had is that we consider that, technically, the process for putting it in place had not been completed and that is why we had recommended that it go forward as a standalone property transaction. But it is certainly a process which can be used as the basis for consideration for the supplementary Planning guidance.

The Connétable of St. Peter:

Just to clarify; I may have missed the point earlier on. Were you involved in any way with going through the Gateway process? Did you advise or have any input whatsoever into that?

Director, Jersey Property Holdings:

No. No, we did not. No.

Senator A. Breckon:

Can I come back to the ministerial decision, David, the one of 4th June which was signed on 18th June? It says in there that it was signed in accordance with P.74/2008, which was the projet that went before the States. Can I just remind you of what that projet said? It said: "There is also a need for housing which addresses the need of those with incomes too great to be eligible for social rented housing but are unable to afford to buy the cheapest first-time buyers." Now, bearing in mind what you have just said, are you satisfied and did you give an opinion on whether those purchasers satisfied what was in the projet, because your ministerial decision says you: "Purchase this in accordance with P.74", that is the individuals. Was there any transparency there?

Director, Jersey Property Holdings:

No.

Senator A. Breckon:

No. The reason I say that is we obtained the list yesterday and 11 of the 46, which is near 25 per cent, paid a deposit of £44,000 or more. Does that surprise you?

Director, Jersey Property Holdings:

No, because I have seen that list but I saw it in retrospect.

Senator A. Breckon:

Okay, then. In your opinion are those people (those who were unable to afford to buy the cheapest) first-time buyers if they can afford that deposit?

Director, Jersey Property Holdings:

Clearly, those that could pay significant deposits do not fall into that category.

Senator A. Breckon:

Would it surprise you that somebody paid a £150,000 deposit?

Director, Jersey Property Holdings:

No, because I have seen the list.

Senator A. Breckon:

Okay, and 2 people paid £150,000, are these needy people who qualified for Homebuyer?

Director, Jersey Property Holdings:

No.

Senator A. Breckon:

So what exactly have we created, then? Are you content that we have created something which is transparent, which we can hold up to the public and say; “This is our housing scheme that assists people to get on the housing ladder”?

[12:45]

Director, Jersey Property Holdings:

I know you will be talking to the Chief Officer of Housing later and I think you need to address those questions to him about the full considerations that were given to those individuals under the Gateway scheme. I would be merely speculating as to where those additional monies came from, I have no idea.

Senator A. Breckon:

Of the 46 purchasers, there were 17 who paid a 5 per cent deposit and 13 who paid 10 per cent. In your professional opinion, is that about the right rate for somebody buying a house?

Director, Jersey Property Holdings:

Certainly, I was surprised to see the banks, at that particular time, lending on 5 per cent; 10 per cent would have been appropriate.

Senator A. Breckon:

So some of those that perhaps were under that, then it was worthwhile from that aspect?

Director, Jersey Property Holdings:

Yes.

Senator A. Breckon:

Thank you.

Mr. K. Keen:

Mr. Flowers, can I just ask you 2 questions? One is about valuation I think I picked up from what you said before. You are, I guess, the States' most senior property expert and, therefore, someone, when buying significant amounts of property, that the politicians would look to. It sounds to me like you said that you were not interested in valuation on the basis that the houses were being sold on a sort of back-to-back basis.

Director, Jersey Property Holdings:

No. We were satisfied that an external professional valuation had been carried out and that we were aware that there might have been some movement in the market in this particular category of 3 to 4-bedroomed houses. However, the nature of the transaction with the developer was such that that valuation was not the most significant element. The price that the States was buying the properties for would be anywhere between cost ... well, as close to the developer's cost as possible.

Mr. K. Keen:

You were satisfied that the States could not have got a better deal, even if they were going to pass part of that deal on to others?

Director, Jersey Property Holdings:

I was not party to the negotiations with the developer and while, generally speaking, a developer will build social rented or affordable housing, if that is part of his Planning

obligation, as close to cost as possible, it is almost impossible to make a profit on those properties. It depends on what specification he had agreed with Planning as to what that cost was. It could be anywhere between £200,000 and £220,000 or £230,000. But, as I have said before, the developer has the option to say: "Well, I am not going to proceed with this development because what you are asking me to do creates a loss for me on the overall project." So it does become a matter of what transaction price is good for both parties.

Mr. K. Keen:

Understood. But as a layman, I would have thought that the States' most senior property person would have been involved in those negotiations.

Director, Jersey Property Holdings:

As I said, we were brought into this to review it after the transactions had been effectively concluded and there are reasons - I have explained the reasons - why the Housing Department felt that this was something which fell outside of Standing Order 168 and, therefore, they felt that they were empowered to carry out those transactions.

Mr. K. Keen:

In your memo of 11th June to the Minister, where you make some recommendations about how things should go forward for the Homebuyer scheme that is as was proposed to the States, are you aware that anything has been done, 18 months later, to take your recommendations on?

Director, Jersey Property Holdings:

I referred to the supplementary Planning guidance which has been produced in draft form, so that is now under review.

Mr. K. Keen:

Is there anything else? That is not the only thing that you were asking for, was it?

Director, Jersey Property Holdings:

Perhaps you can remind me. I have got the document in front of me, but that was certainly my major concern, is that there ought to be an established and agreed Planning guidance as to how the mechanism for Homebuyer should operate.

Mr. K. Keen:

I suppose the second thing you said, and more importantly, the undertaking to bring the scheme back to the States, that is important.

Director, Jersey Property Holdings:

I am not sure, in hindsight, I was absolutely correct there because, while the Scrutiny Panel's recommendation was that it should be brought back to the States, if the reading of Hansard was that the Minister for Planning advised that he had agreed with the Chairman of the Scrutiny Panel that it was not necessary to bring it back to the States, we then fall back on to other conditions which are, primarily, the establishment of supplementary Planning guidance.

Mr. K. Keen:

So if one of these things for a new site came along today and you were asked to advise the Minister, would you be advising the Minister that this was okay as part of a properly approved Jersey Homebuyer scheme, or would you be saying: "It is just a property transaction where there is no risk to the States"? What would be your advice today?

Director, Jersey Property Holdings:

The advice today would be that if the supplementary Planning guidance is in place, which gives the guidelines as to how the discounts are to be calculated, et cetera, then that establishes the Homebuyer principle. But at the moment my view would be that the Homebuyer scheme has not been established.

Mr. A. Fearn:

Just to take it a little bit forward, did your analysis include a view or consideration at the start of it on which the homes were built?

Director, Jersey Property Holdings:

No. But I am aware that the specification for the homes at La Providence was quite high. However, the issue as to whether or not there is a material difference between the specification for social rented housing of private property, certainly the interior fit-out for a social rented is, on the information I have, no less than a private property; in fact, the fittings are generally quite robust because there is usually a greater turnover of occupants. So I would not consider that there is a huge difference. Where there might have been a difference is in the external treatment, which is the major cost

in a property in the shell construction, and any requirements from Planning as to the appearance of the properties.

Mr. A. Fearn:

I was just wondering did you consider the La Providence scheme as a trial. Were you aware that it was being run as a trial?

Director, Jersey Property Holdings:

I certainly think that all of the indications were that it was in accordance with the principles of Homebuyer, which had been approved by the States under P.74, and subject only to putting in place the supplementary planning guidance it was in fact a working model.

Senator B.E. Shenton:

Going forward, how do we value intermediate housing?

Director, Jersey Property Holdings:

Intermediate housing, can you ...?

Senator B.E. Shenton:

Well, that is the definition of Homebuyer housing: intermediate housing.

Director, Jersey Property Holdings:

I think each property transaction has to be treated on its merits. As I say, there would be guidelines, but if the States imposes requirements in the form of planning again

which results in the fact that the projects are unaffordable, then you will stop developers providing affordable housing.

Senator B.E. Shenton:

Should Property Holdings in the future be more involved in the valuation process?

Director, Jersey Property Holdings:

I think we learnt through this process that the best advice needs to be obtained at the earliest stage and we work with Housing on other property transactions and, as I have said earlier, what we try to do is to see if there are any issues, to resolve those issues before the recommendation is made to the Minister so that we never make a recommendation to the Minister for Treasury and Resources to reject a proposal. It is always: “We have dealt with the issues and our recommendation is to accept.”

Senator B.E. Shenton:

We, as a Committee, cannot find any documentary evidence with regard to how the actual value, the price to be paid from the developer, was achieved or negotiated and who it was negotiated by. Do you have any light you could shed on that? You have no idea?

Director, Jersey Property Holdings:

No.

Senator B.E. Shenton:

Okay. Alan ...? No. Thank you very much. Thank you. That is not bad timing.

[12:55]