

STATES OF JERSEY



HOME BUY OR SHARED EQUITY SCHEME: APPROVAL BY THE STATES

Lodged au Greffe on 30th September 2011
by Senator A. Breckon

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to request the Minister for Planning and Environment, following consultation with other Ministers as appropriate, to bring forward for approval by the Assembly a comprehensive 'Homebuy' or shared equity policy (set within the proper context of legal advice) and to agree that the 'Homebuy' scheme should not be extended to any other properties until this policy has been approved by the States.

SENATOR A. BRECKON

REPORT

The States, or any Minister has not formally agreed any proper transparent structure to facilitate the sale of houses to persons who can't afford the full market price. In my opinion, it is foolish to keep making it up as we go along and a formal structure and process should be done using legislation so that everyone knows the rules and it is open and transparent. Such a process will stand the test of time, the current practice of tailoring to individual schemes will not.

I should declare my previous involvement with the setting up with what best can be described as an assisted property purchase scheme.

- (1) P.74/2008: Jersey Homebuy Housing: amendment to Island Plan Policy H1 and comments from the Health, Social Security and Housing Scrutiny Panel (presented on 9th July 2008) of which I was Chairman.

These comments included the following –

“It is clear that that much more work needs to be done before this policy can be presented to the States as fully formed and ready for implementation.”

During this debate, the Ministers for Planning and Environment (Cohen) and Housing (Le Main) offered an unconditional undertaking to the Sub-Panel that if the principle of Jersey Homebuy was accepted by the States, they would commit to submitting the detailed plans for Scrutiny approval before taking any further action.

Scrutiny could thus reserve sign-off on the proposals until it was satisfied with all the details that remain to be developed, to include the Gateway mechanism, legal arrangements, allocation procedures, etc.

However, in the event, the Scrutiny Sub-Panel did not receive detailed proposals of the Homebuy Scheme before the transactions went ahead. For example, the Gateway Policy was never shown to the Scrutiny Sub-Panel, and the Public Accounts Committee (PAC) only had sight of it in January 2011, well after the transactions had been carried out.

There was no policy for Scrutiny to approve and no formal record of the Scrutiny Sub-Panel having been satisfied that their concerns had been addressed, or any minutes or records kept substantiating this.

There was a commitment made during the debate on P.74/2008 to hold off implementing the Homebuy policy until it was fully formed and Scrutiny satisfied. However, this was not adhered to. It is also important to note that it is not the role of Scrutiny to 'approve' or 'sign off' policy. As stated by the Comptroller and Auditor General, 'it is not normal for a Scrutiny Panel to be asked to give approval to a scheme'.

- (2) I was, at around the same time, the Chairman of the Health, Social Security and Housing Scrutiny Panel and also a member of the Sub-Panel that had some involvement with this issue.

- (3) On behalf of the Public Accounts Committee, I was the lead Committee member involved in producing the report.

Sale of Houses under the Jersey Homebuy Scheme

I have set out below some details from the PAC report of 21st April 2011 re the **‘Jersey Homebuy Scheme’**.

“The Way Forward:

- While the Public Accounts Committee applauds the philosophy behind a scheme to extend home ownership to those who would otherwise be unable to get on the property ladder, we are very concerned at the way in which the Homebuy scheme has been implemented, and would put forward the following recommendations and comments:
- If further transactions under the Homebuy Scheme are envisaged, new primary legislation needs to be introduced to establish the framework for a true shared equity scheme. This would mean that the public would have increased control over its interest in the equity of a property. Not only does this echo the opinion of Dandara’s legal representative, it also is in line with Solicitor General’s original advice in December 2007.
- On 10th January 2011, Dandara’s lawyer wrote to the PAC to advise that in his client’s opinion, Jersey’s legal framework should be changed to allow `shared equity` in the proper sense of the word. He wrote: *‘I do not think it would be going too far to say that the form of bond stretched near to the limit the appropriate principles of Jersey Law. I think it unlikely that any commercial lender or property holder (including housing trusts) would find it a sufficiently secure basis for transacting.’*
- The quantum of deferred payment on offer (essentially the discount offered) should be based on an objective formula rather than through discussion with the developer.
- The Gateway policy should be tightened up and made transparent in order to eliminate unfairness and ambiguities as far as is possible.
- A comprehensive Homebuy or shared equity policy should be put to the States Assembly for approval (set within the proper context of legal advice) before the scheme is extended to any other properties.
- There is a concern that a policy described as `half-baked` (by the Head of Conveyancing at the Law Officers’ Department) was pushed through despite the lack of formal sanction by the States Assembly. The recent PAC update on the States Accounts raised concerns that Ministers could push through their own political agendas without taking into account the valid concerns of those around them. In this case, the desire of the Minister for Planning and Environment (Cohen) to railroad through an election manifesto promise highlights the stark reality that Ministerial Government lacks some very basic checks and balances.

- We are concerned that fundamental decisions, such as the price of the properties and the discount settled on, were reached without any formal Ministerial Decision. In future, all significant matters of policy involving public funds must be subject to Ministerial Decision and/or approval of the States.
- The Public Accounts Committee considers it imperative that the above issues are addressed before the Homebuy Scheme is extended to other sites, and mistakes repeated.”.

My Comments

The above are based on facts or evidence (or lack of it), not sentiment and emotions. If the States are to assist people with home ownership, then it needs to be fair, transparent and workable to all, not just a few here and there, and therefore needs to be within a legislative framework.

Financial and manpower implications

Officers of the States of Jersey in various departments will need to take some time and effort to make this happen: apart from that, it could be seen as a future benefit on States finances if people are living in their own affordable homes without the need for financial support from the States.