

Senator Kristina Moore  
States Greffe Morier House  
Halkett Place  
St. Helier  
JE1 1DD

17 May 2019

Our reference: PFL CEO 20190517

Dear Senator Moore

**Corporate Services Scrutiny Panel's Review of the Draft Public Finances (Jersey) Law 201-**

The Board of Andium Homes notes the proposed draft Public Finances (Jersey) Law (P.28/2019) and respectfully requests that the Corporate Services Panel have regard to the following in their consideration of the draft Law. In doing so, the Board limit comment to the provisions of the draft Law that would impact on the operation of Andium Homes.

Andium Homes Limited was established by the States Assembly in approving *The Reform of Social Housing* (P.33/2013), and is generally recognised to have proved highly successful in performing its remit as the States of Jersey's affordable housing developer and landlord in the 5 years since its incorporation.

In establishing Andium Homes, it is important to acknowledge that the States Assembly recognised the key importance of freedom to act and the need to avoid unnecessary bureaucracy and interference in the performance of the business. The following excerpts from P.33/2013 are pertinent:

*The change would mean better "value for money" for the taxpayer from the initiation of an operationally efficient and commercially agile company able to deliver continuous improvement for Tenants and to drive optimum value from the States' housing assets on a sustainable basis.*

*In relation to the status quo, Professor Christine Whitehead OBE, (author of "A Review of Social Housing in Jersey. 2009" and Director at the Centre for Housing and Planning Research: University of Cambridge), concluded that:*

*"while in principle, the status quo might appear to be the cheapest and easiest option it is fundamentally unsustainable, and it is unlikely that the flexibility necessary to generate a modern social sector could be achieved without major changes. Maintaining the status quo would simply lead to an increasingly segregated, inadequate and inefficient sector, and one which is increasingly out of line with the general approach to the provision of public services in Jersey."*

*The Professor concluded that the current arrangements were not appropriately structured or sustainable if a twenty-first century social housing system was to be provided. If the status quo*

*were to be maintained, the sector would become smaller and housing quality would decline. In part this was an outcome of the policy framework which places controls on access to States housing. In part it was the result of the governance and financing structures, which inhibit the adequate management, maintenance and upgrading of the housing stock.*

It is also important to recognise the numerous existing controls, checks and balances already in place. Like other Arms-Length Bodies, Andium Homes was established by statute and has:

- A Memorandum and Articles of Association, approved by the States Assembly, establishing the basis by which the Company operates in accordance with the Companies (Jersey) Law 1991;
- A Transfer Agreement with the States of Jersey acting through the Minister for Treasury and Resources as Guarantor, establishing the basis by which the annual return will be paid to the States of Jersey; and
- A Memorandum of Understanding with the Minister for Treasury and Resources, which sets out the requirements for approval of strategic business planning, for half-yearly performance reporting, for reporting of key performance indicators and annual reporting and how a “no surprises” open flow of information operates between the parties.

Therefore, it is unclear to our Board why further controls are necessary and what risks the additional provisions within the draft Law are intended to mitigate and which current controls cannot effectively address. The Andium Homes Board note that there are no indications within the draft Law for protecting the basis of establishment of arms-length organisations to maintain their freedom to operate independently, and with commercial efficiency free from bureaucracy, accepting that some evolving reform of the States shareholder function may be necessary.

We note the comments of our colleagues at Jersey Telecom and Jersey Post and support the request that the Law should make unequivocally clear how conflicts between the requirements upon Directors under the Companies Law can be squared with the role of Accountable Officer. In particular the duty upon Directors under Article 74(1)(a) that require “*a director in exercising his/her powers and discharging his/her duties shall act honestly and in good faith with a view to the best interests of the company*”. This could easily conflict with a requirement stipulated upon an Accountable Officer by a Principal Accountable Officer.

Such safeguards learnt from best practice reform elsewhere, such as the *UK Cabinet Office Code of Good Practice for Partnerships between Departments and Arms-length Bodies* would also be welcomed to reassure the Andium Homes Board on behalf of our over 14,000 Clients, that the proposed controls would not inhibit the maintenance and continual improvement of decent homes, the delivery of the 3,000 affordable homes needed in Jersey and the continual improvement of the Andium Homes’ business.

Yours sincerely



**Ian Gallichan**  
Chief Executive