

STATES OF JERSEY

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LA RÉCOLTE DES FRUITS, ST. MARTIN: REMOVAL OF AGRICULTURAL OCCUPANCY RESTRICTION

Lodged au Greffe on 6th September 2005
by Senator R.J. Shenton

STATES GREFFE

PROPOSITION

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

to request the Environment and Public Services Committee to reconsider its decision in relation to units of accommodation at La Récolte des Fruits, La Rue de la Fosse à Grès, St. Martin and to approve the removal of the agricultural occupancy condition on units.

SENATOR R.J. SHENTON

REPORT

This proposition is unique in that it requests the States to rectify a wrong perpetuated on an individual by a States department. The consequences of that error on the part of the Agriculture and Planning Department of the day has caused hardship and harm to a Jersey family. The States need to go back to 1990 when the Jersey Evening Post reported on a Court case with regard to living accommodation for staff employed in the agriculture industry. The Attorney General of the day quite rightly criticised the housing conditions of staff employed on farms but singled out one small grower. That small grower was charged when as the report (Appendix 1) and judgement (Appendix 2) show he was not as guilty as others in the industry. The small grower concerned is sadly no longer with us and so took this unfair slur on his character to his grave. To compound the injustice on his family, the States were guilty of an even worse decision when their handling of an agricultural loan put the grower's son out of business. Mr. and Mrs. Gary Barette of La Récolte des Fruits, St. Martin, took over the family business of strawberry-growing and made a reasonable living for their young family. The question of staff accommodation had been resolved by the construction of 4 well-designed units, which were ahead of their time, and it is a fact that they were better than a lot of staff quarters on some farms today.

In 2000 the States gave a grant of £16,900, together with an interest-free loan of £75,000 to another grower to start up in competition in the strawberry market. The extra competition in the strawberry business forced Mr. Barette out of the business. Mr. Barette is now employed as a Prison Officer and his wife is a Staff Nurse at the General Hospital. They supplement their income by renting out these self-contained units at a reasonable rent.

The present Environment and Public Services Committee was requested to release the accommodation from its agricultural conditions because the farm was no longer a working farm. This request was refused; see letter dated 21st July 2004 (Appendix 3). Mr. Barette replied, and his letter dated 22nd August 2004 is attached (see Appendix 4). It was then that Mr. Barette approached me to see if I could help him and I asked to see the property and any correspondence that referred to the application.

Because of illness I was delayed in my approach to Planning but I eventually met with the President during the Christmas recess. I pointed out that, in my opinion, the Barettes had been treated badly by the States and the very least that we can do would be to lift the agriculture condition in force on the units and make them available to local tenants. Housing had already approved A-H tenancies (see Appendix 5) and it seemed to be very unfair to expect Mr. Barette to accommodate seasonal workers employed by the select band of large growers favoured by the States.

Having studied the Agricultural Loan Register for the past few years it became apparent to me that some of the larger growers had done very well with public money support, and it was reasonable to expect them to provide their own accommodation. The President, Senator Ozouf, appeared to concede to my request but nothing happened until Mr. Barette received a letter dated 3rd March 2005 (see Appendix 6). Members will read that not only were the Environment and Public Services Committee refusing the request for reconsideration, they were also wanting to approve the advertisement to go into the Jersey Evening Post, including any rental charges. Mr. Barette had previously advertised the units without any interest being shown by the agricultural industry. Local people who had rented these units were just as important as seasonal workers and that the local people were being denied the opportunity of a small self-contained unit with parking in the countryside. If the Agricultural Condition was to be removed it is the intention of Mr. and Mrs. Barette to upgrade the units by adding another bedroom in the roof space, which would make them ideal for a family with a child or a retired Jersey couple.

The attitude of the Environment and Public Services Committee comes into question because it appears to me that the corporate company comes before the individual. In the debate I will bring forward examples where permission has been granted for staff accommodation to be released from the constraints of agricultural occupancy so why not in this case or is the grower too small to be considered. Mr. Barette's letter dated 23rd March 2005, which is his advertisement to be placed in the JEP, and the Committee's reply dated 31st March 2005 are included as Appendices 7 and 8. The reference to the rental to be charged is open to challenge and it would be interesting to have the opinion from the Attorney General as to whether the Committee is entitled to impose rent control on properties.

There are no financial or manpower implications for the States arising from this proposition.

APPENDICES

- Appendix 1 JEP report dated 14th December 1990
- Appendix 2 Royal Court judgment 14th December 1990
- Appendix 3 Letter from Planning and Environment Department dated 21st July 2004
- Appendix 4 Letter from Mr. Barette dated 22nd August 2004
- Appendix 5 Letter from Housing Department dated 26th October 2004
- Appendix 6 Letter from Planning and Environment Department dated 3rd March 2005
- Appendix 7 Letter from Mr. Barette dated 23rd March 2005
- Appendix 8 Letter from Planning and Environment Department dated 31st March 2005

Attorney-General says agriculture must 'put its house in order' over living accommodation for staff

THE Attorney-General this morning told the agricultural industry to 'put its house in order' and provide decent accommodation for seasonal workers.

And the Bailiff, Sir Peter Crill, said that a new law may be necessary to require people to lodge itinerant workers properly.

The comments were made in the Royal Court during the case against strawberry grower Laurence Barette, who admitted two infractions of the Island Planning Law.

Attorney-General Mr Philip Bailhache, O.C., said that there was no excuse, in 1990, for workers to be forced to live in sub-standard accommodation.

Without permission, the Court was told, Barette converted two chalets and part of an agricultural shed to house 14 Portuguese workers at his St Martin farm.

Mr Bailhache moved for fines totalling £1,000, which he described as modest as he did not want the defendant to feel he was being made a scapegoat for the industry.

He was aware, he said, that there were worse examples of accommodation in the Island. However, as these had an established use and did not contravene the planning laws the

owners could not be prosecuted.

But he wanted to make it clear that higher fines would be sought for subsequent offenders in the same circumstances as Barette.

'The agriculture industry must put its house in order,' he said.

However, defence counsel Advocate Geoffrey Fiott said that his client was being made a scapegoat, and that there were other members of the industry, and of the tourism industry, who were providing far worse accommodation. In fact, the accommodation Barette provided was adequate.

'There were 14 workers sharing adequate accommodation, adequate toilets, adequate showers. The fact that the same people come back year after year shows how caring he is for their welfare,' said the advocate.

He attacked the IDC and its officers for treating his client in a 'deplorable' and aggressive way, saying that all they wanted was a prosecution and they were not interested when his client sought advice.

Instead of the 'punitive' fines sought by the Attorney-General, Advocate Fiott submitted that there should be only nominal ones. His client had suffered greatly financially already as he had to provide new accommodation.

His future business was jeopardised too, he said, because he could only now house eight of the 14 staff he needed to work the farm and he was being forced to consider cutting the size of his crop by a third.

'Genuine effort'

Sir Peter, sitting with Jurats Barbara Myles and Nick Herbert, said that it did appear that the standard of accommodation at Barette's farm was good.

'This grower was making a genuine effort to provide decent accommodation for his workers. We have looked at the photographs of the accommodation and it appears to have been a tidy, carefully thought-out unit,' he said.

However, in providing it, Barette had transgressed the Planning Law, and there should be a nominal fine. Barette was fined £200 and ordered to pay £30 in costs.

The fines sought by the Attorney-General would not, he believed, act as a spur for farmers to improve accommodation and he said that a different law might be required to compel people to provide good lodgings.



Mr Bailhache

14 December 1990 J.E.P. FRONT PAGE

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2 pages.

ROYAL COURT

197.

14th December, 1990

Before: The Bailiff, and
Jurats Myles and Herbert

Infraction: Laurence Barette

Two infractions of Article 8(1) of the Island Planning (Jersey) Law, 1964, involving the unauthorised conversion of two chalets and an agricultural shed to house agricultural workers. No previous convictions and defendant otherwise of good character. Strawberry farmer in partnership with his son.

The Attorney General
Advocate G. Le V. Piott for the defendant.

JUDGMENT

BAILIFF: The task of the authorities in the sphere of accommodating seasonal workers from overseas is a difficult one. On the one hand accommodation must be up to a particular standard so that the consuls of the foreign workers concerned are satisfied that there is decent and proper accommodation provided.

On the other hand there appears to be no law, as far as I can see, requiring farmers or growers to provide decent accommodation and if

they do attempt to do so as in the case of this defendant and if they do so and fall foul of the planning laws, they are liable to be prosecuted. And that seems to us inevitable, of course; if you break the planning laws you are liable to be prosecuted.

At the same time this was a case, we think, where this grower was making a genuine effort to provide - according to his belief, wrong belief of course, because he was breaking the planning laws - decent accommodation for his workers. We have looked at the photographs and it is clear to us that the whole of this unit at the time was a tidy, carefully thought out unit and that the defendant, who has no previous convictions and is of good character, was doing what he thought was best for his workers.

He has not only had to rebuild some of the accommodation. There were originally 14 workers housed in the offending units; he can now only after a considerable delay on the part of the planning authorities, accommodate 8 of those persons. He faces loss, as Mr. Fiott has set out in his plea of mitigation to us.

We are unable to see that a prosecution of this nature will necessarily result in premises being used to house foreign or seasonal workers in the wrong sort of conditions. A different law may be necessary to require persons to lodge itinerant workers properly. But the planning law is not that law.

Under the circumstances, because we think your client, Mr. Fiott, has made every effort according to his lights to provide decent accommodation for the workers, but in the course of which he broke the planning laws, we are going to accept your submissions that we should impose a nominal fine. Mr. Barette, you are fined £100 on Count 1; £100 on Count 2; or 7 days in each case consecutive if you do not pay; and you will pay £50 costs.

No authorities.

States of Jersey



Planning and Building Services
 South Hill
 St Helier
 Jersey JE2 4US

Mr G Barette
 La Recolt des Fruits
 La Rue de la Fosse a Gres
 St. Martin

Telephone 01534 725511
 Facsimile 01534 768952

www.planning.gov.je

Application Number D/1996/0798
 Building Control Number B/1996/1821
 Property Number 7348/H/0/1
 21 July 2004

Dear Mr Barette,

Application Address:	Field 322A, La Rue de la Fosse a Gres, St. Martin.
Description of Work:	Construct single storey self-contained staff accommodation comprising four units: Request to release the agricultural occupancy condition.

The Planning Sub-Committee has given consideration to your request to release the agricultural occupancy condition on the above staff accommodation but has decided not to agree to the request.

In reaching this decision the Committee was mindful of the fact that the accommodation was built specifically for agricultural staff accommodation. The Committee is aware of applications for new staff accommodation in the countryside, some currently with the Department, and is therefore not prepared to allow purpose built accommodation to go out of agricultural use when there is still clearly a need for such accommodation.

The Committee will allow a period of three months for your tenants to leave the accommodation that they are occupying in breach of the conditions relating to the original approval for the accommodation.

Yours sincerely

Elizabeth J Clapshaw (Miss)
 Planner

Mr G C Barette Application Number D/1996/0798
La Recolte des Fruits Building Control No B/1996/1821
La Rue de la Fosse a Gres Property Number.....7348/H/01
St. Martin

22/08/04

Dear Miss Clapshaw,

Thank you for your letter dated 21/07/04, and for taking the time to consider my request. I'm sorry not to have written sooner, but have been anxious that I may have inadvertently let my units incorrectly, and have spent the weeks reading and re-reading all the relevant correspondence from the Housing Committee. Despite this I still cannot see my error.

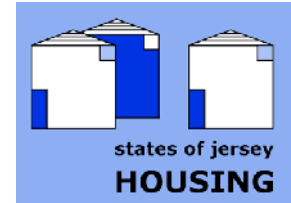
When the units in question were built, I was farming, and had permission to let them to Agricultural workers OF THE PREMISES, or to those with a-h housing qualifications. As I was not interested in the latter, I didn't really take note. Unhappily I had to give up farming, and as I wished to continue to let my units, and was in the process of transferring my property into joint ownership with my wife, I took the opportunity to clarify the conditions for letting with the Housing Committee. (Relevant document enclosed.) Since that time I have let my units to Jersey Residents a-h category, and have obtained individual approval for each tenant (letters available). It seems to me that this is my only letting option, as I now have no resident Agricultural workers, and do not have permission to let to those from other farms, even if it were possible to attract such workers off site.

I have had a lot of sleepless nights at the thought of having to remove my current tenants, and as I am at a loss to see where I might have gone wrong, I would be very grateful if you would recheck this for me. If you think it more appropriate I could ask the Housing Committee to liaise with you?

Thank you again for your attention,

Yours sincerely

Mr G C Barette.



Mr G C Barette
La Recolte Des Fruits
Rue De La Fosse A Gres
St Martin
JE3 6AU

Our Ref: E45699/AT/SA

26 October 2004

Dear Mr Barette

RE: Flat 1, La Recolte des Fruits, Rue De La Fosse A Gres, St Martin

DATE OF TRANSACTION : 12 October 2004

Receipt is acknowledged and noted in our records of the transaction entered into under Paragraph 5 of the Housing (General Provisions) (Jersey) Regulations, 1970, as amended.

The Committee agree that it will be in order for Mr Lee Karim Scotland to occupy the above accommodation.

Yours sincerely

Ann Thompson
Housing Control Officer

☎ 01534 884405
✉ a.thompson@gov.je
website: www.housing.gov.je

States of Jersey



Planning and Building Services
 South Hill
 St. Helier
 Jersey JE2 4US

Mr G Barette
 La Recolt des Fruits
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www.planning.gov.je

Application Number D/1996/0798
 Building Control Number B/1996/1821
 Property Number 7348/H/0/1

3rd March 2005

Dear Mr Barette,

Application Address: Fraises des Bois, La Rue de la Fosse a Gres, St. Martin.
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The Environment & Public Services Committee has given further consideration to your request to release the agricultural occupancy condition on the above.

Notwithstanding the circumstances surrounding your departure from the agricultural industry the Committee considered that there was insufficient justification at the present time to release the condition.

The Committee has therefore reiterated the advice contained in the letter dated 10 November 2004, that you re-advertise the accommodation for a period of 3 months and the nature and wording of that advertisement is to be agreed with ourselves including the rental rate for agricultural accommodation. This is in line with the Committee's policy for situations such as this.

The Committee will also require an updated report from the Land Controls & Agricultural Development Section of the Environment Department. Certainly there was concern from them when they were consulted last year regarding the permanent loss of agricultural staff accommodation.

Your tenants may remain in situ until the matter is resolved.

Please forward the wording of the advertisement to me prior to inserting the advert in the JEP. I can be contacted on 601408 if you have any queries.

Yours sincerely,

E J Clapshaw (Miss)
 Planner
 Direct Dial – 601408
 E-mail: E.Clapshaw@gov.je

23rd March 2005

La Recolte des Fruits
Rue de la Fosse a Gres
St. Martin JE3 6AU

Dear Miss Clapshaw,

I am grateful for your interest in my case but I feel that the enclosed advert is an honest appraisal of the accommodation on offer and I have no wish to mislead anyone.

Proposed Advert for J.E.P.

To Let. Studio flats, comprising fully fitted kitchen with washing machine, fridge freezer, microwave, free standing electric cooker. Separate shower room with w/c and wash Basin. Suitable for young couple or retired persons seeking a quiet place in the country. Car parking for tenant and visitors. Built in 1997 the units have central heating and double glazing. Overlooking Agricultural fields to the east and situated in the parish of St Martin. Rental £600 per calendar month which includes central heating and hot water supply & rates. The flats are suitable for A-H local residents and agricultural occupancy, not seasonal. For further information contact JEP Box No.

I trust that this will be acceptable to the committee and await your reply.

Yours sincerely

G.C. Barette

States of Jersey



Planning and Building Services
South Hill
St. Helier
Jersey JE2 4US

Telephone 01534 725511
Facsimile 01534 768952

www.planning.gov.je

Mr G C Barette
La Recolte des Fruits
La Rue de la Fosse a Gres
St. Martin
JE3 6AU

31st March 2005

7348

Dear Mr. Barette,

Fraises des Bois, St. Martin

Thank you for your letter of 23rd March and I would comment as follows.

Firstly, the reference to agricultural staff accommodation must be made right at the beginning of the advertisement to make it quite clear the status of the accommodation for rental. Secondly, the term “suitable for A-H local residents” must be removed from the advertisement as you currently do not have consent under Planning for such occupation.

Thirdly, whilst you refer to a figure of £600 per calendar month for the studio flat, that is the open market value. Our investigation suggests that for agricultural staff accommodation a figure of approximately £50 per person is the going rate. Therefore your figure needs to be adjusted in the advertisement.

Please reword the advertisement as amended above and submit it again for an agreement before placing the advertisement in the J.E.P.

Yours sincerely,

E J Clapshaw (Miss)
Planner
Direct Dial – 601408
E-mail: E.Clapshaw@gov.je