

HOUSING (JERSEY) LAW 1949: PROPOSED AMENDMENTS

Lodged au Greffe on 28th July 1998
by the Housing Committee



STATES OF JERSEY

STATES GREFFE

PROPOSITION

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

to approve, in principle, the preparation of further amendments of the Housing (Jersey) Law, 1949, (“the Housing Law”) to provide as follows -

1. where, before the coming into force of the Housing Law on 4th April 1949, a Company acquired land and continues to hold that land, no person may occupy, without the consent of the Housing Committee, any dwelling accommodation which is, or is to be constructed, on that land unless he is a person with housing qualifications under one or more of the categories which the States, by Regulations under Article 15 of the Housing Law, specify as applicable to this type of land;
2. the provisions of paragraph 1 will not apply to any unit of dwelling accommodation on the land which -
 - (a) was in existence on 17th March, 1998; or
 - (b) was on that date actually and lawfully in the course of construction.

HOUSING COMMITTEE

Report

On 17th March 1998, the Housing Committee lodged a Report and Proposition au Greffe seeking to amend the Housing (Jersey) Law, 1949, as amended, in order to close the ‘‘loophole’’ which allows Company owned land, which has not been subject to a transaction under the Housing Law since before its promulgation on 4th April 1949, to be developed with residential units which can be owned and occupied by persons without residential qualifications who purchase shares in a company. The Committee sought not only to prevent the creation of more units of accommodation which would be free of Housing control but also to bring under Housing control any units which had already been created.

The proposal to bring units already built or in the course of construction under Housing control generated considerable adverse comment from lawyers and politicians, not least because the developers of two sites where work was in progress in June 1997 had received written assurances from the Housing Committee, before work commenced, that a number of the dwellings to be built would be free of Housing control. The Committee, having been assisted by the Law Officers in the preparation of the original Report and Proposition, decided to seek further advice from the Attorney General, in particular with regard to the possibility that the Committee might be faced with claims for compensation from those parties involved in the two developments under construction.

The Attorney General is of the view that, if the Law were to be amended as originally proposed, there is a risk that a claim for compensation would be successful from owners and/or occupiers of residential units which had been expected, until recently, to remain free of Housing control. In the two particular instances referred to above, the developers of property which had not been the subject of a transaction since prior to 1949, received assurances as recently as early 1997 that the residential units built would be free of Housing control.

Having carefully considered the advice received from the Attorney General, the Committee has reluctantly decided that, on balance, it would not be in the public interest to proceed at the present time with the proposal to amend the Law in such a way as to bring under Housing

control the small number of dwellings which have either already been built or are in the course of construction because to do so could result in the Committee becoming involved in very lengthy and costly litigation irrespective of the eventual outcome.

The Committee remains strongly of the view that the exploitation of the loophole in ‘‘the pre-1949 Law’’ which currently allows the development of dwellings which can be bought and sold by share transfer, by persons with no connection with the Island whatsoever, should be prevented by law and that the effective date for any such change in the Law should be 17th March 1998, when the Committee’s report and proposition P.48/1998 was lodged au Greffe. From that date any new or additional dwellings constructed on Company-owned sites which have not been the subject of a transaction under the Housing Law will be subject to control under the afore-mentioned Law but any dwellings already built or in the course of construction on that date will be exempt from the controls proposed for the reasons outlined above.

In summary, the Committee wishes to introduce Housing controls on ‘‘pre-1949’’ properties so that, in future, occupancy of any new or additional residential units constructed on the sites will be limited to those persons qualifying under the Housing Regulations.