

ROYAL COURT
(Samedi Division)

10th January, 1997

Before: Sir Philip Bailhache, Bailiff, and
Jurats Bonn and de Veulle

The Attorney General

- v -

Terence Charles Saunter

- 2 counts of contravening Article 14(1)(a) of the Housing (Jersey) Law, 1949, by allowing parts of his property to be occupied by persons who had not been approved by the Housing Committee and thereby failing to comply with a condition attached to the Committee's consent to the sale to him and his wife, jointly, of the said property (counts 1 and 2).
- 1 count of contravening Article 8(1) of the Island Planning (Jersey) Law, 1964, by converting the said property into two self-contained units of private dwelling accommodation and thereby making a material change in the use of the property without the permission of the Planning and Environment Committee, as required by the said Law (count 3).

Plea: Facts admitted.

Age: 62.

Details of Offence:

Property purchased by defendant in 1977. Housing consent contained usual restrictions. Property occupied by defendant and his family. Between 1994 and 1995 defendant caused alterations to be made to the property without consent of IDC. Effect was to create an extra unit of accommodation. This was occupied by a non-qualified person, but that occupation was not unlawful at that time as she was a lodger of the defendant. In late 1995 the defendant and his family vacated the property but did not sell it at that time. Instead they created a third unit of accommodation by locking some French doors and drawing a curtain across them. Two of the three units thus created were thereafter occupied by non-qualified persons. Rent paid direct to defendant. A total of some £6,000 was taken in rental in respect of the illegal occupancies.

Details of Mitigation:

Guilty plea. Ready admissions. Mistaken view that if part of the property occupied by qualified people, the remaining part could be occupied by those who were unqualified. No financial benefit. The rent had been used partly to offset the mortgage payments. It was notable that the rental payable by the couple who had Housing qualifications was similar to that paid by those who did not. A man of previous excellent character, who was greatly upset by his appearance in Court. It was regrettable that the Island Planning infraction had, for some reason, been dealt with at first instance by the Police Court and then remanded to the Royal Court. Matters giving

rise to the offences have been rectified promptly upon the defendant's being informed of the illegality of the arrangements. The property had been vacated by August, 1996, and restored to single unit occupancy.

Previous Convictions: None relevant.

Conclusions:

Count 1 : £500 fine or 2 weeks' imprisonment in default of payment.
Count 2 : £500 fine or 2 weeks' imprisonment in default of payment.
Count 3 : £500 fine or 2 weeks' imprisonment in default of payment.
£250 costs.

Sentence and Observations of the Court:

Count 1 : £500 fine or 2 weeks' imprisonment in default of payment.
Count 2 : £500 fine or 2 weeks' imprisonment in default of payment.
Count 3 : £200 fine or 2 weeks' imprisonment in default of payment.
1 week to pay, no order for costs.

The Court was not impressed at the procedural history in relation to the Island Planning matter and reduced the fine sought to one of £200. The procedural irregularity which had occurred would, in addition, justify the Court in refusing to grant costs against this defendant. The Court took into account the ignorance of the defendant and his previous good character, expressing nonetheless some surprise that persons remained in ignorance of this important aspect of the Housing Law, bearing in mind the significant number of clear injunctions which had been issued by the Court over the years in this regard.

A.J. Olsen, Esq., Crown Advocate.
Advocate P.S. Landick for the defendant.

JUDGMENT

THE BAILIFF: As has been said in this Court on a number of occasions it is the duty of property owners to understand their obligations, not only under the Housing Law but also under the Island Planning Law.

5

The Court takes into account, however, in relation to the infraction of the Planning Law, that there appears originally to have been an intention on the part of the defendant to divide the house for family purposes, although perhaps at a later stage that intention became more commercial.

10

So far as the breaches of the Housing Law are concerned, we accept the submission of counsel for the defendant that the rent paid by each of the occupiers, both qualified and unqualified, was the same and that there was therefore no commercial benefit to the defendant in the action which he took. The infractions therefore do fall at the lower end of the scale of gravity. The Court is going to grant the conclusions with one modification. Mr.

15

Saunter, on count 1, you are fined the sum of £500, or, in default, two weeks' imprisonment. On count 2, you are fined the sum of £500, or, in default, two weeks' imprisonment, consecutive. On count 3, you are fined the sum of £200, or, in default, two weeks' imprisonment, consecutive, making a total fine of £1,200, or, in default, six weeks' imprisonment.

So far as the costs are concerned, there appears to the Court to have been some confusion, whether in one of the States' Departments or in the Law Officers' Department we are not able to say, but we can see no good reason why this defendant should have been required to appear in the Police Court on the planning infraction when it was clear that the whole matter was to be dealt with in this Court. There will, therefore, be no order for costs.

Authorities

Housing (Jersey) Law, 1949: Article 14.

Housing (Amendment No. 5) (Jersey) Law, 1988: Article 1.

Island Planning (Jersey) Law, 1964: Article 8.

Island Planning (Amendment No. 2) (Jersey) Law, 1980: Schedule.

Island Planning (Amendment No. 6) (Jersey) Law, 1996: Article 4.

AG -v- Allaire (27th November, 1992) Jersey Unreported.

AG -v- Alexander (12th March, 1993) Jersey Unreported.

AG -v- Spencer (9th September, 1994) Jersey Unreported.