

ROYAL COURT
(Samedi Division)

189.

3rd October, 1997

Before: F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Vibert and Le Brocq

The Attorney General

- v -

Neil Leonard Perkins

3 counts of contravening Article 14(1)(a) of the Housing (Jersey) Law, 1949, by failing to comply with conditions attaching to a Housing Committee consent to the sale of Midvale Lodge, Clairvale Road, St. Helier, by allowing parts of the property to be occupied by persons not approved by the Committee as being persons of a category specified in Regulation 1(1)(a), (b), (c), (d), (e), (f), (g), or (h) of the Housing (General Provisions) (Jersey) Regulations, 1970 (counts 1, 2, 3).

2 counts of contravening Article 7(1) of the Housing (Jersey) Law, 1949, by entering into a transaction, namely the lease of part of the premises at 40, Midvale Road, St. Helier, without the consent of the Housing Committee (counts 4, 5).

Plea: Infractions admitted.

Age: 34.

Details of Offence:

The Housing Committee granted consent for Mr Perkins to purchase two properties, namely, Midvale Lodge, Clairvale Road (Midvale Lodge) and 40 Midvale Road in May/June 1987 and October 1995 respectively. Both consents contained the standard conditions that the properties could only be occupied by persons qualified under Regulation 1(1)(a) to (h) of the 1970 Regulations.

The ground floor of 40 Midvale Road was let to Mr. Smith, a suitably qualified tenant, but Mr Perkins failed to file details of the exempt transaction (charge 5). The Flat on the first and second floors was occupied between 1st December 1995 and 17th April 1997 by two sets of persons who did not qualify under Regulation 1(1)(a)-(h) and who were, in fact, the tenants of Mr. Perkins and not lodgers of Mr. Smith (charges 2 & 3).

In August 1996 Mr Perkins placed an advertisement in the Jersey Evening Post to let Midvale Lodge describing the property as containing a one bedroom cottage and "non quals 3/4 bed house". The cottage was let by a suitably qualified occupant and the 3/4 bedroom house was occupied by non-qualified persons between 18th September 1996 and 1st February 1997.

Mr Perkins failed to file details of the exempt transaction required for the qualified tenant (charge 4) and the unqualified persons occupied the house as tenants of Mr Perkins, and not as lodgers of the qualified tenant (charge 1)

Details of Mitigation:

The defendant purchased Midvale Lodge from an Estate Agent who had lodgers and defendant assumed he could operate a similar arrangement. Acted in ignorance and not with any deliberate or dishonest intention to circumvent the Housing Law.

Housing knew of Midvale Lodge infraction but defendant volunteered the information regarding 40 Midvale Road and thus brought three of the five charges which he faced to the attention of the Housing Department.

Properties purchased as long-term investment for his family (two young children) and not a profit making device. Rent used to pay off mortgages. Once offences came to light offered to put matters into order quickly. Thereafter properties were unoccupied for several months and one property had to be sold to pay off one of the mortgages. No profit from family investment.

Previous Convictions:

No relevant previous convictions.

Conclusions:

Counts 1, 2, 3: £1,250 fine on each count, or 2 months' imprisonment, consecutive in default of payment.

Counts 4 & 5: £200 fine on each count, or 2 weeks' imprisonment, consecutive in default of payment.
Total: £4,150 fine or 7 months' imprisonment and £250 costs.

Sentence and Observations of the Court:

Conclusions granted. Ignorance of the law is no excuse; duty of property owners to know the law. The fact that defendant volunteered information regarding the property 40 Midvale Road was not mitigation and he was only doing what he was bound to do. Payment to be made at £500 per month.

P. Matthews, Esq., Crown Advocate.
Advocate N.M. Santos Costa for the accused.

JUDGMENT

THE DEPUTY BAILIFF: There is a Latin tag known to all lawyers, it says "*ignorantia juris neminem excusat*". In common translation it means that ignorance of the law is no excuse.

5 The conditions on housing consent forms are not difficult to understand. In this instance, they said that the property could only be occupied by persons qualified under the Housing Law.

10 Mr. Costa has said everything that he could and has argued strongly in regard to the second property owned by Mr. Perkins. Mr. Perkins brought those infractions to the notice of the Committee, but what else could he do? He could not compound his offence by concealing the facts and it is to his credit, but no more than that. He did what he was bound to do.

15 The Court is not minded to alter the conclusions of the Crown and therefore, Mr. Costa, on counts 1, 2 and 3, your client is fined £1,250 on each count, or 2 months' imprisonment, consecutive, in default of payment. On counts 4 and 5, he is fined £200 on each count, or 2 weeks' imprisonment, consecutive, in default of payment.
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Authorities.

A.G. -v- Spencer (9th September 1994) Jersey Unreported.