

Victoria Crandon

From: Victoria Crandon
Sent: 02 November 2006 14:16
To: 'Iain Harris'
Subject: Alex Park and Palace

Iain

I'm turning my attention to Alex Park and Palace today. Whilst reviewing the papers to pass to our legal team, I note that you haven't filled in the blanks on the draft scheme. Please can you fill these in and also let me have the minutes of the meeting at which the draft was discussed.

These points have come to light when looking through the papers this morning, it may be that other points arise later but I thought if I e.mail you asap you can get on to this in the meantime and it might speed the process up prior to publication.

Thank you

 Vicky

Email Message

HOWARD KENNEDY

To Victoria Crandon
Organisation Charity Commission
Your ref
Email
Victoria.Crandon@charitycommission.gsi.gov.uk

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From Iain Harris
Direct Dial +44 (0)20 7546 8986
Email i.harris@howardkennedy.com
Our ref IMH1/014086.00049
Document ref ES1/H2844013.1
Date 6 November 2006
Please quote on all correspondence No. 1506

Dear Victoria

Alexandra Palace – Charity Commission

I refer to our conversation on Friday when you raised two initial points in response to my letter of 2 November sent by email late on Thursday afternoon.

I am attaching a compared version of the draft Lease which shows amendments since the version I sent you on 19 May.

Your second point concerned what I will refer to as the “delegation issue”. In your letter of 13 October you said, at the end of the pre-penultimate paragraph on the second page of your letter that:-

“To limit the risk of a trustee dispute, we need to seek confirmation that the Council agrees with the step taken by the Board.”

Following receipt of that letter I raised the issue with Terence Mitchison of Haringey Council's Legal Services department. I specifically asked him to confirm that the Corporation

“will accept the resolution of the Board and application as sufficient authority to enable it to affix the appropriate seal to any documentation that is eventually agreed.”

I attach a copy of my letter to him dated 16 October. Terence responded on 19 October. He confirmed that the Council had delegated to the Board all functions, powers and duties of the Council's trustee and that this gave the Board sufficient authority to make the decision that was being recommended. I attach a copy of Terence's letter to me.

On the point of advertising, as my letter of 27 October indicated we are hoping for an advertising deadline of 16 November which means we need to finalise the advertisements this week. I hope that will be possible.

Yours sincerely

IAIN HARRIS

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Charity Commission Direct
PO Box 1227, Liverpool L69 3UG

t: 01823 345135
f: 01823 345008

Mr Iain Harris
Howard Kennedy
19 Cavendish Square
London
W1A 2AW

Your Ref: IMH1/014086.49
Our Ref: VC/522431/A&O(T)

Date: 08 November 2006

Dear Iain

Alexandra Park and Palace (reg. no. 281991)

As background, I note we have been asked to publish the Order which it is intended will permit the execution of the lease to the Firoka special purpose vehicle. I note you have asked us to do this quickly and on Thursday of last week we were presented with a re-draft of the lease and development agreement. Our order is to be made pursuant to the Charities (Alexandra Park and Palace) Order 2004. The disposition will be made under the Scheme contained in the Charities (Alexandra Park and Palace) Order 2004. Section 36(9)(a) of the Charities Act 1993 therefore applies.

Given we wish to add directions to the Order, we now consider it is best made under section 26 of the Charities Act 1993 and in the matter of the 2004 scheme.

We have reviewed the Project Agreement and the Lease (the latter, latterly with the advantage of a red-line mark-up). Given we were satisfied that a lease on the terms previously provided would have been a proper exercise of the power under the 2004 Order, we need to understand how these changes affect the terms of the lease and the associated Project Agreement. Our review suggests these changes may be material both in determining whether the lease is in the interests of the Charity and whether it is within the scope of the 2004 Scheme. We will need a break-down of each change, whether it is just a drafting change or whether it has a material effect on the meaning of the documents. If a change has a material effect, we would like to know what that effect is and the consequences for the Charity. We would also like confirmation that, considering all the changes together, it is the continuing view of the trustees and their professional advisers that the lease is in the interests of the Charity.

On our initial review, changes that appear to need particular comment are:

Lease:

Clause 1 contains a definition for terrorism. This is used in the insurance provisions in Schedule 3. The Charity is to insure at the tenant's expense. Given many risks can be placed given a high enough premium, what is the practical effect of defining terrorism, especially given the definition and consequences of uninsured risk in paragraph 5?

Clause 3.4 provides a sophisticated repair provision. Essentially the tenant is to keep operational parts to the standard in the condition report, keep refurbished parts in repair and keep non-operational parts wind and watertight. For the operational parts, presumably the condition report specifies a better state of repair than simply wind and watertight? When the non-operational parts are to be maintained to the state of repair in the condition report, is this a better or worse state of repair than wind and watertight?

In clause 3.8, the requirement that xx

Why is shared occupation to be permitted under clause 3.10? What risks and benefits have been identified for the Charity?

In clause 3.11, what xx

In clause 3.12 the covenant relating to nuisance has been diluted to actual nuisance and carves out nuisance caused within the proper use in accordance with the lease. What risks to the remainder of the Park are posed by this dilution? What risks of impact on the Park are there arising from the proper uses? How does this impact on the Charity being able to pursue its objects?

In clause 3.20, what are the encumbrances and what risk is the Charity exposed to in compliance being secured by way of indemnity only?

In clause 3.22 why has the provision preventing the tenant from causing the Willis Organ to deteriorate been removed?

In clause 4.1.1, there is no longer a right of re-entry if the tenant ceases to be a single purpose company. What benefit to the Charity did that provision have? What is the consequence of it being removed?

What is the effect of the removal of clause 6.1.3?

Why has the requirement on the Guarantor to accept a new lease been removed? What protection is lost to the Charity?

In schedule 2, if xx

In schedule 2, what xx

Project Agreement:

Clause 3.3 xx

Turning to a different matter, as discussed on the telephone we have received a large number of representations already and requests for details of the Order when it is published. Because of this, and the fact that this matter is engaging public interest already we are proposing to send a Question and Answer sheet alongside the draft Order when it is requested in the publication stage of the process.

I am attaching a draft copy of this Question and Answer sheet for your comment. Please can you agree this document with the trustees and through the trustees, with the tenant, in order to ensure it does not disclose confidential material and that they agree its accuracy. When providing it as part

of a response to enquiries, it will be made clear that the document is provided by way of general background only. It does not form part of the order.

Thank you for your comments on the draft Order given in your letter of 2nd November. These have been taken on board. I am enclosing version 3.0 of the draft Order for confirmation from the trustees that they are content with this revised draft. The revisions are in clauses 2 and 3, and on the front page.

Thank you for the helpful information and your research on the advertising for the 2004 Scheme. We agree with your schedule of advertising and can confirm that any publication should be as follows:

- The North London Group of Newspapers (which I understand is the following 6 papers: The Islington Gazette, The Hornsey & Crouch End Journal, The Islington Gazette EC1, The Muswell Hill Journal, The Tottenham, Wood Green and Edmonton Journal and The Camden Gazette);
- The Hampstead & Highgate Express;
- The Times; and
- 2 noticeboards inside the Palace and 2 noticeboards inside the Park.

Please could I ask you to quote our above reference number in your correspondence, it will ensure that any paperwork we receive is dealt with as quickly as possible.

I look forward to hearing from you.

Yours sincerely

Victoria Crandon

e:vcrandon@charitycommission.gsi.gov.uk

Enc – 3 copies of draft Order (version 3.0)

Enc – 3 copies of draft Q&A sheet (version 1.0)

Victoria Crandon

From: Iain Harris [I.Harris@howardkennedy.com]
Sent: 09 November 2006 12:27
To: Victoria Crandon
Subject: AP Question and Answer Sheet

Victoria

I am sorry to email again but we are under significant pressure from Firoka. Mr Kassam is speaking in terms of walking away from the transaction if he is not convinced it is moving forward. The Trustees would be, to put it mildly, embarrassed and there would be the risk of closure due to insolvency. All that is required is for the Council to say it will no longer fund which will mean the charity will not be able to say it is a going concern.

In response to your draft Question and Answer sheet I am attaching a track changed draft and a draft with the changes all accepted.

I would like your approval to this so I may then send it to Firoka's solicitor for approval. It will then be put before the Board on Tuesday evening for their agreement, as per your letter. <<CC Q and A with IH track changes (H2847733-2).DOC>> <<CC Q and A with IH track changes (H2847733-3).DOC>>

Iain Harris
Partner
Howard Kennedy, Solicitors

email: I.Harris@howardkennedy.com
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Mick George

From: Iain Harris [I.Harris@howardkennedy.com]
Sent: 09 November 2006 11:35
To: Victoria Crandon
Subject: AP Draft Order

The File : - H2847951.DOC is attached to this e-mail
Victoria

I am attaching the draft order. I have had this typed as a word doc on our system and shown the amendments as track changes.

The intention is that this draft, with the changes highlighted, will be put before the Board for approval at its meeting on 14 November in accordance with the first paragraph at the top of page 4 of your letter of 8 November.

Having explained to the Board that the requirement for approval was being dealt with under S 16 instead of S 36, given that we are now moving back to S36(9) and S 26 I hope I will not be faced with too many difficult questions.

Iain Harris
Partner
Howard Kennedy, Solicitors

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21/02/2007

Victoria Crandon

From: Victoria Crandon
Sent: 21 November 2006 11:51
To: 'Iain Harris'
Subject: Question and Answer (final)



Question and
Answer (final).doc

Iain

Whilst completing the paperwork for the publication of this Order, I see that the Q&A sheet has been altered since you had sight of it originally. This has been necessary following legal advice here to ensure that the risks with us issuing this sheet can be minimised. I am forwarding to you for information.

I will e.mail you the Order with this attached tomorrow, when the paperwork comes to you.

Yours sincerely

Victoria Crandon



Mr Iain Harris
Howard Kennedy
19 Cavendish Square
London
W1A 2AW

Charity Commission Direct
PO Box 1227, Liverpool L69 3UG

t: 01823 345135
f: 01823 345008

Your Ref:

Our Ref: VC/522431/A&O(T)

Date: 22 November 2006

Dear Iain

Alexandra Park and Palace (reg. no. 281991)

I am writing to confirm that following our extensive correspondence we are willing to authorise the disposal of the Palace and its surround to Firoka. This authority will be an Order under the power given in the scheme of 2004 and section 26 of the Charities Act 1993. The disposal will take the form of the lease of 125 years, which was forwarded to us on 2nd November 2006 with the agreed amendments to clause 3.11.

We have previously agreed that publication is necessary and notices need to be placed in the following publications:

- The North London Group of Newspapers;
- The Hampstead and Highgate Express; and
- The Times newspaper.

Also notices should be placed on:

- 2 noticeboards inside the Park; and
- 2 noticeboards inside the Palace.

I am enclosing the necessary publication notices for you. Please can you determine a place where the draft Order can be viewed and fill in these details on all of the notices. Please can you also complete and return the declaration of publication to me. We have agreed over the phone that you will ensure publication takes place between now and the 1st December. In this respect I mean notices going in all the newspapers and notices going up on the noticeboards before 1st December. We agreed if publication takes place in all publications and on the noticeboards by this date, we will receive representations until noon on Friday 5th January 2007. Any representations received after this date will not be taken into consideration.

If you require further copies of the draft Order and Question & Answer sheet they will be available to download from our website. (The path you need to follow is 'About Registered Charities', then quick link to 'Schemes and Orders').

As you are aware, we have received a number of representations already and these and any further representations we receive will need to be carefully considered before the Order may be sealed.

I look forward to receiving the completed declaration of publication in due course.

Yours sincerely

Victoria Crandon

 e:vcrandon@charitycommission.gsi.gov.uk

Enc – Draft Scheme (version 5.0) and Question & Answer sheet

Enc – Notices for publications and noticeboards

Enc – Declaration of publication to be returned

Your ref VC/522431/A&O(T)
Our ref IMH1/014086.00049
Document ref ES1/H2864025.1

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Ms V Crandon
Charity Commission Direct
PO Box 1227
Liverpool, L69 3UG

Also by email:
Victoria.Crandon@charitycommission.gsi.gov.uk

23 November 2006

Dear Victoria

Alexandra Park and Palace

Thank you for your letter of 22 November and enclosures.

I hope you will permit me one small observation. The first paragraph of the Order records that "the lease" means a lease substantially (my emphasis) in the form of the draft provided to the Charity Commission on 2 November 2006.

In the first paragraph of your letter you say "the disposal with take the form of the lease of 125 years which was forwarded to us on 2 November 2006 with the agreed amendments to clause 3.11".

The wording of the Order should in my respectful suggestion take precedence over the wording of your letter. This is because there were some slight changes to the document between 2 November and last Friday when exchange took place, subject to Commission approval.

The most significant of the changes was omission of reference to the BBC. As I mentioned to you on the telephone, the BBC objected to any reference to it in the documentation and so it was modified accordingly.

Otherwise, I confirm the arrangements in your letter are an accurate statement of what is now going to happen and I am proceeding accordingly.

I will let you have the completed Declaration as soon as I can.

Yours sincerely



IAIN HARRIS

Victoria Crandon

From: Victoria Crandon
Sent: 24 November 2006 16:05
To: 'Iain Harris'
Subject: RE: Alexandra Park and Palace

Thank you for the lease.

You say there were some 'slight changes' to the document between 2 November and last Friday. Please can you list those changes. I note there has been an omission of reference to the BBC and the user clause has of course been updated. Please could you keep us up to date with changes to this document, forwarding the revised lease and a list of the changes made. I appreciate that the Order refers to the lease substantially in the form of that forwarded on the 2nd November, but nonetheless it would be helpful for our records and for audit purposes to have any revisions to this document.

You are correct that the wording of the Order takes precedent over the letter in question.

You will see that the draft Order has been released on our website for public comment.

Yours sincerely

Victoria

-----Original Message-----

From: Emma Sherwood [mailto:E.Sherwood@howardkennedy.com] On Behalf Of Iain Harris
Sent: Thursday, November 23, 2006 4:38 PM
To: Victoria Crandon
Subject: Alexandra Park and Palace

Please see attached.

Emma Sherwood
Secretary
Howard Kennedy, Solicitors

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-----Original Message-----

From: scantomail@howardkennedy.com [mailto:scantomail@howardkennedy.com]
Sent: Thursday, November 23, 2006 5:38 PM
To: Emma Sherwood
Subject: Scan from a Xerox WorkCentre Pro

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WorkCentre Pro Location: Basement Chapel Place Device Name: CPXB2

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Victoria Crandon

From: Iain Harris [I.Harris@howardkennedy.com]
Sent: 24 November 2006 10:37
To: Victoria Crandon
Subject: AP agreed final Lease

Victoria

I am attaching a copy of the agreed final Lease.

Although I wrote in my email of 23 November that exchange had taken place on 17 November it had not. The Lease was then agreed and I understand that exchange is hoped for today.

Iain Harris

Partner

Howard Kennedy, Solicitors

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-----Original Message-----

From: Victoria Crandon [mailto:victoria.crandon@charitycommission.gsi.gov.uk]

Sent: Friday, November 24, 2006 9:21 AM

To: Iain Harris

Subject: RE: Alexandra Park and Palace

Dear Iain

Thank you for your letter attached.

Please can you send me a copy of the final lease which was exchanged on the 17th.

If you are able to e.mail it, that would be helpful.

I note you are proceeding with publication.

Yours sincerely

Victoria Crandon

Senior Specialist Casework Manager

Tel (01823) 345135

-----Original Message-----

From: Emma Sherwood [<mailto:E.Sherwood@howardkennedy.com>] On Behalf Of Iain Harris

Sent: Thursday, November 23, 2006 4:38 PM

To: Victoria Crandon

Subject: Alexandra Park and Palace

Please see attached.

Emma Sherwood

Secretary

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From: scantomail@howardkennedy.com [<mailto:scantomail@howardkennedy.com>]

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To: Emma Sherwood

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24/11/2006

Victoria Crandon

From: Iain Harris [I.Harris@howardkennedy.com]
Sent: 29 November 2006 12:18
To: Victoria Crandon
Subject: RE: Alexandra Palace - contact

Victoria

In the first instance please direct them to me.

Iain Harris
Partner
Howard Kennedy, Solicitors

email: I.Harris@howardkennedy.com
tel: +44(0)20 7546 8986
mobile: +44(0)7971 681704
fax: +44(0)20 7664 4586
url: <http://www.howardkennedy.com>

From: Victoria Crandon [mailto:victoria.crandon@charitycommission.gsi.gov.uk]
Sent: 29 November 2006 10:45
To: Iain Harris
Subject: Alexandra Palace - contact

Dear Iain

We have had various questions put to us which should be addressed to the trustees of Alexandra Park and Palace. Shall I direct these people to you, or do you have a contact at Haringey Council who is dealing with this charity on behalf of the Council for administration purposes?

Regards

Victoria Crandon

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29/11/2006