



With reference to the Disposal of the Council's Fee Simple interest in a premises at Kylemore Park South, Dublin 10.

In 1973 Dublin City Council disposed of a site at Kylemore Park South, Ballyfermot, Dublin 10 by way of a building agreement to Mr. John P. Byrne. Mr. Byrne paid a capital premium of £2,600 (€3,301.32) and on construction of a factory premises was granted a lease of the site and premises for a term of 99 years from 1st July 1974 at an initial rent of £400 (€507.89).

The lease provided for rent reviews at the end of every seventh year and following a rent review in 1995 the passing rent was £1,750 (€2,222). In 2002 Mr. Byrne purchased an adjoining plot from Dublin City Council in fee simple but due to an administrative error the rent account in respect of the leased area was closed at that time. Consequently, the rent review due that year was not undertaken and no rent has been demanded or paid since that date.

The matter came to light this year when Mr. Byrne applied to acquire the fee simple in the premises.

The Law Agent's advice was that recovery of the arrears beyond six years is statute barred and that the lessee did not have a statutory entitlement to acquire the fee simple interest.

Dublin City Council is agreeable to the proposed disposal of the fee simple conditional on the payment of the outstanding arrears which are not statute barred and it is proposed to proceed with the disposal subject to the following terms and conditions which the Chief Valuer considers to be fair and reasonable:

1. That the subject property is shown outlined in red on the attached Map Index No. SM2020-0417.
2. That the applicant holds a lease from Dublin City Council for a term of 99 years effective 1st July 1974, with 7-year rent reviews.
3. That the Council shall dispose of its freehold interest in the subject plot for the consideration of €85,000 (eighty five thousand euro).
4. That the applicant shall pay outstanding rent for the last six years which amounts to €25,000 calculated as follows:
Revised rent effective from 1st July 2009 @ €3,500 p.a. = €7,000
Revised rent effective from 1st July 2016 @ €4,500 p.a. = €18,000
5. That the applicant shall pay the Council's Valuer's fee of €1,500 (one thousand and five hundred euro) plus VAT.
6. That the applicant shall pay the Council's legal fees plus VAT together with legal costs of transfer which shall be agreed with the Council's Law Agent.
7. That the applicant shall be responsible for any VAT liability associated with this disposal and indemnify Dublin City Council against same.

8. That all outstanding charges, rates and taxes (if any) on the subject plot, for which the applicant is liable shall be cleared prior to completion of the transaction.

The property proposed to be disposed of is City Estate property.

The proposed disposal shall be subject to such conditions as to title to be furnished, as the Law Agent in her discretion shall stipulate.

No agreement enforceable at law is created or intended to be created until an exchange of contracts has taken place.

This proposal was approved by the South Central Area Committee at its meeting on the 16th September 2020.

This report is submitted in accordance with the requirement of Section 183 of the Local Government Act 2001.

Resolution:

“That Dublin City Council notes the contents of Report 258/2020 and assents to the proposal outlined therein.”

Helen McNamara
Senior Executive Officer

Date: 21/09/2020

