

**Judgment 47/2006 Boulton v Minister for the Housing Department –
Royal Court (Civil Action File 918) – 6 October 2006**

Housing (Control of Occupation) (Guernsey) Law, 1994 - 'open market' dwelling removed from the Housing Register at the instance of the landlord – tenant's appeal from refusal of application for housing licence – ruling by the Lieutenant Bailiff on whether the appeal should go to the Jurats (Matheson v Housing Authority 29 GLJ 27 considered) – directions to the Jurats – appeal dismissed

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

Before: J R Finch Esq., Lieutenant Bailiff

**Advocate P Richardson for the Appellant
Crown Advocate R McMahon for the Department**

Below are set out the ruling given on 5 October 2006 and the directions given on 6 October 2006.

RULING

BOULTON -V- HOUSING AUTHORITY

Housing Appeal – 5 October 2006

1. I deal with the question of whether this case should go to the Jurats, mindful of the framework set out by Beloff J A in the *Matheson* case (1998):

“It seems to us that there are at any rate five possible views which may be taken on appeal by the Royal Court against an exercise of power by the Housing Authority:

1. *That it is the Bailiff's view that the power was exercised ultra vires in a way other than Wednesbury unreasonable or irrationally. In such a case the Bailiff would withdraw the matter from the Jurats since as a matter of vires, that is to say law, it would fall within his exclusive province. The court would in consequence allow the appeal.*
2. *That it is the Bailiff's view that the decision was Wednesbury unreasonable or irrational the same procedural consequences would ensue as in (1).*
3. *That it is not in the Bailiff's view an ultra vires (including Wednesbury unreasonable) exercise of power in which case the Bailiff would direct the Jurats that it was for them to determine whether the decision was unreasonable, which, in our view, he should emphasise means*

something other than that they would have themselves come to a different decision had they been the Authority.

In the case of In re W [1971] AC 682, Lord Hailsham, Lord Chancellor, said at p. 700D:

“...Not every reasonable exercise of judgment is right and not every mistaken exercise of judgment is unreasonable. There is a band of decisions within which no Court should seek to replace the individual’s judgment with its own”.

Mutatis mutandis, it seems to us that this is the approach the Jurats should be directed to adopt towards the decision of the Authority insofar as they are free to consider such decision. If the Jurats then consider, having weighed up all of the evidence, that the decision reached by the Authority was unreasonable, they should so say and the Court would in consequence allow the appeal.

4. *If, upon such direction by the Bailiff, the Jurats merely consider that they themselves would have come to a different decision but that the Authority’s decision under appeal is not unreasonable, the appeal must be dismissed.*
5. *If, upon such direction by the Bailiff, the Jurats consider that the Authority’s decision was right, equally the appeal must be dismissed.*

In cases (1), (2) and (3) which I have identified, the proper order would be to remit to the Authority as the primary decision maker, the issue in order that they should retake the decision in the light of the observations and it might be, in appropriate cases, the directions of the Court. (As a matter of principle, it is not for the Royal Court itself to make a decision under S.6 or other sections of the 1994 Law)”.

2. I have to consider the case as it is set out and therefore have had recourse to the Appellant’s Cause (Tab 3 of the joint bundle).
3. Under the heading “Ultra Vires/Irrational” one finds the following, and I summarize all the points:

(a)–Undue reliance on Policy Letter.

I consider that this is not a question of law within the categories set out by Beloff J A.

(b) Unlawful fettering of decision by Policy Letter and Resolution is a matter of law for the judge.

The decision letters sent out by the Department need to be considered in this context.

I agree with Advocate McMahon's submission, which was to the effect that one asks where is the evidence of the Department slavishly allowing its discretion to be fettered in this way and not doing a balancing exercise – there was no fettering of discretion. The decision letters show quite clearly that the Department has gone through the points and sought to weigh them in the balance. I stress that whether (in broad terms) they got it right is not a question to be resolved at this juncture.

Reference to the two decision letters indicates reference to section 6 (2)(b)(i) and (ii) and 6(5)(e) and the reasoning (correct or not) of the Department. Article 8 considerations were also addressed; see e.g. pages 32 and 40 of the Jurats bundle.

(c) **States Policy** – largely similar considerations apply.

I note page 2 of the final (2nd) decision letter, at page 40 of the Joint Bundle where the 19 November 2004 letter is cited and thereafter:

“In the Department's view this paragraph clearly shows that it has considered the combined weight of all the relevant factors that is, your periods and circumstances of residence in Guernsey and elsewhere, your familial and like connections with Guernsey and all the necessary and expedient factors”.

Whether the Department took sufficient notice is a matter for the Jurats.

(d) **Article 8** – at the time the Convention was not part of our municipal law in Guernsey. I propose to direct the Jurats on Article 8 on the “proportionality” question.

(e) **Other open market units at Mon Plaisir** – the same situation obtains as for (b) above. It is, in my view, only a matter of law if the Department failed to take this into account. I refer to the 8th March 2005 decision letter, at page 41 of the Jurats' bundle, where (inter alia) reference is made to this and the Department states:

“The Department has considered these matters under Section 6(5)(e) and responds as follows”:

4. There was some taking into account, but the adequacy or sufficiency of the Department's decision making is a matter for the Jurats (see question 4 of the agreed questions).
5. Upon reviewing the documents and submissions in this case I formed the broad view that this was a matter pre-eminently within the sphere of the Jurats, who will have to consider the question of “reasonableness”. The Department did not fall into the same trap that was pointed out by the then Deputy Bailiff in the Campbell case.

6. Accordingly, I take the view that the appeal should go to the Jurats.

J R Finch

OFFICIAL TRANSCRIPT

smon/BoultonDirections6.10.06

THURSDAY 5TH OCTOBER 2006

FRIDAY 6TH OCTOBER 2006

IN ROYAL COURT 1

Before

John Russell Finch, Esq.,

Lieutenant Bailiff

BOULTON v. HOUSING AUTHORITY

Directions given by the Lieutenant Bailiff on 6th October 2006

Law and Facts

1. I must now give you some general directions with regard to your consideration of this appeal:

- (1) As far as the law is concerned, you must accept what I tell you.
- (2) The appeal is brought under section 56 of the Housing (Control of Occupation) (Guernsey) Law, 1994. I shall hereafter refer to this legislation as the 1994 Law.
- (3) Section 56 of the 1994 Law provides that there are two potential grounds of appeal: - the second ground is that the decision was an unreasonable exercise of the Authority's power.

The second ground applies in this case.

- (4) The burden of proof in this case lies on the Appellant, Mr Boulton: he has to satisfy you that the decision of the Authority was unreasonable.
- (5) The standard of proof upon which the Appellant must satisfy you is the balance of probabilities. That is to say, weighing everything in the balance are you more persuaded rather than less persuaded that the Authority's decision was unreasonable? Having conducted that mental

exercise, it is only if the balance tilts in the Appellant's favour that you should support it and allow the appeal.

- (6) I must now turn to your functions and responsibilities in this appeal. Whilst I am the sole judge of law, you are the sole judges of fact. In the context of this appeal, unreasonableness is a question of fact. What that means, is that you are the sole judges as to whether the decision of the Authority was unreasonable.
2. You should bear in mind my directions, the relevant provisions of the Housing (Control of Occupation) (Guernsey) Law, 1994, the submissions of Counsel on the facts, and all the circumstances of the case. Bearing all those matters in mind, you must then decide individually as ordinary and fair-minded people, whether the decision which the Authority has reached was unreasonable.
 3. I should add something more. There is a band of decisions within which no court should seek to replace the Authority's judgment with its own. It is not for you, the Jurats, to substitute your views for those of the Authority.
 4. Determining whether the Authority's decision was unreasonable means something other than that you might personally have come to a different decision had you been the Authority. If you conclude that you would have come to a different decision but you also conclude that the Authority's decision was not unreasonable then you dismiss the appeal. If you consider that the Authority's decision was right, equally you must dismiss the appeal. However, if you consider that the Appellant has persuaded you on the balance of probabilities that the decision of the Authority was unreasonable you must allow the appeal.
 5. With regard to any views I appear to express with regard to the facts and the documents, I stress that you should not adopt them unless you agree with them. That equally applies to views with regard to the facts expressed by Counsel. The facts are entirely a matter for you.

Relevant Framework of the 1994 Law

6. I will now give you a very brief summary of the general framework of the 1994 Law in so far as it may be of relevance in this case and will go into more detail on the specific provisions in question later, with reference to Section 6.
7. Ever since 1945, there has been legislation in force of some kind controlling occupation of Guernsey dwellings. The general thrust of all that legislation is that the occupation of any dwelling is only permitted by licence of the appropriate body. It continues to be reflected in the 1994 Law. In its very first section the Law, states:-

“1. Subject to the provisions of this Law, no person shall occupy or cause or permit another person to occupy a dwelling in Guernsey otherwise than under and in accordance with the

conditions of a licence (a “housing licence”) granted by the Authority under section 3”.

8. There are two broad, automatic, statutory exemptions to this requirement for a housing licence. The first of which relates to the status of the individual. The second relates to the status of the dwelling.
9. The first applies to qualified residents, as they are described and defined in the Law (principally in s.10 and to persons who may occupy dwelling houses with the benefit of a housing licence granted by the Authority).
10. Qualified residents do not require a licence to occupy any dwelling. Such residential qualifications may be obtained; in simplistic terms, based upon a person’s connection with Guernsey, by birth, family, etc.
11. Persons who have the benefit of a housing licence granted by the Authority can also in certain circumstances achieve residential qualifications, so that they are thereafter free to occupy any dwelling in the Island. Various conditions are prescribed, largely relating to period(s) and circumstances of residence, in respect of all the routes to obtaining residential qualifications. The fixed number of registered or “Open Market” properties may be lawfully occupied by non-qualified residents, such as the Appellant.
12. In this case counsel have agreed a list of 12 questions for you to answer.
13. This will assist you in your task.
14. I remind you that the burden in this appeal lies on Mr Boulton to show the decision of the Department was an unreasonable exercise of its powers. This is the civil standard, the preponderance of probabilities.
15. The facts in this case are fortunately capable of being accommodated in the compact agreed bundle that you have before you. The positions of the parties are reflected in the documentation, shown in the detailed letters. It is the last two letters from Housing at Tabs 9 and 12 on page 51 that set out their position which are subject of this appeal and you will assess the case on that basis, considering all the relevant circumstances.
16. When you sit down to discharge your duty you may be assisted by a set of observations from the Bailiff of Jersey in a case called TOKEN LTD v ISLAND PLANNING AND ENV COMMITTEE (2001) JLR at 703-4. I find this helpful in crystallizing the approach you should take:

“...The court might think that a Committee’s decision is mistaken, but that does not of itself entitle the Court to substitute its own decision. The Court must form its own view of the merits, but it must reach the conclusion that the Committee’s decision is not only mistaken, but also unreasonable before it can intervene. There is an element of semantics here but there is nevertheless a qualitative difference between finding that a decision is unreasonable rather than simply mistaken. To put it

another way there is a margin of appreciation before a decision which the Court thinks to be mistaken becomes so wrong that it is, in the view of the Court, unreasonable”.

17. I have set this out because it is as helpful an analysis of your task as I have come across.
18. In relation to Question 3 (Proportionality) there are additional points, which I shall endeavour to bring to your attention.
19. Now I will endeavour to go through the case picking out the main points made by both sides.
20. Advocate Richardson’s submissions were based on the deregistration point, in relation to his client’s occupation of 25 Maison Faite, a registered or “Open Market” dwelling.
21. There has been an amount of fencing about the exact situation the Appellant actually faces, but I think that the Department looked at it in the following way (p39 of joint bundle, decision letter of 8th March, 2005):

“The Department noted that you advise that your landlord’s agent has informed you that he will only be prepared to offer a short extension to your lease sufficient to permit your housing application to be resolved”.

22. Then, later on, it is apposite to note the statement that if the lease is terminated and the Appellant ceases to be occupier and the place is deregistered, these would not be matters that would justify the grant of a housing licence, having regard to the factors under Section 6(2) (b) (viz, familial connections and periods of residence,) or other factors under Section 6(5) (e) – *“other factors deemed necessary or expedient”*.
23. Although the Appellant’s situation may change, that is the indication that he has had and responds to. The Department has not filed any affidavits on the facts. Please look at the correspondence and bear it in mind.
24. Now, the facts of this case can be set in a pretty small frame and will be fresh in your minds from the proceedings before us yesterday and today. The agreed joint bundle is short and covers the salient points, and I do not propose to précis it to you.
25. The Appellant is 42 and has lived in Guernsey continuously since March 1993. His mother (74) and brother (39) also reside here. His mother is in poor health. He is a tenant of the property in question at a rent of £1,200 per month. The original lease was 3 years; at the material time the landlord had whittled it down to a year. You will have seen the correspondence with Mr Grange showing the landlord’s position.

26. Since the Appellant is not a qualified resident, he faces the prospect of losing his flat if it is deregistered, unless he receives a housing licence.
27. The policy of the States of Guernsey can be located in the agreed bundle and has been referred to in detail by both counsel at this appeal.
28. The background is the building of new Open Market dwellings on the Savoy Hotel site. The States approved a proposition that a portion of the dwellings to be built there could be Open Market if the equivalent number of existing dwellings was removed from the register of Open Market properties.
29. Paragraph 5 (page 4 of the bundle) provides as follows:-

“A dwelling to be deleted must be unoccupied or occupied by a qualified resident at the time of the application to delete the inscription. The fact that the dwelling is the subject of an application for the deletion of the inscription from the Housing Register under this policy would not be regarded as a reason which, of itself, would justify the grant of a housing licence to an occupier or former occupier.”

30. This resulted in the correspondence from the landlord to which I have alluded earlier, beginning with the letter of 31st May 2002 at Tab 4 of the agreed bundle. It is useful, you may think, to note the introductory paragraph:

“Some time ago we were approached to de-register a number of Open Market units at Mon Plaisir – this was to facilitate larger, more prestigious developments in St Peter Port. It was the wish of the States that this happened and it happened to coincide with the company’s own development plans”.

31. And the introductory paragraph of the letter of 14th July 2003 to the Appellant – at Tab 5 is along similar lines. The second paragraph is politely ominous from the Appellant’s point of view, you may think

“So far I can tell you that fourteen tenants have moved, or been granted local market residential qualifications, during the last two and a half years. No tenant has had to leave against their will, and most have either relocated to the UK or found other suitable accommodation on the Island, after having had at least a twelve month notice period in which to re-arrange their affairs”.

32. You will have seen during the course of the hearing today and yesterday what followed. I re-emphasize you must form your own judgment on all this.

Tab 9 - Appellant’s application for housing licence on 28th October 2004;

Tab 10 - Respondent’s rejection on 19th November 2004;

Tab 11 - Appellant's request for reconsideration on 12th January 2005;

Tab 13 - Respondent's rejection on 8th March 2005.

33. This last letter is the decision appealed against, together with those parts of the Respondent's earlier letter of 19th November, 2004, referred to and emphasized in that letter.

The Law

34. The relevant provisions of the Housing Law of 1994 are in Section 6, which you have.

35. I shall read this (ignoring Section 6(2) (a), which is not an issue in our case today). Sections 6(2)(b) (i) and (ii) are, and these are things which are mandatory for the Authority to consider.

(i) Whether the person who would be permitted by the housing license to occupy a dwelling has familial or like connections with Guernsey of sufficient strength to justify the grant of a housing licence.

(ii) Without prejudice to the generality of sub-paragraph (1) the periods during which and the circumstances in which that person has been resident in Guernsey or elsewhere."

36. In addition the Respondent can take into account section 6(5)(e), which it has done (see e.g. page 39, first page of decision letter: "*Such other factors as it deemed necessary or expedient*").

37. In looking at these mandatory provisions in Section 6(2), it is helpful to note the words of Beloff J A in the case of MATHESON (1998):

"I make three observations upon those provisions: firstly they specify considerations which it is mandatory for the Authority to take into account; secondly, the matters listed under (b)(ii) do not qualify or limit the consideration to be given to the matters listed under (b)(i); and thirdly, that the circumstances of residence referred to in (b)(ii) make a relevant but not a decisive or overriding factor in the equation, the status of residence of the Applicant".

((b) (i) is familial ties; (b) (ii) is residence periods).

38. As Beloff J A pointed out, such powers "*must be exercised with care and sensitivity to avoid any abuse of these powers*".

39. It is also clear from this judgment that it is perfectly proper for Housing to have a policy, provided it is lawful and the important words were used to show that:

“.....those who apply the policy are prepared to listen to reasons why it should not be applied in a particular case and in consequence, in appropriate circumstances, to make exceptions to it”.

(and I shall return to this passage later).

40. Beloff J A added:

“In essence the fact that an applicant is an “Open Market resident” is a relevant but not an overriding factor in the assessment of this application under Section 6(2)(b) and that any potential incapacity to achieve Section 10 status as a qualified resident requiring no housing licence is not conclusive against him”.

Correspondence

41. As the Court of Appeal (again via Beloff J A) has stressed, you do not construe letters from Housing the same way as if dealing with a contract or statute. Sensible analysis is one thing, what might be called “nit-picking” is another.

42. I mention this because, with great respect to Advocate Richardson, in his painstaking examination of the Department’s two main letters he, from time to time, strayed into exacting a scrutiny of the wording in my view. Crown Advocate McMahon’s point that the question: “could the applicant adequately understand the reasons for the rejection?” is, you may think the rational way to approach it. Understanding and comprehension, of course, do not necessarily equate with reasonableness - that will be for you to assess, based on the legal framework I am attempting to give you.

43. The situation of the applicant, you may think, is an unfortunate one and he must have been subject to worrying uncertainty over the past few years. A States decision, over which he had no control, now faces him with the prospect of being decanted from his dwelling, which he has peacefully occupied for some time - and he has no complaint with his landlord.

44. The essence of the Respondent’s position is set out in their letter of 19th November 2004, page 32 of the bundle.....

“After considering all the matters set out above the Department resolved that your familial and like connections, when considered in the light of your periods and circumstances of residence and taking due account of these other factors, are not sufficiently strong to justify the grant of a Housing Licence to enable you to occupy a controlled dwelling in Guernsey”.

45. Housing, of course, not only considered the mandatory factors, already referred to under Section 6(2)(b)(i) and (ii) – familial connections and residence periods, but also the provisions of Section 6(5)(e) – any other factors

deemed necessary or expedient. In the words of page 2 (page 40 in bundle) of the main decision letter of 8th March 2005:

“In the Department’s view this paragraph (i.e. the one just read out) clearly shows that it has considered the combined weight of all the relevant factors, that is your periods and circumstances of residence in Guernsey and elsewhere, your familial and like connections with Guernsey and all the necessary and expedient factors”.

46. You will have noted the Appellant’s familial connections, his periods of residence in Guernsey and elsewhere (as of 19th November, 2004 he had lived in Guernsey for 11 years, 8 months and elsewhere for nearly 30 years) and the presence of his mother and brother. The circumstances of what the Appellant, reasonably enough, described in layman’s terms as his “eviction” are considered under Section 6(5)(e) and also rejected by Housing, in detail in their letters. These points are largely covered in the agreed questions you will later consider and which deal with the general question of “reasonableness” for you to assess.
47. It is the Respondent’s case, if I may summarize it somewhat tersely, that it took all relevant matters into account and conducted an appropriate balancing exercise, coming to a conclusion reasonably open to it. You, the Jurats, cannot substitute your decision if Housing did not stray beyond the range of reasonable responses – that accords with my early basic direction, which need not be repeated further.
48. You will discern the Appellant’s specific points of attack on the Housing decision from the questions posed for your resolution and in the Cause you have before you in the agreed bundle.
49. Reference has been made to the case of CAMPBELL (2002), a decision of Deputy Bailiff Day. The situation was broadly similar there, but not identical to the one faced by the Appellant. The appeal succeeded because of a fundamental flaw in Housing’s reasoning - namely equating someone in the unusual position of Mrs Campbell with the mass of Open Market residents not faced with this very unusual situation.
50. There are some general observations in that case which you may derive some assistance from. I pause to observe that the observation at page 3 (page 41 of the bundle) by the writer of the decision letter of 8th March, 2005 that:

“In the Department’s view a previous decision is not necessarily regarded as a precedent unless all features of the cases are identical”

is wrong. As Advocate Richardson correctly told us, no two cases are ever the same and the doctrine of precedent could not operate on that basis. Furthermore, Advocate Richardson is also right in saying that confidentiality did not inhibit discussion of the CAMPBELL case insofar as it was in the public domain. Such rigid thinking, as exemplified by these points, is to be avoided.

51. Be that as it may, the concluding observations of the learned Deputy Bailiff, who was a formidable authority on the Housing legislation, are worthy of consideration and I read them from the last page of his judgment:

“I conclude by making some general observations. In simple terms the authority has a general policy that those who have spent all their time in Guernsey as adults residing in open market accommodation will not be granted licenses to occupy local market accommodation. That may well be a wholly justified policy reflecting as it does the basic division between the open and local markets as mirrored, both in terms and in spirit, in the legislation; provided that the policy is expressed to be a general presumption capable of rebuttal in appropriate circumstances, so ‘that those who apply the policy are prepared to listen to reasons why it should not be applied in a particular case and in consequence in appropriate circumstances to make exceptions to it’ (as per Beloff, JA). Indeed, the Authority has recognised exceptions in the case of long-term open market residents who are required to move into the local market for reasons of age and ill-health. Those of a similar length of residency who lose accommodation resulting from the implementation of States policy to encourage prestigious new developments may be another category of persons to whom special consideration should be given as potential exceptions to the general presumption. That is a matter for the Authority to address. What I can say, however, is that when it is relevant to do so it must be a factor to be taken into account, including issues of proportionality, in the overall balancing exercise in any particular case.”

52. The Appellant, you may recall, has lived in Guernsey continuously since February 1993. As this case does not involve the whole of the Open Market scene, but only a very few people adversely affected by the policy in an analogous position to the Appellant, the floodgates are far from being kicked open.

Proportionality

53. This leads to the point in proportionality, referred to specifically in question 3 of the list.

54. I direct you on the meaning of this concept as follows:-

- i) In this case there is a legitimate object which the Department is seeking to achieve, namely the enforcement of the Housing Law. This point need not trouble you;
- ii) A fair balance has to be struck between the demands of the general interest of the community in enforcing the Housing Law and the requirements of Article 8 of the ECHR.

55. Article 8 is cited by the Department and states:

*“Respect/right to respect for
private and family life-*

1. *Everyone has the right respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public Authority with the exercise of this right except such as in accordance with the law and as necessary the democratic society in the interests of national security, public safety or the economic wellbeing of the country for the prevention of disorder or crime for the protection of health or morals or for the protection of the rights and freedoms of others.”*

56. You are directed that as the European Convention on Human Rights was not then part of the law of Guernsey, you must reach your decision on the Law as it stood at the time of the decision appealed against, i.e. the Housing Law of 1994.

57. But Article 8 is relevant to your consideration. The reason is that under Section 6(5) (e) of the Law the Department may take into account (as we have mentioned earlier):

“Such other factors as it may deem necessary or expedient”.

and did so in its decision letters as we have seen. The Department took it into account and you can therefore do so, or else the situation will be rather artificial or academic.

58. The measures applied by the Department in this case must not go beyond what is necessary to achieve the legitimate object of enforcing the Housing Law. You must determine whether these measures are either unacceptably broad in their application, or (as is more to the forefront in this case) have imposed an excessive or unreasonable burden on the Appellant.

59. “Family life” is difficult to define; the existence of family life is essentially a question of fact depending upon the real existence in practice of close personal ties. It is clear that the notion of family life is not confined to families based on marriage and may encompass other relationships e.g. siblings.

60. “Home”, a simple, factual and untechnical test must be applied taking full account of the factual circumstances.

“It is an important aspect of his dignity as a human being, and is protected as such and not as an item of property”. (Lord Millett)

It is where a person lives and which forms the centre of his existence.

61. I stress that under the Law which you must apply in this case, the burden remains, as it does throughout, on the Appellant, Mr Boulton, on the balance of probabilities when considering these questions.
62. You will, of course, judge this matter unsentimentally and with your customary good sense.
63. The question is not “have they got it absolutely right”? But has the Department acted within the band of reasonable responses open to it? Has the Department fully taken on board the Appellant’s situation and the consequences?
64. Please bear in mind all that counsel has said and give it appropriate weight. If I have omitted something that you consider important then take it into account as you see fit.
65. I leave you with some observations of Sir Godfray Le Quesne in the Court of Appeal case of Ward v States Housing Authority (1989) from paras 33 and 34, which are still germane today:

“...before parting with this case we wish to make some general observations. We have referred already to the formidable character of the Housing Law. It places great and unusual power in the hands of the Housing Authority. Outside the limited class of qualified residents and the limited circumstances in which a Housing Licence is not required, nobody can lawfully occupy any dwelling in this Island without the Housing Authority’s licence. Subject only to the requirement to act reasonably, the Housing Authority can prevent the owner of a house, who does not belong to that class or fall within those circumstances, from occupying his own property”.

66. And.....

“The existence of such power has been judged necessary by the States and her Majesty In Council has confirmed this view

We wish to emphasise however, that such drastic power calls for meticulous care in its exercise and scrupulous balancing of the conflicting interests which it offers”.

67. Advocate Richardson, anything you would like me to add, alter, correct?
68. Advocate McMahon?
69. Are there any other further points on which I can assist the Members of the Court?
70. Please now retire with the list of questions.

J R Finch

