

St Andrew's House Income Ordinance 1999

No 51, 1999

Long Title

An Ordinance to provide for the application of the income earned from the land on which the building known as St Andrew's House is situated.

Preamble

A. Under clause 1 of the St Andrew's House Ordinance 1975, the Land (as defined in clause 2) is managed by the St Andrew's House Corporation ("SAHC").

B. Constructed on the Land are the improvements comprising the office tower known as "St Andrew's House", a car park and shopping arcade.

Funding of Original Construction Cost

C. To fund the cost of the construction of the improvements

(i) Glebe Administration Board ("GAB"), as trustee of the property now held on the trusts set out in the Diocesan Endowment Ordinance 1984, lent SAHC the sum of \$6,000,000 and

(ii) GAB, as trustee of the property now held on the trusts set out in the 7th Schedule to the Endowment of the See Ordinance 1977 (the "Endowment of the See"), lent SAHC the sum of \$6,000,000.

D. In 1977, the Property Trust became the trustee of the Endowment of the See.

E. Under clause 1 of the St Andrew's House Site Ordinance 1985, the GAB and the Property Trust have elected to treat the loans referred to in paragraph C as monies paid to acquire an interest in the Land.

F. Other loans were made by GAB to SAHC in connection with the construction of the improvements but those loans have since been repaid.

St Andrew's Cathedral School

G. St Andrew's Cathedral School occupies part of the office tower constructed on the Land pursuant to the St Andrew's House Income Ordinance 1977 and the St Andrew's Cathedral School Ordinance 1979.

Application of Income

H. The St Andrew's House Income Ordinance 1977 provides for the application of the income from the Land.

Redevelopment of the Arcade

I. Commencing in 1999, SAHC is undertaking the redevelopment of the shopping arcade constructed on the Land. The redevelopment is being financed as follows

- (i) from loans taken out by SAHC and
- (ii) from cash reserves forming part of the capital of SAHC.

J. It is proposed that, from the income of the shopping arcade,

- (i) the interest on the loans referred to in paragraph I be paid and,
- (ii) the loans referred to in paragraph I be repaid and,
- (iii) the cash reserves referred to in I be replenished.

Variation of Trusts

K. By reason of circumstances which have arisen since the creation of the trusts on which the Land and the undistributed income therefrom are held, it is inexpedient to carry out and observe the same and it is expedient to vary the trusts to enable the income from the Land to be applied in the manner set out in this Ordinance.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows -

1. Name

This Ordinance is the St Andrew's House Income Ordinance 1999.

2. Definitions

(1) In this Ordinance:

"Arcade" means the shopping arcade erected on the Land, and includes that part of the ground floor of the Building which is used or is intended to be used for retail or other commercial purposes.

"Arcade Income" means the income earned from, or in connection with, the Arcade.

"Arcade Outgoings" means all outgoings of any description in relation to the Arcade and, without limiting the generality of the foregoing, includes

(a) any amount payable to the Council under any lease of the Land to GAB which is used for the purposes of the Arcade and,

(b) any amount reasonably determined by SAHC for depreciation and for any actual or contingent liability.

"Arcade Works" means the works commencing in 1999 to redevelop the Arcade.

"Building" means the office tower erected on the Land known as "St Andrew's House".

"Council" means the Council of the City of Sydney.

"GAB" means the Glebe Administration Board or such other person who, from time to time, is the trustee of the property held on the trusts set out in the Diocesan Endowment Ordinance 1984.

"Index Number" means the consumer price index published by Australian Bureau of Statistics or, if the publication of the consumer price index ceases, such other index published at the relevant time which, in the opinion of SAHC, reflects changes in the cost of living in Sydney.

"Land" means:

(a) lot 1 in deposited plan 596863 and,

(b) any land adjoining or near the land described in paragraph (a) which has been leased to GAB by the Council and,

(c) any other land which may be vested in SAHC.

"Other Income" means the income earned from the Land which is not Arcade Income.

"Other Outgoings" means all outgoings of any description in relation to the Land, not being Arcade Outgoings and, without limiting the generality of the foregoing, includes any amount reasonably determined by SAHC for depreciation and for any actual or contingent liability.

"Property Trust" means Anglican Church Property Trust Diocese of Sydney or such other person or person who, from time to time, is the trustee of the Endowment of the See.

"Repayment Date" means that date when amounts have been retained and applied under clause 4(1)(f) which, in total, equal the total cost of the Arcade Works.

"SAHC" means St Andrew's House Corporation or such other person who, from time to time, is responsible for the management of the Land.

"School Council" means The Council of St Andrew's Cathedral School.

"Specified Sum" means

(a) in 1999 - \$1,600,000,

(b) in a subsequent year (the "Relevant Year"), the amount determined in accordance with the following formula -

$$C1$$

S x

$$C0$$

where -

S is the Specified Sum in the year which immediately precedes the Relevant Year

C0 is the Index Number for the September quarter in the year which is 2 years before the Relevant Year

C1 is the Index Number for the September quarter of the year before the Relevant Year.

"Termination Date" has the meaning as in the Second Schedule of the St Andrew's Cathedral School Ordinance 1979.

(2) SAHC is to decide

(a) whether an item of income earned from the Land is to be regarded as Arcade Income or Other Income, or partly Arcade Income and partly Other Income and,

(b) whether an outgoing is to be regarded as an Arcade Outgoing or an Other Outgoing, or partly an Arcade Outgoing and partly an Other Outgoing.

3. Declarations

By reason of circumstances which have arisen since the creation of the trusts on which the Land and the income therefrom are held, it is inexpedient to carry out and observe those trusts and it is expedient that the trusts be varied to allow the matters set out in this Ordinance.

4. Application of Arcade Income

(1) The Arcade Income earned in 1999, and in each year thereafter, is to be applied, so far as it extends, in the following order of priority

(a) to pay all Arcade Outgoings and, if the Other Income is insufficient to meet all Other Outgoings, to meet such Other Outgoings,

(b) if the Other Income is insufficient to pay the amount referred to in clause 5(b), to make that payment or the balance of that payment required to be made,

(c) to set aside the amount or amounts determined by SAHC to, or as an addition to, a provision or reserve for replacement or refurbishment,

(d) until the Repayment Date, to apply the Specified Sum for that year in accordance with the trusts on which the Land and income are held,

(e) to pay all interest due and payable on each loan taken out for the purposes of the Arcade Works in accordance with the terms on which the loan was taken out,

(f) to retain from distribution and apply to the accumulated surpluses in the accounts of SAHC, the balance of the Arcade Income which has not been applied under the foregoing paragraphs of this clause 4(1), but only to such extent as the amount retained and applied, and all other amounts retained and applied under this clause 4(1)(f) in previous years, equals the total cost of the Arcade Works.

(g) to repay *pari passu*, the amounts treated by the GAB and the Property Trust, in their books, as monies paid to acquire an interest in the Land under clause 1 of the St Andrew's House Site Ordinance 1985 or clause 6 of this Ordinance, but only to the extent last determined by SAHC, and

(h) to apply the balance, if any, in accordance with the trusts upon which the Land and income are held.

(2) The Specified Sum to be applied under clause 4(1)(d) is to be regarded as accruing from day to day and, if the Repayment Date is other than 31 December in any year, the amount to be applied under clause 4(1)(d) is the part of the Specified Sum which accrues up to the Repayment Date.

(3) The cash representing any amount retained from distribution and applied to the accumulated surpluses in the accounts of SAHC under clause 4(1)(f) may be applied by SAHC towards repaying any loans taken out for the purposes of the Arcade Works.

5. Application of Other Income

The Other Income earned in 1999, and in each year thereafter, is to be applied, so far as it extends, in the following order of priority

(a) to meet all Other Outgoings and, if the Arcade Income is insufficient to meet all Arcade Outgoings, to meet such Arcade Outgoings,

(b) until the Termination Date, to pay \$105,000 to the School Council,

(c) to set aside the amount or amounts determined by SAHC to, or as an addition to, a provision or reserve for replacement or refurbishment,

(d) to repay, *pari passu*, the amounts treated by the GAB and the Property Trust, in their books, as monies paid to acquire an interest in the Land under clause 1 of the St Andrew's House Site Ordinance 1985 or clause 6 of this Ordinance, but only to the extent last determined by SAHC, and

(e) to apply the balance in accordance with the trusts upon which the Land and income are held.

6. Monies Paid to Acquire an Interest in the Land

(1) If, in any year, the amount applied under clause 4(1)(d) is less than the Specified Sum for that year

(a) the amount of the difference is to be treated by SAHC, in its books, as an addition to the capital of SAHC, and

(b) one half of the amount of the difference is to be treated by each of the GAB and the Property Trust, in their books, as monies paid to acquire an interest in the Land.

(2) One half of any amount added to the capital of SAHC under clause 4(1)(f) is to be treated by each of the GAB and the Property Trust, in their books, as monies paid to acquire an interest in the Land.

7. St Andrew's Cathedral School

(1) The amount to be paid under clauses 4(1)(b) and 5(b) may be applied by SAHC by way of set off against any interest payable to the School Council.

(2) The amount to be paid under clauses 4(1)(b) and 5(b) is to be regarded as accruing from day to day and, if the Termination Date is other than 31 December in any year, the School Council will be entitled to be paid the part of that amount which accrues up to the Termination Date.

(3) Clauses 4(1)(b) and 5(b) are not to be amended without notice being first given to the School Council.

8. Commencement

This Ordinance is to be regarded as having commenced on 1 January 1999.

9. Repeal

The St Andrew's House Income Ordinance 1977 does not apply to Arcade Income or Other Income earned in 1999 or in a year thereafter.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

N M CAMERON

Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 6 December 1999.

M A PAYNE

Secretary

I Assent to this Ordinance.

R H GOODHEW

Archbishop of Sydney

7/12/1999