

18th October, 1985.

A.G. -v- Pennymore Investments Limited
(Housing Infractions)

BAILIFF: The Court is going to reduce the total amount of fines by £200, that is to say £50 off the amount asked in respect of each of the four charges making a total of £4,800 as opposed to £5,000 purely on the basis that a year elapsed between the sufficient information being made available to the Committee and the actual charge count. We accept the fact that this is, as compared with the last case, a rather more complicated case but having taken the view which we did in the last case, we think it right to take an almost similar view in this case although we recognise this was a more complicated case and therefore we restrict our reduction to £200 and not £250. As has already been said this morning and as this Royal Court has said on many, many occasions, anyone who owns or is involved with property where there is self-contained accommodation involving letting, should by now know, that you cannot in this Island let property without control - you cannot let property to non-qualified people without permission or without control and we have said over and over again that people who are involved with such properties have a duty to find out what the law is and it is quite unacceptable, although we continue to hear this time and time again - it is quite unacceptable and it is not in any way a mitigating factor for somebody to come to us and say: "I did not realise what the law was, I thought the law was this or that". The safe rule of thumb is that whenever one wants to let property, one must assume that it is subject to control, subject to restriction to qualified people only, either one must seek advice from the Housing Office or from a lawyer and in this particular case it may well be that Mr. Fann inherited a situation which was not the correct situation. All we can say is that he was, we are bound to say, extremely negligent in assuming - as apparently he did assume - that he could properly let these premises because there was one qualified person in one of the units on the premises. It may be unfortunate that he is a guinea pig and that others may benefit from the fact that he is being prosecuted but the fact is that there have been many of these cases - much publicity has been given to them and so be it - he is in this position and must now pay the penalty. Now as regards the penalty, it is accepted and we have no doubt about it that the proper, that the market rent payable by persons who are residentially qualified is lower for obvious reasons than that which non-qualified people

are prepared to pay and therefore although, of course, one cannot be precise in any way, we are prepared to accept that the excess profits made by the company, in this case, amount to approximately to £3,900 by reason of the higher rent being paid by non-qualified persons. The actual fine therefore, if we take that estimated excess profit or rent away, the actual fine being asked for is a fine of £1100 and that we think is in no way excessive as a punishment for a failure to understand the legal situation; a failure to find out, and for the fact that self-contained accommodation which was suitable for residentially qualified people was in fact, not made available to them.

That has been said over and over again, a serious matter in the Island where there is such a shortage of housing and deserves punishment. We have taken into account in the figure of £1100 the fact that Mr. Fann undoubtedly did, once he realised and he should have realised it before and that was his fault, once it was made very clear to him that he was in breach of the law and we have taken into account the fact that he did in fact co-operate and take very swift steps indeed to make sure that he was no longer disobeying the law. We think the figure of £1100 which is what we regard as the actual fine as opposed to the taking away of the excess profits is not in any way excessive, no less as we said we reduce each of the conclusions by £50. Therefore, he is fined a total on charge 1 of £1,450; on charge 2 of £1,450; on charge 3 of £950; and on charge 4 of £950; making a total of £4,800 with costs of £250. Thank you.