
Ryde (Livingstone Lodge) Ordinance 1973

(Reprinted under the Interpretation Ordinance 1985.)

The Ryde (Livingstone Lodge) Ordinance 1973 as amended by the Anglican Church Property Trust Diocese of Sydney (Change of Name) Ordinance 1982; the St Anne's Ryde Declaration of Trusts, Mortgaging and Leasing Ordinance 1973 Amendment Ordinance 1991 and the Ryde (Livingstone Lodge) Ordinance 1973 Amendment Ordinance 1992.

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Long Title

An Ordinance to declare the trusts and to authorise the mortgaging or charging and leasing of certain land situate at the corner of Little Church Street and St Annes Street Ryde And to authorise the further mortgaging or charging of certain land situate in Church Street Ryde and to provide for the application of the proceeds.

Preamble

2 Whereas Anglican Church Property Trust Diocese of Sydney (hereinafter called the Corporate Trustee) is registered proprietor of the land comprised in Certificate of Title Volume 6626 Folio 202 more particularly described in the First Schedule hereto And Whereas the said lands are church trust property and are held for the sole benefit of the Parish of St Anne Ryde but no trusts in writing have been declared concerning the same And Whereas it is proposed to erect on the said land certain buildings to be used as residential flats and for such purposes it will be necessary to borrow a sum or sums not exceeding One hundred and thirty-five thousand five hundred dollars (\$135,000) in respect of the development of the said lands to be applied towards the costs thereof And Whereas it is expedient that the said lands be mortgaged or charged to secure such advance And Whereas the proposed mortgagee intending to make the advance as aforesaid is the same mortgagee who made the advance of Five hundred and ten thousand dollars (\$510,000) referred to in St Anne's (Ryde) Glebe Leased Lands Sale (Further Amendment) and Variation of Trusts and Mortgaging ordinance No. 27, 1968 on the security of the land described in the First Schedule thereto and which land subsequently became registered under the provisions of the Real Property Act, 1900, and in consequence thereof Certificate of Title Volume 11034 Folio 219 (more particularly described in the Second Schedule hereto) issued in respect of the said land showing the Corporate Trustee as the registered proprietor in fee simple of the land comprised in the said Certificate of Title And Whereas the said Certificate of Title was issued by the Registrar General prior to the Corporate Trustee giving the mortgage authorised by the said Ordinance and consequently such mortgage was given by the Corporate Trustee under the provisions of and in the form required by the Real Property Act, 1900, over the land comprised in the Second Schedule hereto And Whereas in order to meet certain additional costs in the erection of the residential flat building then being erected on the lands in the Second Schedule hereto it became necessary to borrow a further sum of Forty thousand dollars (\$40,000) by way of further mortgage or charge against the land comprised in such Schedule And Whereas the Corporate Trustee in pursuance of the provisions of St Anne's Ryde Further Mortgaging and Amending Ordinance No 21, 1969 was authorised to further mortgage or charge the land described in the Second Schedule hereto the proposed mortgagee now requires the Corporate Trustee as a condition precedent to the granting of the loan of One hundred and thirty-five thousand five hundred dollars (\$135,500) as aforesaid to give a further mortgage or charge over the land described in the Second Schedule hereto by way of collateral security for the payment of the said advance of One hundred and thirty-five thousand five hundred dollars (\$135,500) and interest thereon And Whereas it is expedient that the last mentioned lands be further mortgaged or charged to effect such collateral security as aforesaid Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains Declares Directs and Rules as follows.

Declaration of Trust

1. The land described in the First Schedule hereto shall be held by the Corporate Trustee upon trust to permit the same to be used for the erection thereon of a residential flat building and to enter into such contract or contracts as may be necessary in accordance with plans and specifications as therefor approved by the Corporate Trustee to erect upon the said lands such building as aforesaid.

Mortgaging Provisions

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the lands described in the First Schedule hereto are held it is expedient that such lands be mortgaged or charged.

3. By reason of circumstances that have arisen subsequent to the creation of the trusts upon which the land described in the Second Schedule hereto is held (and being the same land as referred to in the First Schedule in Ordinance No 27, 1968 and the Second Schedule in Ordinance No 21, 1969) it is expedient that such land be further mortgaged or charged by way of collateral security for the payment of the said advance of One hundred and thirty-five thousand five hundred dollars (\$135,500) and interest thereon.

4. (1) The Corporate Trustee is hereby empowered to mortgage from time to time the lands described in the Schedules hereto for the purpose of borrowing the sums following -

- (a) When the power is first exercised a sum not exceeding One hundred and thirty-five thousand five hundred dollars (\$135,500).
- (b) When the power is subsequently exercised such sum not exceeding One hundred and thirty-five thousand five hundred dollars (\$135,500) as Standing Committee may by resolution determine.

Provided that such debt and interest thereon shall be paid as follows -

- (i) Interest at the rate of Nine dollars twenty-five cents (\$9.25) per centum per annum only shall be paid on instalments received from the mortgagee on account of the advance for the first three years after funds commence to be so received and thereafter the principal sum and interest thereon at the rate aforesaid by thirty-four (34) equal half-yearly instalments each of Seven thousand nine hundred and eighty-three dollars and six cents (\$7,983.06) Provided Further that no person or corporation advancing moneys under the provisions of this Ordinance shall be concerned to enquire whether such reductions shall have been made.
- (ii) Interest at the rate of four dollars (\$4) per centum per annum calculated on a daily basis and paid monthly shall be paid on any then undrawn balance of the said advance after the first day of July 1974.

(2) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the said power.

(3) A document purporting to be certified by the Archbishop or Diocesan Secretary of the said Diocese as a copy of any such resolution shall in favour of a mortgage or any person or corporation claiming under the mortgage be conclusive evidence that such resolution was duly passed.

Application of Proceeds

5. The proceeds of any mortgage hereby authorised shall after paying the costs of and incidental to this Ordinance and such mortgages as aforesaid be applied by the Corporate Trustee as follows -

- (a) When the power is first exercised towards the cost of erection of the residential flat building on the land described in the First Schedule hereto.
- (b) When the power is subsequently exercised (other than by a renewal of the original mortgage) in payment of the principal interest and costs of discharge of any existing mortgage or mortgages or for such other purpose or purposes as the Standing Committee shall by resolution determine with approval of the Parish Council of the Parish of St Anne Ryde.
- (c) Any mortgagee advancing moneys pursuant to the provisions of subclause (1) of clause 4 hereof shall pay the same to the Churchwardens for the time being of St Anne's Ryde or as they shall direct.

Application of Lease Income

³ 6. The Corporate Trustee is hereby empowered to lease from time to time any one or more of the flats forming part of the said residential flat building to be erected on the land described in the First Schedule hereto upon such terms and conditions as the Corporate Trustee shall deem fit but nevertheless subject to the provisions of the Standing Committee of Synod's investment policy and the annual net income arising from such leases shall be applied by the Corporate Trustee as follows -

- (a) By payments of principal and interest as provided in the said mortgages on the lands described in the First and Second Schedules hereto at the time and in the manner hereinbefore provided.

- (b) By payment into a fund to be maintained by the Corporate Trustee an amount of \$5,000 per annum commencing in the 1991 calendar year or such other amount as may be agreed from time to time between the Corporate Trustee and a majority of the Parish Council which amount or amounts together with the income earned thereon shall be applied for such repairs, renovations and maintenance of the residential flat building as the Parish Council of the Parish considers appropriate and any moneys to be so applied shall be paid to the Churchwardens for the time being of the Parish as required by them for these purposes.
- (c) Subject to the payments mentioned in items (a) and (b) hereof the Corporate Trustee shall apply the residue of the net income as follows -
 - (i) Fifty per centum (50%) to be held by the Corporate Trustee and allocated and distributed in accordance with the annual Diocesan Income and Expenditure Ordinance of the Synod towards the mission and ministry of the Anglican Church of Australia Diocese of Sydney;
 - (ii) Seven and one half per centum (7.5%) to be paid to the Churchwardens of the Parish and applied only towards the maintenance, repair, restoration or replacement of the property and improvements held on trust by the Corporate Trustee for the Parish; and
 - (iii) Forty two and one half per centum (42.5%) to be paid to the Churchwardens of the Parish for such intra-parochial and extra-parochial purposes as the Parish Council of the Parish shall determine in its absolute discretion.

Accounts

7. The Churchwardens for the time being of St Anne's Ryde shall within seven (7) days of the date of holding the annual vestry meeting during such time as any money is owing to any mortgagee pursuant to this Ordinance cause an account to be forwarded to the Diocesan Secretary giving details of the original amount or amounts from time to time borrowed the amounts paid off and the balance owing.

Review of Clause 6

- ⁴ 8. The provisions of Clause 6 shall be reviewed as soon as reasonably possible after 31 December 1996.

Citation

- ⁵ 9. This Ordinance may be cited as ôRyde (Livingstone Lodge) Ordinance 1973ö.

First Schedule

All That piece of land situate in the Municipality of Ryde Parish of Hunters Hill and County of Cumberland being lots 1 and 2 in plan now filed as FP 394640 having a total frontage of 92 feet 8¹/₂ inches to Little Church Street and a splayed corner of 29 feet 4¹/₂ inches and with a depth of 92 feet 1¹/₂ inches along St Annes Street on the one side and 111 feet 4 inches on the other side and with a total rear dimension of 114 feet 2¹/₂ inches (all dimensions being more or less) and being part of the land in Certificate of Title Volume 6626 Folio 202.

Second Schedule

All That piece of land situate as aforesaid having a frontage of 206 feet 4_ inches to Church Street by a depth of 263 feet 9^d inches on one side with a rear dimension of 247 feet 9_ inches and irregular dimensions on the other side being Lot 1 Portion 13 in Deposited Plan No 225913 and the whole of the land comprised in Certificate of Title Volume 11034 Folio 219.

Endnotes

M.A. PAYNE
Legal Officer

W.G.S. GOTLEY
Diocesan Secretary

27 February 2008

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1. Amended by Ordinance No 9, 1991
 2. Amended by Ordinance No 14, 1982.
 3. Amended by Ordinances Nos 9, 1991 and 3, 1992.
 4. Inserted by Ordinance No 3, 1992.
 5. Amended by Ordinance No 9, 1991 and renumbered by Ordinance No 3, 1992.