

85/121

22nd November, 1985.

A.G. -v- C.C. Enterprises Limited

BAILIFF: Well the Court has often said that a breach by a landlord of this particular housing provision, which results in the deprivation of a housing unit for the benefit of those who are residentially qualified is a serious matter because the housing problem is so difficult in Jersey. We can quite understand that from your point of view Mr. Wintour, that you were thinking it a mitigating factor to say as you have said that you have created four housing units out of one, and surely that ought to be taken into account, the fact that you have increased the number of housing units and so it's not really fair to punish you for having allowed one of those units to be occupied by a person who is not residentially qualified. But whilst in a way we can understand why you think that a the mitigating factor I'm afraid that this Court cannot accept it as a mitigating factor, because otherwise an argument can be used by everybody. The fact is that a private person who converts a one unit into three or four units is doing so for his own benefit. It has a beneficial effect admittedly, in that it adds housing units to the total stock, nevertheless he is doing it for his own purposes and it really cannot be a mitigating fact that one has done that, if one then goes on and deliberately, or very negligently, allows somebody who is not residentially qualified to occupy one of those units. We cannot look upon that as a mitigating factor at all, and the aggravating factor in this case is that you deliberately, knowingly, not just negligently but knowingly, allowed somebody who was not residentially qualified to occupy it. On the other hand, in mitigation it is not a mitigation that we can take into account, but we do understand that you felt some sympathy towards Mr. Holmes, you have known him for some time. What is a mitigating factor or is that you did in fact inform the Housing Committee, eventually. It may be that the offence would have come to light but the fact is that you must be given credit for having told the housing committee yourself before they found out. Nevertheless having said all that, the maximum is five thousand pounds and what is being asked for is only one

thousand pounds and because this was a deliberate act on your part at the time, we do not think that one thousand pounds is unreasonable. Therefore because it must always be a serious matter, such a breach, we are going to fine you the sum of one thousand pounds, and also we will order you to pay the costs of one hundred pounds.