

In the Royal Court of Jersey

Samedi Division

In the year two thousand and six, the twenty-fifth day of August.

Before the Judicial Greffier.

Upon the application of Her Majesty's Solicitor General, IT IS ORDERED that the Planning Obligation Agreement between Stewart Edgar Mourant, Mèlèches Limited, G.R. Langlois (1991) Limited, the Minister for Planning and Environment and the Jersey Homes Trust in relation to Field 1370, La Rue de Mon Séjour, St. Helier, be registered in the Public Registry of this Island.


Greffier Substitute

LOD

Reg. Pub. ✓

L1206-460--



In the Royal Court of Jersey

Before the Judicial Greffier

The 25th day of August 2006

On the application of the Solicitor General, the Court, in accordance with the provisions of Article 25 of the Planning and Building (Jersey) Law, 2002, has registered a Planning Obligation Agreement in respect of Field 1370, La Rue de Mon Séjour, St. Helier.

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PLANNING OBLIGATION AGREEMENT

ARTICLE 25 of the PLANNING AND BUILDING (JERSEY) LAW 2002

BETWEEN

STEWART EDGAR MOURANT

AND

MELECHES LIMITED

AND

G.R. LANGLOIS (1991) LIMITED

AND

THE MINISTER FOR PLANNING AND ENVIRONMENT

AND

THE JERSEY HOMES TRUST

REGARDING

Field 1370, La Rue de Mon Séjour, St Helier

**Law Officers' Department
Morier House
St Helier
Jersey**

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1. Parties

- 1.1 Stewart Edgar Mourant of Haut du Mont Farm, La Rue de la Hauteur, St Helier
- Mélèches Limited, whose registered office is 3rd Floor, 40 Esplanade, St Helier
- (hereinafter together called "**the Owners**" and each an "**Owner**" which expressions where the context so admits shall include their respective heirs, assigns and successors in title in relation to the Land or any part thereof); and
- 1.2 G. R. Langlois (1991) Limited, whose registered office is 19, Oxford Road, St Helier, (hereinafter called "**the Developer**" which expression where the context so admits shall include its assigns and successors in title in relation to the Land or any part thereof); and
- 1.3 The Minister for Planning and Environment (hereinafter called the "**Planning Minister**" which expression shall be construed in accordance with Clause 3.1); and
- 1.4 The Jersey Homes Trust of 48-50 New Street, St. Helier (hereinafter called "**the Trust**" which expression where the context so admits shall include its assigns and successors in title in relation to the Land or any part thereof).

2. Whereas:

- 2.1 The Planning Minister is the Minister of the States of Jersey charged with the administration of the Planning and Building (Jersey) Law 2002 as amended or re-enacted from time to time ("**the Law**"), by whom the obligations in this Agreement are enforceable in accordance with the provisions of the Law.
- 2.2 Field 1370, La Rue de Mon Séjour, St Helier ("**the Land**") (as shown for identification purposes only hatched in diagonal hatching on the map titled **Schedule 1** to this Agreement), is owned by the Owners as follows:
- (i) Stewart Edgar Mourant has title to the majority of the Land by contract of purchase passed before the Royal Court on 13th October 1967;
 - (ii) Mélèches Limited has title to the remainder of the Land by deed of gift, cession and transfer passed before the Royal Court 25th October 1996.
- 2.3 The Owners have granted to the Developer an option to purchase the Land in accordance with a private agreement entered into between the Owners and the Developer on 4th November 2004.
- 2.4 The Developer and the Trust have entered into a legally binding conditional agreement whereby the Developer will sell the Land to the Trust and will

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thereafter develop the Land on behalf of the Trust into 11 three bedroomed units and 2 two bedroomed units of Social Rented Accommodation.

- 2.5 Wherefore the Owners, the Trust and the Developer each has an interest in the Land within the meaning of paragraph (1) of Article 25 of the Law.
- 2.6 The Developer has applied to the Planning Minister for Permission to develop 11 three bedroomed units and 2 two bedroomed units of dwelling accommodation upon the Land (application reference no. P/2005/1998).
- 2.7 The Planning Minister considers it expedient in the interests of proper planning that provision should be made for regulating or facilitating the development or use of the Land in the manner hereinafter appearing and is satisfied that Permission could properly be granted in respect of the said application conditional on the Owners and the Developer entering into this Agreement.

3. Interpretation

- 3.1 In this Agreement the expressions in the left-hand column have the meaning set out in the right-hand column.

Approved Funder	(a) Barclays Private Clients International Limited. (b) any financial institution which shall with the consent of the Minister of Housing (which consent shall not be unreasonably withheld) with regard to both the identity of the funder and the quantum of the funds provided provide funds to the Social Rental Landlord to enable it to purchase the Land and carry out the Development for Social Rental Accommodation or refinance same.
Communal Areas	the roads, footpaths, paved areas and associated lighting (if any) serving the Development, together with the play area, landscaped areas and other open areas.
development	as defined in the Law
Development	the development of the Land in pursuance of a Permission.
Development Agreement	as defined in Clause 4.7.2 of this Agreement.
Field 812A Agreement	the Planning Obligation Agreement relating to the development of Field 812A between Charles John Mossop Mourant, the Developer and the Planning Minister and registered in the Public Registry.

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First Time Buyer

any person who:

Either:

(1)

(i) Does not own, and has not previously owned, whether as sole owner or jointly or in common with any other person or persons:

(a) Any immovable property

(b) Either in his own name or as beneficial owner, shares in any company, ownership of which confers the right to occupy residential accommodation;

and

(ii) Is neither married to, nor buying as co-owner with, any person who does not fall within (i) above

or

(2) Has been approved by the Minister for Housing as being a person to whom consent should be granted to acquire or to occupy the residential accommodation as the case may be, notwithstanding the fact that he does not fall within (1) above.

First Time Buyer
Dwelling Unit

accommodation which may not be owned or occupied other than by a First Time Buyer.

Land

Field 1370, La Rue de Mon Séjour, St Helier as shown for identification purposes only hatched in diagonal hatching on the site plan annexed as "Schedule 1" to this Agreement.

Minister for Housing

the Minister for Housing and any person or body to whom the functions of that Minister are lawfully delegated from time to time and any person or body to whom the functions of that Minister are transferred hereafter.

Permission

any permission granted by the Planning Minister for the development of the Land –

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- (a) under Article 6 of the Island Planning (Jersey) Law 1964, or
- (b) under Article 9 of the Law
- Planning Minister** the Minister for Planning and Environment and any person or body to whom the functions of that Minister are lawfully delegated from time to time and any person or body to whom the functions of that Minister are transferred hereafter.
- Minister for Transport and Technical Services** the Minister for Transport and Technical Services and any person or body to whom the functions of that Minister are lawfully delegated from time to time and any person or body to whom the functions of that Minister are transferred hereafter.
- Social Rental Accommodation** accommodation which is for rental by a Social Rental Landlord approved for that purpose by the Minister for Housing to Social Rental Tenants.
- Social Rental Landlord**
- (a) The Public;
- (b) A Parish;
- (c) A Housing Trust; or
- (d) Any other person or body who has -
- (i) been approved as such by the Minister of Housing, and
- (ii) entered into a Social Rental Landlord Agreement with the Minister of Housing
- when discharging their function of providing housing for Social Rental Tenants.
- Social Rental Landlord Agreement** an agreement between the Minister of Housing and a Social Rental Landlord regarding the use, occupation and/or acquisition and/or development of Social Rental Accommodation.
- Social Rental Tenants**
- (i) those persons whom the Social Rental Landlord considers, having regard to the criteria set out from time to time by the States or by the Minister for Housing as the case may be, to be in need of financial and/or social assistance for obtaining accommodation suitable for their needs, or
- (ii) those persons whom the Minister for Housing

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has nominated in accordance with any relevant
Social Rental Landlord Agreement,

as the case may be.

Transfer does not include the vesting of title in any person by operation of law pursuant to an Order of the Royal Court.

Transferred Land as defined in Clause 4.7.2.

3.2 Any reference to a Clause is a reference to a Clause in this Agreement.

4. It is agreed as follows:

4.1 This **AGREEMENT** is made pursuant to all powers enabling the parties and in particular to Article 25 of the Law and with the intent that subject to Clause 6 it shall bind the Owners and the Developer and their respective heirs, assigns and successors in title in respect of the Land and any persons claiming under or through them **SAVE AND EXCLUDING** the purchasers of completed First Time Buyer Dwelling Units or the sites thereof and/or tenants and occupiers of dwelling units constructed in accordance with the Planning Permission and those in right of them who will only be bound by Clauses 5.7 and 5.8

4.2 The obligation assumed by the Owners and the Developer by this Agreement is a planning obligation for the purposes of Article 25 of the Law.

4.3 This Agreement is conditional upon the grant of Permission and the commencement of the Development.

4.4 This Agreement is conditional upon the commencement of works of the Development at a date no later than 5 years from the date of this Agreement. In the event that the Developer fails to commence development by the said date, any Permission which the Planning Minister has granted in respect of the Land shall lapse.

4.5 If the Permission lapses, then this Agreement shall automatically lapse and be of no further force or effect.

4.6 Should any Owner cease to have an interest in the Land, then that Owner or those Owners shall no longer be bound by the obligation in this Agreement save to the extent that any liability has already accrued thereunder at the date when the Owner ceases to have the interest.

4.7.1 Subject to Clause 4.7.2, should the Developer cease to have an interest in the Land, the Developer shall no longer be bound by the obligation in this Agreement.

4.7.2 If the Developer, having acquired the Land from the Owners, transfers the Land or any part thereof ("the Transferred Land") to a third party,

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and enters into an agreement ("the **Development Agreement**") with that third party for the development of the Transferred Land by the Developer the Developer will continue to be bound by the terms of this Agreement until the completion of the development which is the subject of the Development Agreement.

5: The Obligation

- 5.1 Subject to the provisions of Clause 5.5, it is agreed that 55% of the dwelling units permitted by the Planning Minister to be constructed on the Land shall be sold to First Time Buyers and 45% of the dwelling units shall be sold, gifted or otherwise transferred to a Social Rental Landlord approved as such by the Minister for Housing for rental to Social Rental Tenants.
- 5.2 Subject to the provisions of Clause 5.5 the Developer will give effect to the said tenure division by constructing 7 First Time Buyer Dwelling Units and 6 Social Rental Accommodation dwelling units on the Land.
- 5.3 Subject to the provisions of Clause 5.5, at or prior to completion of the Development, which the Developer shall carry out as expeditiously as possible, the Developer shall place the First Time Buyer Dwelling Units or the sites thereof on the open market (if it has not already done so) and shall take all reasonable steps to facilitate their sale to First Time Buyers.
- 5.4 At or prior to completion of the Development, which the Developer shall carry out as expeditiously as possible, the Developer shall sell, gift or otherwise transfer the Social Rental Accommodation or the site thereof to a Social Rental Landlord.
- 5.5 Provided always that if the Developer –
- (a) enters into the Field 812A Agreement on or before the day upon which it acquires the Land, and on the same day as that upon which it acquires the Land –
 - (b) acquires Field 812A in the Parish of St. Saviour
 - (c) sells to First Time Buyers not fewer than 12 of the sites of the units of dwelling accommodation which are to be constructed on Field 812A in accordance with the terms of any Permission relating to Field 812A

the obligation to construct First Time Buyer Dwelling Units on the Land shall cease and be of no effect and all units of dwelling accommodation to be constructed upon the Land pursuant to the Permission shall, subject to the provisions of Clause 6 of this Agreement, be sold to a Social Rental Landlord and occupied as Social Rental Accommodation.

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- 5.6 The transfer of a site to a First Time Buyer or Social Rental Landlord as the case may be prior to the completion of the construction thereon of a First Time Buyer Dwelling Unit or Social Rental Accommodation respectively shall not operate to transfer to the purchaser any obligation to which the Developer is subject by this Agreement until final completion of the Development and sale or other alienation of all units of accommodation thereon.
- 5.7 Subject to Clause 5.5 all subsequent transfers of First Time Buyer dwelling units shall be to First Time Buyers and subject to Clause 6 all subsequent transfers of Social Rental Accommodation shall be to a Social Rental Landlord.
- 5.8 Subject to Clause 5.5 all First Time Buyer Dwelling Units shall be occupied only by First Time Buyers and subject to Clause 6 all Social Rental Accommodation shall be used only for the purpose of providing Social Rental Accommodation.
- 5.9 The Developer will pay to the Planning Minister the sum of £6,000 being an agreed figure by way of a contribution towards the cost of erecting a bus shelter on La Route de la Trinité in the Parish of St Helier at a suitable point upon the route of the southbound bus route to St Helier, or at an alternative site to be determined by the Minister for Transport and Technical Services.
- 5.10 Provided that the sum of money paid by the Developer pursuant to Clause 5.9 shall be repaid [without interest] to the Developer in the event that the said bus shelter is not erected within three years of the date of this Agreement.
- 5.11.1 The Developer shall ensure that the Communal Areas are completed within 6 months of the completion of the Development.
- 5.11.2 The Owner shall include in every deed of sale, gift, cession or transfer to a First Time Buyer of any part of the Land –
- (a) an obligation on the acquirer to contribute a percentage payment of the cost of maintaining the Communal Areas and the fees (if any) of the agent or secretary appointed pursuant to sub-paragraph (b) of this Clause; and
 - (b) an obligation to appoint, in common with the other owners of any part of the Land, an agent or secretary who shall be responsible for ensuring that the Communal Areas are properly maintained and all contributions required of the owners duly made.

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5.11.3 Should the Owner fail to include any of the obligations specified in Clause 5.11.2 in any deed of sale, gift, cession or transfer to a First Time Buyer of any part of the Land, the Minister shall, in addition to all his other powers of enforcement of this Agreement be entitled to –

- (a) determine the percentage payment which the owner of the part of the Land so transferred is to make for the maintenance of the Communal Area and the fees (if any) of the agent or secretary;
- (b) require the owner of the Land so transferred to appoint, in common with the other owners of any part of the Land an agent or secretary for the purposes set out in paragraph (b) of Clause 5.11.2.

5.12 If the provisions of Clause 5.5 apply, the Developer will transfer the Communal Areas to the Social Rental Landlord.

6. Cessation of Obligation

6.1 If the circumstances set out in Clauses 6.2, 6.3 and 6.4 arise, the provisions of Clause 5 shall cease to apply to that part of the Land upon which such hypothec as is referred to in clause 6.2 was secured and the Planning Minister shall as soon as practicable following the said provisions' ceasing to have effect as aforesaid issue to the then owner of the land in question a formal written acknowledgement of the same.

6.2 An Approved Funder is the holder of a judicial hypothec charged upon the Land or any part thereof in accordance with the provisions of the "*Loi (1880) sur la Propriété Foncière*" to secure the repayment of monies loaned with the consent of the Housing Minister to the Social Rental Landlord to enable it to proceed with the acquisition and/or development of the Land.

6.3 Either of Clause 6.3.1 or 6.3.2 applies.

6.3.1 Such Approved Funder having obtained an "*acte Vicomte chargé d'écrire*" for repayment of the debt secured by such hypothec against the Social Rental Landlord, offers to the Public by notice in writing given to the Minister for Treasury and Resources within fourteen days of the grant of such *Acte Vicomte chargé d'écrire* the option (exercisable within the six months following the service of such notice) of taking a hereditary transfer of the Land in the event that the Approved Funder takes tenure of the Land in any ensuing *dégrévement* on the terms set out in Clause 6.5.1.

6.3.2 The Social Rental Landlord becomes bankrupt as defined by Article 8 of the Interpretation (Jersey) Law 1954 and the Approved Funder offers to the Public by notice in writing given to the Minister for Treasury and Resources the option (exercisable within the six months



following the service of such notice) of taking an assignment from the Approved Funder of the debt due to the Approved Funder by the Social Rental Landlord secured by such hypothec on the terms set out in Clause 6.5.2, provided that –

- (i) unless and until the insolvency procedure of *dégrévement* is abolished and is not replaced by any insolvency procedure entitling the holder of a hypothec to realise that security by bringing proceedings for the vesting in him of the property upon which the hypothec is secured this Clause 6.3.2 will only apply in respect of bankruptcy proceedings which have been initiated by the Social Rental Landlord or any third party including the Public but will not apply to bankruptcy proceedings which have been initiated by or at the instance of the Approved Funder.
- (ii) During the six months following the service of the option notice referred to in this Clause 6.3.2, the Approved Funder will take all such steps in the bankruptcy proceedings as are necessary or appropriate to protect its rights and interests in those proceedings.

6.4 The Public, having been offered an option in accordance with either of Clauses 6.3.1 or 6.3.2 above, does not accept the option within the period specified for its acceptance.

6.5.1 The terms referred to in Clause 6.3.1 are that if the Public exercises the option and takes such transfer of the Land, the Public will be substituted for the Social Rental Landlord in respect of the debt and obligations secured by the hypothec and will discharge –

- (i) all amounts due thereunder at the date of transfer forthwith; and
- (ii) all continuing obligations of the Social Rental Landlord to the Approved Funder under the debt and obligations secured by the hypothec as they fall due.

6.5.2 the terms referred to in Clause 6.3.2 are that if the Public exercises the option referred to in Clause 6.3.2, the Approved Funder will assign to the Public all its rights in the debt due to the Approved Funder secured by the hypothec and in the hypothec itself and the Public will discharge to the Approved Funder all sums due in respect of the said debt and hypothec as at the date of assignment.

7. Enforcement of the Obligation

7.1 The Planning Minister is the planning authority with responsibility for achieving the purposes of the Law and the Planning Minister has the power to enforce this Agreement against the parties to the Agreement and any person who derives title to the Land from any such party (subject to the provisions of Clauses 4.1, 5.6 and 6) pursuant to Article 25 of the Law.

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[Redacted]

Signed on behalf of Stewart Edgar Mourant

by

[Redacted]

[Redacted]

in the presence of.....

(Anthony John Olsen)

Signed on behalf of Méléches Limited

by STEWART EDGAR MOURANT

[Redacted]

in the presence of.....

(Anthony John Olsen)

Signed on behalf of G.R. Langlois (1991) Limited

by.....

[Redacted]

in the presence of.....

Signed on behalf of the Minister for Planning and Environment

by...

[Redacted]

in the presence of.....

Tommy M.E. Harris

this 24 day of August, 2006

Signed on behalf of The Jersey Homes Trust

by

[Redacted]

[Redacted]

PAUL LABESSIE

in the presence of.....

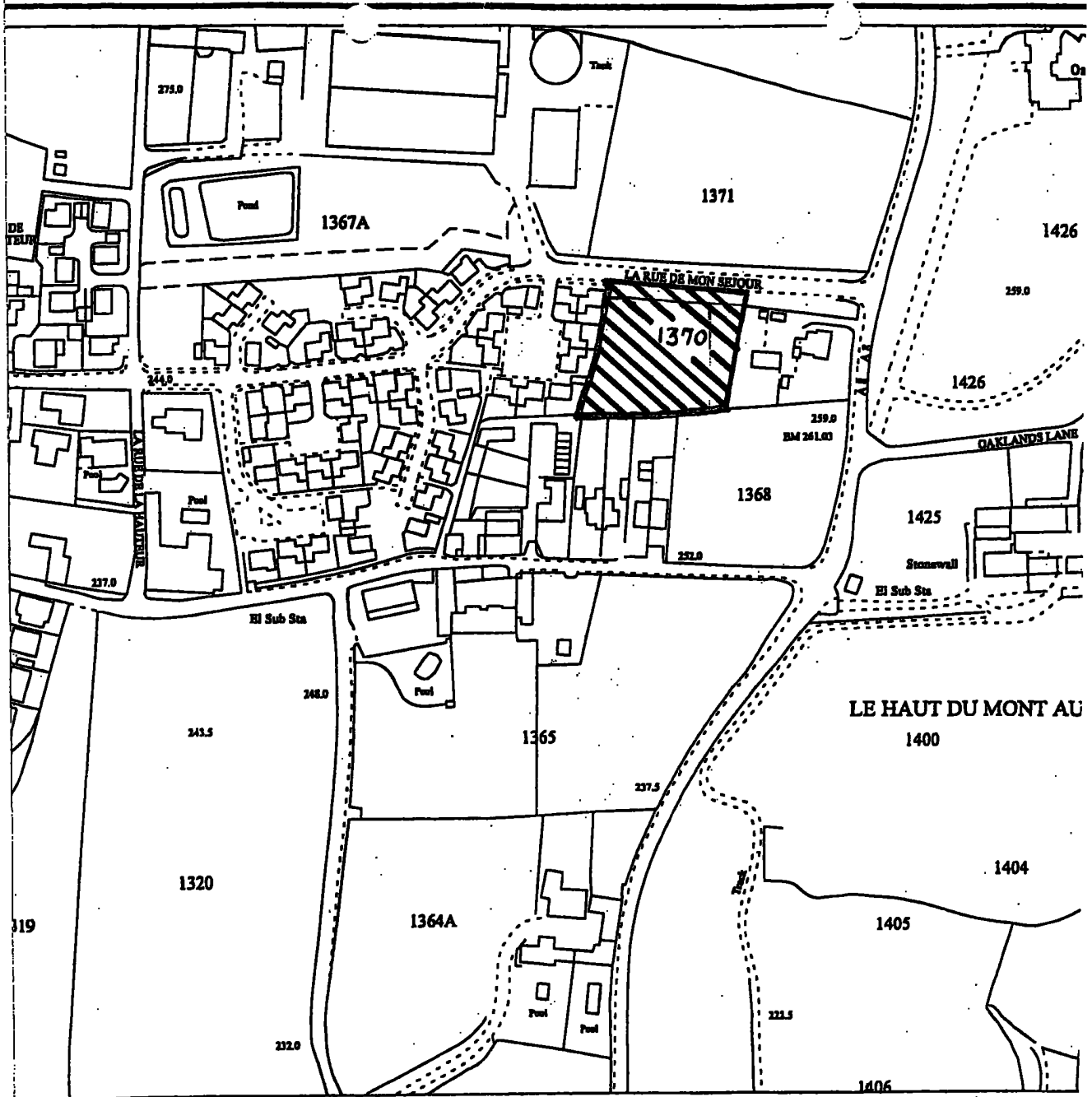
CHRISTOPHER R. de J. RENOUF

this 18TH day of August, 2006



Schedule 1

[clause 2.2]



Field 1370, La Rue de Mon Sejour, St. Helier

Boundary Information Supplied by the States of Jersey Planning Office, but no responsibility can be accepted for errors

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