

In the Royal Court of Jersey

Samedi Division

In the year two thousand and six, the twentieth day of December.

Before the Judicial Greffier.

Upon the application of Her Majesty's Solicitor General, IT IS ORDERED that the Planning Obligation Agreement between Vernon Alfred de Gruchy, and Field 690A Limited and the Minister for Planning and Environment in relation to Field 690A, St Martin, be registered in the Public Registry of this Island.



Greffier Substitute

LOD

Reg. Pub. ✓

L1212-335--



**In the Royal Court of Jersey
(Samedi Division)**

Her Majesty's Solicitor General has the honour to request the Court to order the registration in the Public Registry of this Island of the Planning Obligation Agreement relating to Field 690A, St. Martin.



**H.M. Solicitor General
20th December, 2006**

**Law Officers of the Crown
H.M. Solicitor General**

L1212-336-



Planning Obligation Agreement

Article 25 of the Planning And Building (Jersey) Law 2002

Between

Vernon Alfred de Gruchy

and

Field 690A Limited

and

The Minister for Planning and Environment

regarding

Field 690A, St Martin

**Law Officers' Department
Morier House
St Helier
Jersey
JE1 1DD**

L1212-337--



1. Parties

THIS AGREEMENT is made BETWEEN

- 1.1 Vernon Alfred de Gruchy of Brooklyn, La Rue Benjamin, St. Martin, (hereinafter referred to as "the Owner" which expression where the context so admits shall include his heirs assigns and successors in title in relation to the Land or any part thereof); and
- 1.2 Field 690A Limited, whose registered office is First Floor Office, Charles House, Charles Street, St. Helier (hereinafter referred to as "the Developer" which expression where the context so admits shall include its assigns and successors in title in respect of the Land or any part thereof); and
- 1.3 The Minister for Planning and Environment (hereinafter referred to as 'the Planning Minister' which expression shall be construed in accordance with Clause 3.2.

2. Recitals

- 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 (hereinafter referred to as "**the Planning Law**"), by whom the obligations in this Agreement are enforceable in accordance with the provisions of the Planning Law.
- 2.2 The Owner is the owner in perpetuity of Field 690A, St Martin (hereinafter referred to as "the Land") to which property the Owner has right by contract of gift from his brother Thomas Raymond de Gruchy passed before the Royal Court on 16th December, 1983.
- 2.3 The Owner has granted to the Developer an option to purchase the Land in accordance with a private agreement entered into between the Owner and Developer.
- 2.4 The Developer has exercised the Option in accordance with the terms of the Agreement referred to in Clause 2.3.
- 2.5 Wherefore the Owner 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 under Article 9 of the Planning Law for planning permission to develop the Land by the construction thereon of 43 dwellings for first time buyer and social rental accommodation (application reference P 2006/0048).



2.7 The Planning Minister is satisfied that planning permission could properly be granted in respect of the said application conditional on the Owner and the Developer entering into this Agreement.

3. Interpretation

3.1 In this agreement the words or expressions in the left column have the meaning attributed to them respectively in the right hand column.

Application	the application specified in Clause 2.5 under reference P 2006/0048
Approved Funder	<p>(a) Barclays Private Clients International Limited; or</p> <p>(b) Any financial institution which shall, with the consent of the Minister for Housing (with regard to both the identity of the funder and the size of the fund provided) (which consent shall not be unreasonably withheld or delayed), provide monies to the Social Rental Landlord to enable it to proceed with the acquisition and/or development of that part of the Land which is to be used for the Social Rental Accommodation; provided that if the proposed Approved Funder is not regulated by the Jersey Financial Services Commission, the Guernsey Financial Services Commission, the Isle of Man Financial Supervision Commission or the Financial Services Authority of the United Kingdom, the consent of the Minister shall be deemed not to be unreasonably withheld if –</p> <p>(i) the proposed Approved Funder is unable to prove to the satisfaction of the Minister that it is adequately regulated by a competent authority in the jurisdiction in which it carries on business, or</p> <p>(ii) the proposed Approved Funder fails or refuses to produce to the Minister any information or documentation or independent confirmation of its status which the Minister may reasonably request.</p>
Communal Areas	the roads, footpaths, paved areas and associated lighting (if any) serving the Development, together with the landscaped areas and other open areas.



Development	the Development of the Land in pursuance of a planning permission.
Development Agreement	an agreement between the Developer and a third party to whom the Developer has transferred the Land or any part thereof for the development by the Developer on behalf of the third party of the Land or the part thereof so transferred.
First Time Buyer	<p>(1) Any person who -</p> <p>(i) does not own and has not previously owned, whether as sole owner or jointly or in common with any other person or persons -</p> <p>(a) any immovable property;</p> <p>(b) either in his own name or as beneficial owner, shares in any company, ownership of which confers the right to occupy residential accommodation;</p> <p>and</p> <p>(ii) is neither married to, nor buying as co-owner with, any person who does not fall within (i) above.</p> <p>(2) Any person who has been approved by the Minister for Housing as being a person who would be in need of assistance in order to acquire property and to whom consent should therefore 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.</p>
First Time Buyer Dwelling Unit	accommodation which may not be owned or occupied other than by a First Time Buyer.
Land	the Land specified in Clause 2.2 and shown obliquely hatched on the location plan dated 01 June 2006 attached as Schedule 1.
Owner	The person specified in Clause 1.1 above.



Planning Law	The Planning and Building (Jersey) Law 2002.
Planning Minister	The Minister for Planning and Environment.
planning permission	Any permission granted by the Planning Minister under the provisions of the Planning Law for the development of the Land.
Relevant Land	As defined by Clause 6.2.
Sewer	the 300mm diameter rising (pumping) main which takes the flow of foul sewage from Maufant Pumping Station and which crosses part of the eastern end of the Land.
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 Land	that part of the Land upon which the Social Rental Accommodation is to be constructed in accordance with the Planning Permission, including all appurtenances and dependencies thereof.
Social Rental Landlord	<p>(a) The Public;</p> <p>(b) A Parish;</p> <p>(c) A Housing Trust; or</p> <p>(d) Any other person or body who has -</p> <p style="padding-left: 40px;">(i) been approved as such by the Minister for Housing and</p> <p style="padding-left: 40px;">(ii) entered into a Social Rental Landlord Agreement with the Minister for Housing</p> <p>when discharging their function of providing housing for Social Rental Tenants.</p>
Social Rental Landlord Agreement	an agreement between the Minister for Housing and a Social Rental Landlord regarding the use, occupation and/or acquisition and/or development of Social Rental Accommodation.



Social Rental Tenants	<p>(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</p> <p>(ii) those persons whom the Minister for Housing has nominated in accordance with any relevant Social Rental Landlord Agreement,</p> <p>as the case may be.</p>
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3.2 Any reference to a Minister includes a reference to –

- (a) any Assistant Minister, officer or other body to whom the Minister may lawfully delegate any relevant function; and
- (b) any person or body to whom the States may hereafter transfer any relevant function of the Minister.

3.3 any reference to an enactment includes a reference to -

- (a) the enactment as it may be from time to time amended;
- (b) any enactment to a like effect repealing or replacing the enactment referred to in this Agreement; and
- (c) any subordinate legislation made and any codes, guidelines or notices issued thereunder.

3.4 any reference to a clause unless otherwise specified 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 Planning Law and with the intent that subject to Clause 6 it shall bind the Owner 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 any planning permission and those in right of them who will only be bound by Clauses 5.5, 5.6, 5.8.2, 5.8.3 and 5.8.4.



- 4.2 The obligation assumed by the Owner and the Developer by this Agreement is a planning obligation for the purposes of Article 25 of the Planning Law.
- 4.3 This Agreement is conditional upon the grant of planning permission by the Planning Minister.
- 4.4 This Agreement is conditional upon the commencement of work on 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 work on the Development by the said date, any planning permission which the Planning Minister has granted in respect of the Land shall lapse.
- 4.5 If the planning permission lapses and is neither renewed nor replaced by another planning permission to substantially the same effect, this Agreement shall automatically lapse and be of no further force or effect.
- 4.6.1 Subject to Clause 4.6.2, should the Owner cease to have an interest in the Land, the Owner 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.
- 4.6.2 If the Developer having acquired the Land from the Owner transfers the Land or any part thereof to a third party and enters into a Development Agreement with that third party 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 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 for rental to Social Rental Tenants.
- 5.2 The Owner will give effect to the said tenure division by constructing 24 First Time Buyer Dwelling Units and 19 Social Rental Accommodation dwelling units on the Land.
- 5.3 At or prior to completion of the Development, which the Developer shall carry out as expeditiously as possible the Developer shall -
- 5.3.1 place the First Time Buyer Dwelling Units or the sites thereof on the open market (if it has not already done so) and take all reasonable steps to facilitate their sale to First Time Buyers,



- 5.3.2 sell, gift or otherwise transfer the Social Rental Accommodation to a Social Rental Landlord.
- 5.4 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 and Communal Areas thereon.
- 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.
- 5.6 All First Time Buyer 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.
- 5.7 The Developer shall ensure that the Communal Areas are completed within 6 months of the completion of the Development.
- 5.8.1 The provisions of Clauses 5.8.2 and 5.8.3 will not apply to any transfer of any part of the Communal Areas to the Parish of St Martin.
- 5.8.2 The Owner shall include in every deed of sale, gift, cession or transfer 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 of this Agreement; 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.
- 5.8.3 Should the Owner fail to include any of the obligations specified in Clause 5.8 in any deed of sale, gift, cession or transfer 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 5.8.2.

5.8.4 The Owner will not include in any deed of transfer of the Land or any part thereof any restriction which would prevent the use of any part of the Communal Areas as a communal children's play area, and no owner will enforce any restriction to that effect which may be contained in any Deed of Transfer of the land or any part thereof.

5.9.1 If as a result of the carrying out of the Development, it is necessary to redirect the Sewer, the Owner will pay to the Treasurer of the States prior to the commencement of the works by way of contribution to the cost of redirecting the Sewer the sum of £40,000, which sum shall be liable to adjustment as provided by Clause 5.9.2.

5.9.2 When the works of redirection of the Sewer have been completed the total cost of the works will be calculated and

(a) if the total cost exceeds the sum of £40,000, or as much thereof as has already been paid, the Owner will pay to the Minister the difference between the final cost and the sum already paid.

(b) if the total cost is less than the sum of £40,000 or as much thereof as has already been paid, the Minister will repay to the Owner the difference between the sum already paid and the final cost.

6. Cessation of Obligation

6.1 If the circumstances set out in Clauses 6.2, 6.3 and 6.4 arise, the provisions of Clauses 5.1 to 5.6 inclusive shall cease to apply to that part of the Social Rental 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 Relevant Land a formal written acknowledgement of the same.

6.2 An Approved Funder is the holder of a judicial hypothec charged upon the Social Rental Land or any part thereof ("the Relevant Land") 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 Social Rental Land.

6.3 Either of Clauses 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 relevant land in the event that the Approved Funder takes tenure of the relevant 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, 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 relevant 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 Planning Law and the Planning Minister has the power to enforce this Agreement against the parties to the Agreement and any person who derives titles to the Land or any part thereof from any such party (subject to the provisions of Clauses 4.1, 5.4 and 6) pursuant to paragraph (7) of Article 25 of the Planning Law.

L1212-347--



Signed by of t



On the duly Authorized Authority.

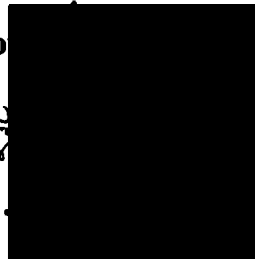
in the presence



RICHARD JF FIRIE, ADVOCATE.

this *7th* day of December 2006

Signed on behalf of

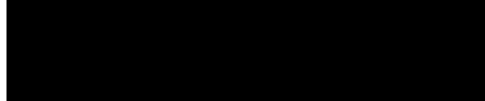


by... *STEPHEN JAMES M...*

in the presence of

this *13th* day of December 2006

Signed on behalf of the Minister for Planning and Environment



by

PETER THORNTON DIRECTOR OF PLANNING

in the presence of ...



(T. ALLEN)

this *20th* day of December 2006

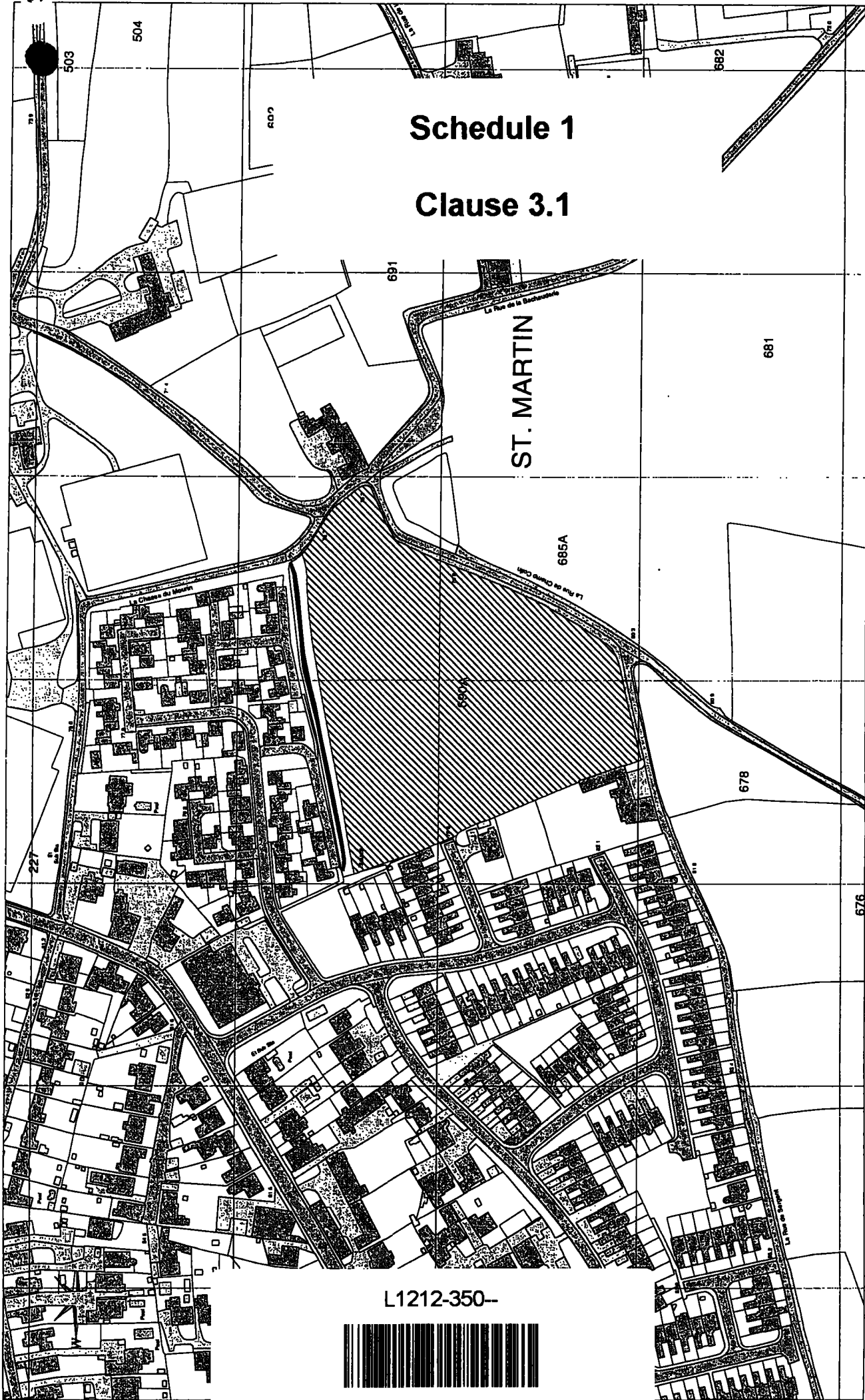


SCHEDULE 1

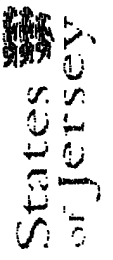
“The Plan”

L1212-349--





Schedule 1
Clause 3.1



States
of Jersey

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LOCATION PLAN
SCALE 1: 2500

01 June 2006

L1212-350--

