Ryde (Kirkby Gardens, Archbold Building and 2 Little Church Street) Ordinance 2000

No 40, 2000

Long Title

An Ordinance to declare the trusts of certain land at Ryde, to provide for the leasing of that land, to provide for the mortgaging of part of that land and for incidental purposes.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of the following land (the "Land") -

(a) lot 1 in deposited plan 225913 (the "Kirkby Gardens Land"), and

(b) lots 2 and 3 in deposited plan 225913 (the "Archbold Building Land"), and

(c) lot 4 in deposited plan 394640 (the "2 Little Church Street Land").

B. The Kirkby Gardens Land and the Archbold Building Land is church trust property and, by clause 4 of the Ryde (Kirkby Gardens, Archbold Building and 2 Little Church Street) Ordinance 1968 (the "1968 Ordinance"), each is held upon trust to permit the same to be used for the erection thereon of shop and residential flat buildings or partly for one and partly for another of such purposes.

C. Under clause 8 of the 1968 Ordinance, the Property Trust holds a maintenance fund (the "Maintenance Fund") of $400,000 to be applied from time to time for the purposes of the repair, renovation and maintenance of the buildings constructed upon the Kirkby Gardens Land and the Archbold Building Land.

D. The 2 Little Church Street Land is church trust property and is held on trust for the parish of Ryde (the "Parish") although there are no written trusts.

E. By reason of circumstances which have arisen after the creation of the trusts upon which the Kirkby Gardens Land, the Archbold Building Land, the 2 Little Church Street Land and the Maintenance Fund are respectively held, it is inexpedient to carry out and observe those trusts, and it is expedient that the trusts be varied and that the Property Trust be given the powers set out in this Ordinance.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the Ryde (Kirkby Gardens, Archbold Building and 2 Little Church Street) Ordinance 2000.

2. Declarations

(1) By reason of circumstances which have arisen after the creation of the trusts on which the Kirkby Gardens Land, the Archbold Building Land and the 2 Little Church Street Land are respectively held, it is inexpedient to carry out and observe those trusts and -

(a) it is expedient that the trusts be varied and that -

(i) the Kirkby Gardens Land, the Archbold Building Land and the 2 Little Church Street Land be leased on the terms set out in this Ordinance, and

(ii) the Kirkby Gardens Land be mortgaged on the terms set out in this Ordinance, and

(b) it is inexpedient that the proceeds of such leases or mortgages be applied solely for the same purposes as the existing trusts or solely for the purposes of the parish of Ryde.

(2) By reason of circumstances which have arisen after the creation of the trusts on which the Maintenance Fund is held, it is inexpedient to carry out and observe those trusts, and it is expedient that the trusts be amended in the manner set out in this Ordinance.

3. Trusts of land

(1) The Kirkby Gardens Land and the Archbold Building Land are each to be held for the use of shops and residential flat buildings or partly for one and partly for another of such purposes.

(2) The 2 Little Church Street Land is to be held for the purposes of the Parish.

4. Power to mortgage

The Property Trust is authorised to mortgage the whole or any part of the Kirkby Gardens Land for the purposes of borrowing a sum not exceeding $3,000,000.

5. Application of mortgage proceeds

(1) The sum borrowed on the security of the mortgage granted under clause 4 is to be applied toward the costs and expenses of, and incidental to, the construction of a building to be known as the "Worship and Administration Centre" on the land being lot 2 in deposited plan 541856 and lot 1 in deposited plan 113532.

(2) The costs and expenses referred to in clause 5(1) include, but are not limited to, the costs of obtaining all local government approvals and approvals from other statutory or regulatory authorities, consultant's fees, construction costs, fitting out costs and furnishing expenses.

6. Power to lease

The Property Trust is authorised to lease from time to time the buildings constructed upon the Kirkby Gardens Land, the Archbold Building Land and the 2 Little Church Street Land, or any part or parts of those buildings.

7. Application of the lease proceeds

(1) The annual net income arising from the lease or leases of the buildings or any part or parts of those buildings is to be applied in the following order of priority -

(a) first, in payment of any interest payable on any loan -

(i) secured by the mortgage granted under clause 4 of this Ordinance, or

(ii) made by Glebe Australia Limited or any related body corporate for the purposes of the costs and expenses referred to in clause 5,

and the repayment of the principal amount of any such loan, at the rate required by the lender, and

(b) secondly, if the balance of the Maintenance Fund is less than $400,000, the payment of an amount to the Maintenance Fund which is equal to -

(i) the amount by which the balance of the Maintenance Fund is less than $400,000; or

(ii) $28,000

whichever is the lesser, and

(c) thirdly, the balance is to be applied as follows -

(i) 50% is to be retained by the Property Trust and applied under an ordinance of the Synod or the Standing Committee towards the mission and ministry of the Diocese of Sydney, and

(ii) 42.5% is to be paid to the churchwardens of St Anne's Church, Ryde to be applied for such purposes (whether within the Parish or outside the parish) as the parish council of the Parish determines from time to time, and

(iii) 7.5% is to be paid to the churchwardens of St Anne's Church, Ryde to be applied towards the maintenance, repair, restoration or replacement of the property and improvements held by the Property Trust for the purposes of the Parish.

(2) The provisions of clause 7(1) are to be reviewed as soon as reasonably possible after 31 December 2002.

8. The Maintenance Fund

The Maintenance Fund is to be applied for the repair, renovation and maintenance of the buildings erected on the Kirkby Gardens Land, the Archbold Building Land and the 2 Little Church Street Land as the parish council of the parish of Ryde determines from time to time and the Property Trust is to pay moneys from the Fund to the churchwardens of St Anne's Church Ryde, when required for those purposes.

9. Repeal and amendment

(1) The Ryde (Kirkby Gardens, Archbold Building and 2 Little Church Street) Ordinance 1968 is repealed but without affecting the validity of any act undertaken by authority of its provisions prior to the date of assent to this Ordinance.

(2) Clause 5(b) of the Ryde (Livingstone Lodge) Sale Ordinance 1999 is deleted.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

N M CAMERON
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 4 December 2000.

M A PAYNE
Secretary

I Assent to this Ordinance.

R H GOODHEW
Archbishop of Sydney
5/12/2000