

AUSTRALIAN CAPITAL TERRITORY

CITY AREA LEASES ORDINANCE 1961.

EXPLANATORY MEMORANDUM

No. 12 of 1961

This Ordinance will amend the City Area Leases Ordinance 1936-1959.

The main purpose of this Ordinance is to provide an additional method of disposing of leases of land in the City Area by auction restricted to classes of persons approved by the Minister as eligible to bid and as to the maximum number of parcels of land that may be purchased by any such person at that auction. At the same time, opportunity is being taken to simplify the auctioning procedure provided by the Ordinance by introducing a system of offering the right to the grant of a lease of land at a stated annual rental, in lieu of the present system of offering a right to a lease at a “reserve value” (which is relevant only to the annual land rental payable during the first 20 years of the lease).

Section 13 of the present Ordinance sets out the procedure for auctioning of leases but makes no provision for limiting the bidding at auction in any way. Consequently, in accordance with accepted principles of public auctions, any person is entitled to bid at such an auction and to bid for as many leases as he wishes. The amending Ordinance provides, in addition to unrestricted public auctions, for the rights to the grant of leases of parcels of land to be auctioned on the basis that only persons approved by the Minister are eligible to bid and that such an approved person may be entitled to bid for only the right to the grant of a lease of one parcel of land (e.g. bona-fide home builders), or the rights to a specified number of parcels. The nature of the limitations, if any, to be applied in respect of any auction will be determined by the Minister and published in the Gazette not less than 14 days before the date of the auction.

Under the system prescribed by the present Ordinance, bidding for leases starts at the “reserve value”, but the amount actually paid by the successful bidder is only the difference between the “reserve value” and the amount of the final bid. The “reserve value” is determined by the Minister as the unimproved value for the purpose of assessing land rental payable for the first 20 year period of the lease. The “reserve-value” consequently serves no other purpose in the process of bidding at auctions than to provide a theoretical starting point for bidding.

Under the proposed new system, bidding for the right to a lease would start say, at £1, and the amount of the successful bid would be the actual amount payable as the “premium” for the right to the grant of the lease. Similarly, when applications are invited for the rights to the grant of leases of land it will be on the basis of

applicants simply offering a money premium for the right to the grant of a lease at a stated rental, instead of as at present being required to state the unimproved value they place on the land.

Provision is also being made for the more expeditious clearing of cases where persons having acquired the right to the grant of a lease fail to execute the documents within three months. At present, after failure for three months to execute the documents, the Department is required to give a further three months formal notice of intention to determine the right to a lease. One month's notice of intention is considered adequate, and section 21 has been amended accordingly.

The above comments are related to the substantive changes contained in new sections 13, 14, 15 and section 21.

The amendment to section 3 of the Principal Ordinance makes provision for the definition of the term "unimproved value" in relation to a parcel of land. The unimproved value of a parcel of land is used as the basis for the initial determination of rent for the land and is subject to re-appraisal during the twentieth year of the term of the lease and during each twentieth year thereafter. This provision has been included to ensure that there will be no inconsistency between the determination of the unimproved value of a parcel of land for rating purposes under the Rates Ordinance 1926-1950, and for land rental purposes under the City Area Leases Ordinance. The definition has the same meaning as that in the Rates Ordinance.

The amendments relating to sections 17A, 18, 19, 19A and 20 are consequential to the alteration to sections 13 to 15.

The object of proposed section 37A is to empower the Minister to authorise refunds of premiums paid by persons holding residential leases who, for justifiable reasons, are unable to comply with their building covenants and have surrendered their leases.

At present the only way in which premiums may be refunded is by "act of grace" payments specially approved by the Treasurer.

This section will restrict the authorisation of refunds of premiums paid in respect of unimproved land and to only those cases in which the Minister considers that the reasons for which the lessees were unable to comply with their covenants are such as to warrant refunds.

Clause 12 of the amending Ordinance continues the application of the current provisions of the Principal Ordinance in those circumstances where applications for grants of land were invited before the commencement of this Ordinance and to the determination of leases granted before the commencement of this Ordinance.

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