



Holmehill Limited

V

Scottish Minister

Stirling Sheriff Court

Sheriff J Craig C McSherry

Summary of Opinion

28th April 2006

In what is believed to be the first case under the Community Right to Buy provisions of the Land Reform (Scotland) Act 2003, an appeal by Holmehill Limited, a community body set up by residents of Dunblane against a refusal of the Scottish Ministers to register a community right to buy interest over land at Holmehill, Dunblane has been refused.

There are two steps in the process of exercising the community right to buy: the first is registration of the interest of the community body in the land and the second is, following such registration, an application to purchase. Both registration and purchase require the consent of the Scottish Ministers. The Act tries to balance the interests of the community and those of the landowners. The registration requirement helps landowners to know whether the community is interested in purchasing land before they advertise it for sale. Registration gives the community an effective right of pre-emption.

Stakis Limited, the owners of Dunblane Hydro Hotel, advertised the land for sale in December 2004. The application to register a community right to buy interest was made by Holmehill Limited in early 2005. The Ministers decided that there were no good reasons provided for the failure of the community to lodge an application before the land was put up for sale. They had from the 14th June 2004 (the date the Act came into force) until December 2004 to do so.

It was for the community to make an application for registration before the land is advertised for sale. If an application is made after the land is advertised for sale, stricter requirements are imposed by the legislation.

The Ministers decided that it was not in the public interest to use the

legislation to thwart the normal planning process. They took into account the fact that some of the residents are opposed to housing development at Holmehill, but this was not the purpose of the legislation. The intention of the legislation is to give a community the right to proceed to buy land for the sustainable development of the community. It is not to prevent house building or preserve the status quo.

Sheriff McSherry found that the Scottish Ministers had acted lawfully in exercising the considerable discretion given to them under the legislation. In making their decision, they followed policy principles underlying the Act and were entitled to decide that the community in this case had failed to meet these requirements.

NOTE

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for that decision. The full opinion of the Court is the only authoritative document.

The full Opinion will be available today at this location on the Scottish Courts website: http://www.scotcourts.gov.uk/opinions/B255_05.html

Media Contact

**Elizabeth Cutting,
Public Information Officer**
Parliament House,
Parliament Square
Edinburgh
0131 240 6854
07917 068173
ecutting@scotcourts.gov.uk