

Leichhardt Mortgaging Ordinance 2004

No 10, 2004

Long Title

An Ordinance to provide for the application of certain funds held for the parish of Leichhardt, to authorise the application of rental income from and the mortgaging of certain land at Leichhardt and for purposes incidental thereto.

Preamble

A. Anglican Church Property Trust Diocese of Sydney (the "Property Trust") is the registered proprietor of certain land at Leichhardt comprised in certificate of title folio identifier 1/502105 (the "Land").

B. The recitals to the All Souls Leichhardt Leasing Ordinance 1962 declare that the Land is church trust property held for the sole benefit of the parish of Leichhardt (the "Parish").

C. By the Leichhardt Leasing Ordinance 1993 the Property Trust is authorised to lease or licence the Land for such purposes as may be determined from time to time and to apply the rental income from the leasing or licensing of the Land in the manner set out in that ordinance.

D. The Property Trust holds certain funds (the "Funds") arising from the sale of property under the Leichhardt Variation of Trusts and Land Sale Ordinance 1983. The recitals to that ordinance declare that the property giving rise to the Funds was held on trust for such purposes of the Anglican Church of Australia Parish of Leichhardt as the rector and wardens thereof for the time being may decide.

E. The Parish wishes to mortgage the Land to finance the construction of a ministry centre on land held on trust for the Parish between All Souls, Leichhardt and the rectory (the "Building Works").

F. By reason of circumstances which have arisen after the creation of the trusts on which the Land and the Funds are held it is expedient to mortgage the Land and apply the proceeds of such mortgage and the Funds in the manner 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 Leichhardt Mortgaging Ordinance 2004.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Land and the Funds are held it is expedient to mortgage the Land and apply the proceeds of such mortgage and the Funds in the manner set out in clause 5.

3. Application of rental income

(1) Any rent, licence fees and any other receipts earned from the leasing or licensing of the Land on and from 1 July 2004 are to be applied as follows –

- (a) firstly in payment of all outgoings in respect of the Land, including but not limited to rates, taxes, assessments, repairs, maintenance, costs and expenses; and
- (b) the balance of any such income is to be applied as follows -
 - (i) 15% to be retained by the Property Trust and applied in accordance with the terms of a further ordinance; and
 - (ii) 85% to the churchwardens of All Souls, Leichhardt (the "Churchwardens") for any purpose of the Parish as may be determined from time to time by resolution of the parish council of the Parish except the payment or provision of the stipend, allowances and benefits of the minister.

(2) Unless the Property Trust by resolution otherwise directs, the Churchwardens are authorised and directed to apply the income referred to in paragraphs 3(1)(a) and (b)(i) as agent of the Property Trust and for that purpose –

- (a) all rental moneys and other moneys arising from or accruing under the lease or licence are to be paid directly to the Churchwardens in that capacity; and

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- (b) after the application of moneys under paragraphs 3(1)(a) and (b)(i) the remaining balance is taken to have been paid to the Churchwardens pursuant to paragraph 3(1)(b)(ii).

4. Authority to mortgage

The Property Trust is authorised to grant a mortgage over the Land to secure a loan amount or loan amounts not exceeding in total the amount of \$400,000 or such greater amount as the Standing Committee may by resolution approve.

5. Application of mortgage proceeds and the Funds

The proceeds of any mortgage authorised under clause 4 and the Funds (including any income earned on the Funds) are to be applied by the Property Trust as follows -

- (a) in payment of the costs, charges and expenses of and incidental to this Ordinance and any such mortgage, and
- (b) the balance is to be applied towards the Building Works including any charges, costs and expenses incidental thereto.

6. Review

The Churchwardens will, on or before the sixth anniversary of the date of assent to this Ordinance, present an ordinance to the Standing Committee to provide for the application of the rent, licence fees and any other receipts from the leasing or licensing of the Land earned after that date.

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

PG KELL
Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on 31 May 2004.

MA PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
2/6/2004