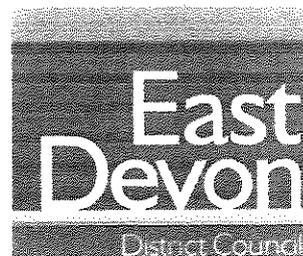


Date: 27 April 2009
Contact number: 2574
E-mail: gsalter@eastdevon.gov.uk
Our Reference: LE29/2/GES
Your Reference:



Mrs L Hargood
The Clerk to Honiton Town Council
Senior Citizen's Centre
New Street
HONITON
EX14 1EY

East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

DX 48705 Sidmouth

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Dear Sirs

Assignment of the Right to hold a Street Market

I am pleased to enclose the completed assignment of the right to hold the street market in Honiton. I also have found certain copy documents which may be of use to the Town Council in the future.

Yours faithfully

A handwritten signature in black ink that reads "Giles Salter".

Giles Salter
Assistant Solicitor
For Head of Legal, Licensing and Democratic Services

Date

27 April

2009

EAST DEVON DISTRICT COUNCIL

Grantor

and

HONITON TOWN COUNCIL

Grantee

The Right to manage a Street Market in Honiton

Ref: LE29/2/GES

THIS DEED is made the

27

day of

April

2009

BETWEEN

- (1) EAST DEVON DISTRICT COUNCIL of The Knowle SIDMOUTH Devon EX10 8HL ('the Grantor') and
- (2) HONITON TOWN COUNCIL of Council Offices New Street HONITON EX14 1EY ('the Grantee')

NOW THIS DEED WITNESSESS AS FOLLOWS

1 Recital

- 1.1 His Majesty King Henry III in the 41st year of his reign by charter granted to Honiton Borough, that it should have and hold for ever in the Borough of Honiton on Tuesdays, Thursdays and Saturdays in every week a market for buying and selling of all kinds of cattle and goods ('the Street Market') with toll and with all liberties and free customs belonging to such a market but the Charter for the said market is no longer in existence
- 1.2 There is record of an original Charter for a grant in perpetuity of certain markets or fairs to be held in Whitsun Week dated 28 December 1257 granted to Baldwin de Insula, Earl of Devon
- 1.3 The Street Market franchise is established at common law by right of prescription having been enjoyed by the people of the Borough of Honiton on certain days of the week since before time immemorial from which any lost grant may be presumed
- 1.4 At some point in the past three hundred years the right to collect the tolls profits and emoluments of the Street Market has become vested in the Lord of the Manor of Honiton
- 1.5 By a Lease ("The Lease") dated 31 July 1939 made between Richard Raymond Kitchener Marker as Lord of the Manor (the 'lessor') and The Mayor and Aldermen and Burgesses of the Borough of Honiton (the 'lessee') granted the right to hold the Street Market in consideration of the rents, payments and covenants the lessor demised to the lessee firstly the Market House situate in the High Street Honiton comprising the paved basement with the offices the Pannier Market with iron and glass roof and the market stalls fixtures and fittings secondly the open private sale yard with all the cattle pens fixtures and fittings and thirdly tolls profits and emoluments of the market or markets or fairs held in Honiton to hold the same unto the corporation for a period of two hundred and ten years from 21 March 1940.

1.6 Subsequently a freehold reversionary interest to the Cattle Market was acquired by George Frederick Carter of 40 Mill Street Ludlow Shropshire SY8 1BG whose consent has been granted for the transfer of the right

1.7 The Borough of Honiton is now included within and forms part of the East Devon District Council administrative area as it was reorganised under Section 254 (2) of the Local Government Act 1972 and who have managed the Street Market as the local authority under the said legislation

1.7.1 By virtue of Part II of the Schedule to The English Non-Metropolitan Districts (Definition) Order 1972 SI 1972 No.2039 District No. 7 in the Administrative County of Devon was defined as inter alia the Borough of Honiton

1.7.2 By virtue the English Non-Metropolitan Districts (Definition) Order 1973 SI 1973 No.551 District No 7 in the County of Devon was named as East Devon

1.7.3 By virtue of Article 16 and the General Entry in Part II of Schedule 4 (page 43) of the Local Authorities (England) (Property etc) Order 1973 SI 1973 No.1861 all property vested in the before abstracted Local Authorities vested in the East Devon District Council

1.8 The Grantor has received a request from the Grantee in its capacity as the duly elected Town Council of Honiton to have the benefits of the Charter and the rights in the aforementioned assigned to it to manage the Street Market

1.9 The Grantor having satisfied itself that the rights were always intended to benefit the residents of the Town of Honiton and pursuant to a resolution of its Executive Board have agreed to assign the right to manage the Street Market of the Grantor in the town of Honiton

2 Assignment

In pursuance of the said Agreement the Grantor grants and assigns to the Grantee the Street Market with the profits tolls and emoluments and with all the liberties and free customs belonging to it and all other franchises and rights of market and market tolls, if any, enjoyed or exercised by the Grantor in the above or any part of it TO HOLD to the Grantee for the residue of the term of The Lease

3 Covenant by Grantee to provide sufficient accommodation and indemnity in favour of the Grantor

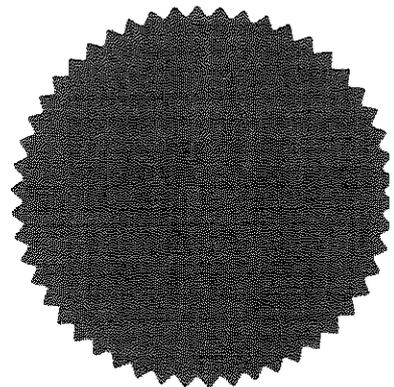
The Grantee covenants with the Grantor that it will

3.1 ensure that there is proper and sufficient accommodation for the holding of the Street Market; and

- 3.2 exercise proper control over stall holders as to type size and position of any stall and to ensure the market is conducted in an orderly manner
 - 3.3 liaise with the Police as to ensure there is no obstruction arising to motor traffic or pedestrians as a result of the placing of the market stalls
 - 3.4 indemnify and hold harmless the Grantor against all losses, liabilities, claims, costs, expenses whatsoever (including and without limitation legal expenses incurred in defending any claims) arising out of any breach by the Grantee of its covenants in this clause
4. For the avoidance of doubt the parties acknowledge that this Deed is intended to transfer the rights in respect of the Street Market only and with the intention of severing any such rights which may also attach to the Cattle Market such rights remaining vested in the Grantor

IN WITNESS WHEREOF the Grantor and the Grantee have set their seal and hand by their proper officer on the date at the top of this document

The Common Seal of EAST DEVON)
 DISTRICT COUNCIL was hereunto)
 affixed in the presence of: -)



[Handwritten signature]

18201

Chief Executive/ Deputy Chief Executive/ Head of Legal Services/Senior Solicitor

Date

27 April

2009

EAST DEVON DISTRICT COUNCIL

Grantor

and

HONITON TOWN COUNCIL

Grantee

The right to manage a Street Market in Honiton

**Head of Legal, Licensing and Democratic
Services**

East Devon District Council

Knowle

Sidmouth

EX10 8 HL

Ref: LE29/2/GES

The Common Seal of HONITON TOWN)

COUNCIL was hereunto affixed in the)

presence of:-)

LYN HARCOED
TOWN CLERK
HONITON TOWN COUNCIL
NEW STREET
HONITON EXETER

Lyn Harcoed

Chairman *Vivienne Cook*

much appreciated by them.

Problems and Difficulties

1. Complaint has been made from time to time that the positioning of some of the stalls causes obstruction and inconvenience to pedestrians and other shop-owners.
2. Without having full-time oversight of the market it is extremely difficult to exercise any control as regards litter, etc.

Conclusions

- (a) The Council have an obligation to see that nothing occurs that will place the market franchise in jeopardy. X On the other hand they also have a responsibility to see that the rights of the individual as regards free passage on the highway are not unreasonably restricted. Under the Food and Drugs Act the Council as Market Authority may make byelaws for the regulation of the market (not for the regulation of traffic). Byelaws could cover such things as sitting, depth of stalls, control of litter, etc. X Byelaws would need the approval of the Ministry of Housing and Local Government.
- (b) Whilst tolls and charges must be reasonable the fact that the present charges were determined in 1946 would surely indicate that a revision upwards is now overdue. A revision of charge does not need the Minister's approval.

SEPTEMBER, 1970.