ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

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No. 50 of 1985

An Act to amend the Urban Land Trust Act, 1981.

[*Assented to 30 May 1985*]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. (1) This Act may be cited as the "Urban Land Trust Act Amendment Act, 1985".

(2) The Urban Land Trust Act, 1981, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of s. 8—Constitution of the Trust.

3. Section 8 of the principal Act is amended—

(a) by striking out paragraph *(c)* of subsection (1) and substituting the following paragraphs:

(c) one shall be a person who in the opinion of the Minister has appropriate knowledge and experience relating to the development and provision of community services;

(ca) one shall be a person who in the opinion of the Minister has appropriate knowledge and experience of commercial finance;;

and

(b) by striking out from paragraph *(d)* of subsection (1) the passage "two shall be officers" and substituting the passage "one shall be an officer".

Repeal of s. 13 and substitution of new section.

4. Section 13 of the principal Act is repealed and the following section is substituted:

Disclosure of interest by members of Trust.

13. (1) A member of the Trust who is directly or indirectly interested in a contract, or proposed contract, made by, or in the contemplation of, the Trust—

(a) shall, as soon as he becomes aware of the contract or proposed contract, disclose the nature of his interest to the Trust;

and

(b) shall not take part in any deliberations or decision of the Trust with respect to the contract.

Penalty: $2,000.

(2) A disclosure made under this section shall be recorded in the minutes of the Trust.

(3) Where a member makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section—

(a) the contract is not void, or liable to be avoided, on any ground arising from the member's interest in the contract;

and

(b) the member is not liable to account to the Trust for any profits derived from the contract.

5. Section 14 of the principal Act is amended— Amendment of s. 14— Powers and functions of the Trust.

(a) by striking out paragraph *(a)* of subsection (2) and substituting the following paragraph:

(a) with the prior specific approval of the Minister, acquire, in accordance with the provisions of the Land Acquisition Act, 1969, such land as the Trust considers necessary or expedient for the effective performance of its functions;;

(b) by striking out subsection (3) and substituting the following subsection:

(3) The Trust shall not engage in the division or development of land except as provided in this section.;

and

(c) by inserting in subsection (6) after the word "Minister" the following passage and paragraphs:

and, in particular, without limiting the effect of the foregoing, shall comply with any directions given with a view to—

(a) the proper co-ordination of the Trust's activities with those of other public authorities;

(b) the planning of a desirable physical and social environment.

6. The following section is inserted after section 14 of the principal Act: Insertion of new s. 14a.

14a. (1) Where the Trust acquires land in pursuance of this Act and proposes to lease the land before it is made available for the establishment and development of new urban areas, it shall offer the person from whom the land was acquired the opportunity to lease the land on fair terms. Provisions relating to acquisition of land.

(2) The Trust shall not acquire by compulsory process—

(a) any dwellinghouse that is occupied by the owner as his principal place of residence;

(b) any factory, workshop, warehouse, shop or other premises used for industrial or commercial purposes;

(c) any premises used as an office or rooms for the conduct of a business or profession;

or

(d) any land in respect of which subdivision development is being or has been carried out.

(3) Where a notice of intention to acquire land is served by or on behalf of the Trust on the proprietor of the land, being land that is adjacent to premises of a kind referred to in subsection (2) *(a)*, *(b)* or *(c)* of which the same person is proprietor, the proprietor may, within 3 months after the date of service of that notice, serve personally or by post on the Trust a notice requesting the Trust to acquire those premises, and, in that event, the Trust may, if it proceeds with acquisition of the land, also acquire those premises whether by agreement or otherwise in accordance with the provisions of the Land Acquisition Act, 1969.

(4) Where a notice of intention to acquire land is served by or on behalf of the Trust on the proprietor of the land, being land that the proprietor proposes to use for subdivision development or commercial building development, and no such notice has previously been served in relation to that land, the proprietor may, within 3 months after the date of service of that notice, serve personally or by post upon the Trust a notice advising the Trust of the proprietor's wish to proceed with the development and containing the particulars required by the regulations in relation to the proposed development, and, in that event, but subject to subsection (5), the land to which the proposed development relates shall not be acquired by the Trust by compulsory process within the period of 2 years from the date of service of the proprietor's notice upon the Trust.

(5) The Trust is not prevented by the operation of subsection (4) from acquiring land that the proprietor proposes to use for subdivision development unless—

(a) the proprietor, before the date of service of the notice of intention to acquire, had obtained planning authorization under the Planning Act, 1982, authorizing subdivision development in respect of the land;

or

(b) the proprietor—

(i) before the date of service of the notice of intention to acquire, had made due application for planning authorization under the Planning Act, 1982, authorizing subdivision development in respect of the land;

and

(ii) within the 3 month period from the date of service of the notice of intention to acquire, obtains

the planning authorization or satisfies the Minister, upon the basis of such evidence as he may require, that the granting of the planning authorization may be reasonably regarded as imminent.

(6) Where the Trust is prevented by the operation of subsection (4) from acquiring land by compulsory process within the period of 2 years referred to in that subsection and the proprietor makes substantial commencement of the subdivision development or commercial building development, as the case may be, within that period, the land shall not be acquired by the Trust by compulsory process after the expiration of that period.

(7) Where the Trust has been prevented by the operation of subsection (4) from acquiring land for any period but the land is subsequently acquired by the Trust by compulsory process within 3 years after the service of the first notice of intention to acquire the land served by or on behalf of the Trust, then, notwithstanding the provisions of the Land Acquisition Act, 1969, the compensation to which the proprietor of the land is entitled shall be assessed in all respects as if the acquisition had been effected as soon as practicable after the service of that first notice of intention to acquire the land.

(8) In this section—

"commercial building development", in relation to land, means development of the land by the construction on the land of premises that are to be used for industrial or commercial purposes:

"proprietor", in relation to land, means the proprietor of a legal or equitable estate of fee simple in the land:

"subdivision development", in relation to land, means development of the land for residential purposes by the carrying out on the land of works for the provision of roads and services to individual allotments of a size not more than 2,000 square metres.

7. The following section is inserted in Part II of the principal Act after section 16: Insertion of new section 16a.

16a. Where an officer or employee appointed for the purposes of the administration of this Act has a direct or indirect interest in a matter in relation to which he is required or authorized to act in the course of his duties, the officer or employee— Disclosure of interest by staff.

(a) shall, as soon as he becomes aware of the matter, disclose the nature of his interest to the Trust;

and

(b) shall not, unless the Trust otherwise determines, act in relation to the matter.

Penalty: $2,000.

8. The following sections are inserted after section 21 of the principal Act: Insertion of new sections 21a and 21b.

Powers of entry, etc.

21a. (1) A person authorized in writing by the Trust to do so may enter upon any land and conduct any survey, valuation, test or examination that the Trust considers necessary or expedient for the purposes of this Act.

(2) A person shall not enter upon any land under this section unless he has given reasonable notice of his intention to do so to the occupier of the land.

(3) A person shall not hinder any authorized person in the execution of his powers under subsection (1).

Penalty: $1,000.

(4) The Trust shall be liable to pay to the owner of any estate or interest in land that has been entered in pursuance of this section compensation for any damage or disturbance caused by the entry or by any survey, test or examination conducted on the land in pursuance of this section.

(5) The Land and Valuation Court may, upon the application of any interested persons, assess and order payment of compensation for which the Trust is liable under subsection (4).

(6) In subsection (5)—

"the Land and Valuation Court" means the Land and Valuation Court established under the Supreme Court Act, 1935.

Summary proceedings.

21b. Proceedings for an offence against this Act shall be disposed of summarily.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor