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Government is not bound by Ocean Village document Garcia tells DPC

The Deputy Chief Minister Dr Joseph Garcia has told the Development and Planning Commission (DPC) during a public meeting this morning that the new Government does not consider itself bound by the document signed by the Ocean Village Group and the previous Chief Secretary on 24th October 2011, only a few days before the General Election was called.

Dr Garcia's comments came in the context of the consideration by the DPC of two applications from the Ocean Village group in respect of sites which were referred to in the said document.

The first application (BA12035) was in respect of the proposed conversion of the terrace in Sail 1 into a restaurant and Sail 2 into a yacht-related facility. The applicant already had outline planning which had been granted under the previous administration.

The document signed in October 2011 says that the "GoG shall raise no objection to the issuance of such approval nor shall it be charging a premium or other payment in respect of the same." It also says that "Ocean Village Investments may, at some point in the future, make a similar application in respect of Sail 3. Should it do so, then GOG shall not object to the application nor shall it be charging a premium or other payment in respect of the same."

The second application (BA12037) was made in respect of what is known as Trinity House on the old Key Transport site. This already has outline planning permission which was granted under the previous administration. The document says that "GOG raises and shall raise no objection to the application submitted by Ocean Village Gibraltar to the Development and Planning Commission (BA11707) for an Outline Planning Permit to build 295 square metres of office accommodation on the southern entrance to the Ocean Village Promenade...GOG shall not be charging a premium or other payment should such an application be granted." It then goes on to say that a lease for 150 years shall be granted "for a nominal rent" and that "GOG shall not be charging a premium or other payment in respect of such lease."

The grant of the lease over the old Key Transport site was valued at £125,000. In addition to this, Ocean Village only has a licence over a small part of the site.

The entirety of the proposed development area is outside its Ocean Village demised areas. The premium for enclosing the terrace areas to Sails 1, 2 and 3 was valued at £32,500 each.

In his statement to the Commission, Dr Garcia made reference to the document which had been signed by members of the Ocean Village Group and the previous Chief Secretary of the Government. The document purported to say that the Government would raise no objections to the applications. "The Government has been advised that the document is not a legally binding agreement and would, in addition be unenforceable as an illegal derogation/fetter of the Government's discretion in public law in so far as the current applications are concerned." He added that the Government did "not consider itself bound by the document in question and indeed cannot in law bind itself to it and will consider this application on its merits in the same way as any other application made by any other applicant."

Dr Garcia went on to say that the Government, as landlord, does not agree to waive the premium or other payment nor does the Government consider itself bound by the other conditions which are alluded to in the document.

It will be recalled that the previous administration signed a document with the Ocean Village group which purported to make a series of financial and other concessions (which have been valued at about £4 million in lost revenue) in exchange for a strip of water next to the runway which was valued at about £300,000 in 2006. The new Government does not share the same interest in this strip of water.