

STATEMENT BY THE GSLP/LIBERAL OPPOSITION 44/2007

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The Government took legislation to Parliament last month to prohibit developers from applying for extensions to the completion date of their projects, after such a date had elapsed in their original Development Aid license.

The Development Aid Act, which dates back to the early 1980s, is a mechanism which delivers substantial financial benefits to developers in Gibraltar quite apart from the profits on the project that they may make. These benefits include making a substantial amount of their profits tax free and also making it possible for shareholders to receive dividends from such companies tax free.

A Development Aid license stipulates the date by which the project must be completed as a condition for accessing these advantages. It has been the practice in the past for developers to apply for, and to obtain, an extension to this license after the date of completion of the project has elapsed.

Last month the Government brought legislation restricting the ability of developers to extend the completion date of their project and retain the benefit of Development Aid. This was done by only allowing applications for an extension to be made before the original completion date had passed.

It can only be assumed that the policy of the Government in this matter is to limit the advantages available to developers in that respect. However, it is quite clear from recent practice that the Government, on occasions instead of amending existing licenses, cancels them and immediately reissues a new one with some of the conditions differing from the original one.

For example, this happened with King's Wharf Ltd only days before the recent Bill was considered by Parliament. They were issued with Development Aid license number 1 of 2006. On 22 March 2007 the cancellation of this license was published in the gazette and at the same time a new license was issued as number 1 of 2007. In the case of King's Wharf Ltd the amount expended on the project that qualifies as capital expenditure was increased without explanation from 20% of the cost of the works in the first license, to 30% in the second one. This gave them an increase in the benefit obtainable from the license of 33%.

This means, that when they choose to, the Government, notwithstanding the provision of the law, will be able to simply issue a new license with new conditions including a new completion date. There is nothing in the original or the amended law to stop this from happening.

It would appear that the new provisions will only hamper a developer who faces delays in the completion date, and does not make a case in time, if the

Government chooses not to use the existing provisions to issue a new license.

ENDS