

25 OCTOBER 2006

REPORT OF HOWARD KENNEDY, THE TRUST'S SOLICITORS

RESPONSIBLE PARTNER: Iain Harris Tel: 020 - 7546 8986

REPORT TITLE: Application for permission of Charity Commission to enter into a lease with Firoka (Alexandra Palace) Limited

REPORT AUTHORISED BY: Iain Harris of Howard Kennedy of 19 Cavendish Square, London W1A 2AW. Trust's Solicitors.

1. PURPOSE

- 1.1 To present to the Board the course proposed by the Charity Commission whereby the charity will be authorised to grant Firoka a long Lease
- 1.2 To seek the Board's approval to the making of an application for an order.

2. SUMMARY

- 2.1 Instead of a Section 36 Charities Act 1993 Order the Commission suggests an order containing a scheme. The Board is invited to approve this course and apply for an order containing a scheme.

3. RECOMMENDATIONS

- 3.1 The Board considers this paper and, subject to any questions members have, resolve to complete the Charity Commission application for an order containing a scheme.

4. LOCAL GOVERNMENT (ACCESS TO INFORMATION)

ACT 1985

- 4.1 Our correspondence files

5. THE REPORT

- 5.1 The Charities (Alexandra Park and Palace) Order 2004 empowers the Trustees, subject to the consent by Order of the Charity Commissioners, to grant a lease of the whole or part or parts of the Palace and its immediate surrounding area.
- 5.2 Following the coming into force of the 2004 Order the Charity Trustees have undertaken, with the benefit of comprehensive professional advice, a selection process.
- 5.3 At the Board's Special Meeting on 27 March 2006 the Board resolved at AP036.(ii) and (iii) to authorise commencement of detailed negotiations with Firoka and to seek a Section 36 Order from the Charity Commission.
- 5.4 The Board subsequently, at its meeting on 24 July 2006, approved draft documentation and delegated authority for drafting changes to the General Manager.
- 5.5 In accordance with the Board's resolutions we have on behalf of the Trustees engaged in correspondence with the Charity Commission. The Commission has now invited the Trustees to apply for a scheme authorising the grant of a lease to Firoka (Alexandra Palace) Limited.
- 5.6 There is a technical point that we need to make. In the current context there are two relevant mechanisms whereby a lease can be authorised. The first is by means of an Order containing a scheme under Section 16 of the Charities Act 1993. The second is by an Order under Section 36 of the Charities Act 1993.
- 5.7 The Commission has indicated that the first of the above mechanisms would be appropriate because this would give a legal basis and clear procedure for giving public notice inviting and considering representations. This process also accords with an undertaking given by the Minister during the course of the Parliamentary debate in January 2004 on what became the 2004 Order. On that occasion the

Minister indicated that the Commission would publish a draft of the Order and invite and consider representations.

- 5.8 The Commission has now provided a draft of the Order which is appended to this paper as Appendix A. There is also appended at Appendix B an application for a scheme by the Trustees.
- 5.9 The Board is invited to make any observations members may consider appropriate on the draft Order and subject thereto are invited to resolve to approve the draft and make a formal application for a scheme.
- 5.10 If the Board so approve and resolve the Commission will advertise its intention to make the Order giving a period of one month for representations to be made to it.