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Pension Fund

1 message

Gavin <gavinm@pensionpractitioner.com>

16 March 2021 at 22:49

To: jason <jason@thorpemeadows.co.uk>, JASON THORPE <jt711@me.com>

Cc: Emily McAlister <emilym@pensionpractitioner.com>

The position with the pension fund is that the land, and unless a separate title or lease is created, owns all the assets that sit therein. The fund can and did lease to the Company the right to develop and hold leasehold assets, and the Company has historically paid a rental income to the pension fund for those assets. The leasehold assets historically consisted of the stables/paddocks and other "fixtures".

There is some uncertainty on the exact lease details as I have only ever received the wording and not the final version. I had asked the solicitor over the years for the final signed copy but this was not forthcoming. On the understanding that the lease is fully in force, and the paddocks and other assets sit outside of the pension fund, we would therefore only have to consider the land which does not form part of the lease agreement. I will need that lease agreement before I can give further specific guidance on this.

There are different ways to transfer a share of land for residential development. One way is for the land to be paid to you and Paul against payment of expenses and costs incurred associated with the development. You would need to evidence that those costs equate to the land being transferred to you. The second option is known as a payment in kind, this is where a tax free payment equal to 25% of the pension fund is paid to you and would equate to a portion of the land. The third but perhaps the more expensive option would be bridging or a financing arrangement whereby a loan is generated to buy out the plot of land from the pension fund. A mixture of any of these could work, it really comes down to the most tax efficient and lowest cost way to transact.

We need to drill down the numbers to satisfy HMRC and to achieve this we have to have a separate value of the lease and valuation of the land preferably without the planning permission valuation for residential property. We can work off much of the detail from the valuation supplied but there are some gaps here which I will need your help on and also some assistance from the valuer. This is needed as the valuation of the pension fund, which includes both the lease and the land will have a significant bearing on the tax efficiency of the transaction.

To this end, can you please confirm how much has been incurred by you and Paul personally in estimated costs. Please also estimate whether there is a debt due to the Company connected to the improvement of the assets forming part of the lease and again what is your estimated figure. I will also require a copy of the lease as soon as possible. If you don't have access to this, can you please obtain this from Martin Hall at Cleggs Solicitors as I have had no luck.

For ease of reference I have Martin's email address as martinh@cleggssolicitors.com.

I am in the office all day tomorrow, happy to talk this through over the phone if this helps

Many thanks

Gavin

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