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Tuesday, 04 May 2010

Dear Sirs,

**Local Government (Miscellaneous Provisions) Act 1982 – proposed resolution to redesignate certain streets.**

We have been instructed by Messrs A L Coronato, A P Palinczuk and R M Roberto, the principals of RAL Icecream Catering Ltd. As you will be aware our clients currently have a consent to operate an ice cream stall in Long Row.

As we understand it there has been a degree of co-ordination of the provision of on street ice cream sales, with approved pitches at St Peter's Square, High Street and Thurland Street/Clinton Street, in addition to our clients' pitch. This was located in the Old market Square prior to the renovations, and was then relocated to Long row. The pitch is specifically located between two telephone kiosks and has actually been designed and fabricated to fit this location.

Our understanding is that the Council has now accepted the basic proposition that appropriate and properly regulated street trading is beneficial to the commercial and public interest, and a number of consent streets will remain; while the list of approved goods has been revised, ice cream remains on the list, and the other pitches referred to above will, as we understand it, remain.

The proposed redesignation of Long Row will of course deprive our clients of the right to their livelihood, as their consent to trade will become null and void. It is clear that such entitlements amount to property within the meaning of Article 1 of Protocol One to the European Convention on Human Rights, see the European Court of

Human rights decision in *Tre Traktörer Aktiebolag v. Sweden* (Application no. 10873/84). We understand that, although our clients have enquired as to the availability of alternative sites they, unlike traders in other redesignated streets (e.g. the juice bar on Bridlesmith Gate) have not been offered an alternative site. In our view this constitutes an improper deprivation of rights which cannot be justified by the public interest, since, as set out in the next paragraph, there is no substantial public interest in requiring our clients to cease trading from their existing site. It also constitutes unfair discrimination insofar as others have been offered relocation, but our clients have not. Our clients also have, quite apart from Convention rights, a legitimate expectation that, so long as they conduct themselves appropriately, they have the same right to continue as part of the street trading provision in Nottingham as other established traders, in particular other ice cream traders.

Our understanding is the rationale for the redesignation of Long Row is that it is considered that this will facilitate the use of this street for temporary trading activities, such as Craft Markets, Christmas Markets and Farmers Markets. However, our clients' pitch has traded perfectly successfully during the periods when such events have been held over the past few years, as the particular site they occupy would not be suitable for use as part of such temporary events, and does not impinge on the proper layout of these events. In other words it is disproportionate, and indeed entirely unnecessary, to include the site occupied by our clients in the redesignation of Long row. The legitimate objectives of the Council and the rights and expectations of our clients can be fully met by the exclusion from the redesignation of their existing site.

We are therefore instructed to object to the confirmation of the resolution in any form which does not either

- (i) Exclude the site occupied by our client; or
- (ii) Contain or is made by reference to a scheme to make adequate provision for suitable alternative trading locations for all traders adversely affected by the redesignation of streets.

Yours faithfully,



**FRASER BROWN**