

CONFIDENTIAL - NOT FOR PUBLICATION IN THE PRESS. ANTI-ASIATIC CLAUSES. RS.

MEMORANDUM FOR FINANCE COMMITTEE.

REGISTRATION OF SERVITUDES UPON PRIVATE PROPERTY RESTRICTING OCCUPATION OF PERSONS OF A PARTICULAR RACE OR CLASS.

1. It will be recalled that on 5th June, 1942, the Council resolved, subject to the approval of the Administrator, to make a grant-in-aid to a voluntary association of owners of property in some of the Corporation's housing schemes to enable them to meet the cost of registering Anti-Asiatic servitudes against their properties. This was done upon an opinion by the City Solicitors, advising that this course of action was competent. The Administrator called for an opinion from Counsel, and finally the opinion of Mr. J. J. L. Sisson, K.C. was obtained. This over-ruled the advice given by the City Solicitors, and was to the effect that it was not competent for the Council to utilise Municipal funds in securing the registration of such servitudes. (This opinion will be available for the Committee).

2. This development is reported to the Finance Committee, and it is suggested that the Committee should recommend the withdrawal of the Council's application to the Administrator. Should the Committee accept this suggestion, the following recommendation will meet the case :

"That in connection with the Council's resolution of 5th June, 1942, under which it was agreed in principle that grants-in-aid be authorised to amounts sufficient to defray the legal costs of registering Anti-Asiatic servitudes against properties in some of the Corporation's housing schemes (i) subject to the consent of the Administrator ; and (ii) subject to the unanimous approval of all owners in any one particular housing scheme, and having regard to legal opinion received to the effect that it is not competent for the Council to utilise Municipal funds in securing the registration of such servitudes, authority be and it hereby is given for the Council's application dated 22nd July, 1942, to the Provincial Secretary, Pietermaritzburg, for the approval of His Honour the Administrator to a grant-in-Aid being made to the Association acting for owners of rateable property in Housing Schemes 1 and 1A, to be withdrawn."

3. In connection with the general question the following letter dated 22nd April, 1943, was received from the Acting City Treasurer:

"I have to acknowledge receipt of your letter of the 5th instant in the above connection enclosing copy of opinion from Mr. Advocate J.J.L.Sisson. In view, however, of the present "Pegging" Bill before the House of Assembly restricting Indians in regard to trading and occupation of land, it would appear that there is now no necessity for the insertion of the Anti-Asiatic Clause in respect of the Corporation Housing Schemes 1 to 7a. I think, however, that this should be confirmed from the City Solicitors."

4. Legal opinion on the view expressed by the City Treasurer will be available for the Committee.

5. The matter is submitted for consideration by the Finance Committee.

E. B. SCOTT,
TOWN CLERK.

Town Clerk's Office,
DURBAN.
11th May, 1943.