

Land Registry Tunbridge Wells Office

Mr P R Miles
East Northdown House
Margate
Kent •
CT93TS

Date
3 June 2005

Your Reference

Our Reference
K570231 fANO/248/MLB

Land Registry
Tunbridge Wells Office
Forest Court
Forest Road
Tunbridge Wells
KentTN25AQ

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Dear Mr Miles

Title No: K570231
Property: East Northdown House, East Northdown
Margate,

I write further to my letter of 16 May and our subsequent
telephone conversations.

As you are aware, the section of the private road that abuts
your property at East Northdown House is unregistered. At the
time of the application for first registration of your property at
East Northdown House the Registry took the decision that the
right of way referred to in the transfer of the property to you
dated 9 November 1982 could be entered on the register of
your title in view of the contents of a statutory declaration
declared by Mr Irvine Friend dated 28 October 1982. I enclose
a copy of Mr Friend's declaration for your information. In that
declaration you will note that Mr Friend stated that he believed
he was the owner of the roads on the Northdown estate
including the road shown coloured green on the plan exhibited
to his declaration and that he had a possessory claim to the
road. Mr Friend also referred to the fact that the Northdown
estate had been in the ownership of the Friend family since at
least the thirteenth century.

With regard to the 2 titles to which you refer in the third
paragraph of your letter of 22 April, the land registered under
title number K190681 was first registered in 1963. I enclose, for
your information, a copy of the deed which induced first
registration namely a conveyance dated 12 March 1963
between (1) Palm Bay Estates Limited and (2) Regina Court
(Bournemouth) Limited. I also enclose a copy of the list of



documents that accompanied the application for first registration and you will see that J I H Friend was a party to many of the documents referred to. Title number K352738 was a removal from title number K190681.

I understand that you are considering applying, on the basis of the ad medium filum presumption, for title to half of that section of the private road that abuts your property. As stated in my letter to you of 29 March the presumption may be rebutted by the express grant of a right of way over the road. In the 1982 transfer of the property to you Mr Friend granted a right of way in favour of the property over the section of the road shown coloured yellow on the title plan to your property. I understand, however, that you are of the view that Irvine Friend did not own the road in question and had no right to grant the right of way that has been registered in favour of your property.

If you were to make an application for alteration of your registered title to remove the right of way with a view to applying for title to a section of the road under the ad medium filum presumption it would be necessary for you to demonstrate to the Registry's satisfaction that the right of way was not validly granted and you would need to produce convincing evidence that Irvine Friend did not have title to grant the right of way because he did not own the land or that he did not himself have the benefit of a right of way over the road. If a satisfactory application were to be lodged the Registry would serve notice of the application on such persons as it feels are appropriate, for example, owners of land within the vicinity of the road and such persons would have an opportunity to object to the application.

Thank you for forwarding a copy of counsel's opinion dated 5 January 2005 which you have obtained. I note that counsel's comments concerning the implications of Irvine Friend not owning the road are based upon your contention that he did not own the road. Counsel also states that he has insufficient information to say whether the ad medium presumption would apply in this case. At paragraph 3 of his opinion counsel refers to a High Court action. Have there been any proceedings in relation to the private road?

Thank you also for your letter of 25 May enclosing a copy of the report and opinion which I understand were prepared following the Law Society's involvement with regard to various complaints made by you in relation to the solicitors involved in the conveyancing processes in respect of East Northdown House and adjoining land which provide background information.

I hope this letter is of assistance. As you will appreciate I am not in a position to provide you with legal advice and cannot comment as to the likely outcome of any application that might be made in advance of a formal application being received since any application made would be considered on its own merits at the relevant time.

Yours sincerely

Mary Brophy
Assistant Land Registrar
Direct Line: 01892774511