

The Egyptian Halls Historical FACTS 1998-2019

GCC CPO non-disclosed 20 Year Contract Breach

FACT V FALSEHOODS OR MISREPRESENTATION

THE TRUTH

FACT - 3rd July 2018 15.20pm GCC admits after 18 Years 8 Months a BREACH OF CONTRACT
"The only point he has was that in December 1999 we entered into missives with Union Street Developments Ltd (not USP Ltd) (renewing the terms of the 1996 missives with the previous consortium). These missives contained the provision that GCC would obtain title using the GVD procedure. Accordingly we were in breach of the missives entered into (subject to a weak argument on error). "We could answer Soutar's questions on the basis of the above but I would strongly advise against doing so. To concede now that we were indeed in breach of the 1999 missives will just renew his conviction he is right and will perpetuate further diatribes.

A SELECTION FROM 20 YEARS OF MISREPRESENTATION AND FALSEHOODS

FALSEHOOD or MISREPRESENTATION – 3rd July 2018 – 8.29am GCC *"As stated the Council's position is a final one and we have no intention in engaging in any further correspondence on this matter. I trust you will note the above".* Ken Clark City Centre Manager GCC DRS

FALSEHOOD – 10th March 2018 GCC stated in Scotland on Sunday *"These allegations in respect of misrepresentation and impropriety by the council are entirely refuted. The true position has been set out in detail on many occasions by the council"*

FALSEHOOD or MISREPRESENTATION - 10th June 2014- *Dear Mr Souter I refer to your e-mails below, and I have been in contact with my Legal Services colleagues as you have requested. They have noted they do not see where progress between GCC and yourself could be achieved as a result of continuing correspondence, having considered all of your representations and having responded to them, trying to understand them in their entirety, trying to clarify where there is a perceived selective use of documentation and seeking to set out GCC's position. It is considered that drawing a line under this correspondence would be appropriate, since there is nothing further to be gained in prolonged and repeated correspondence.* Forbes Barron Head of Planning and Building Control

FALSEHOOD or MISREPRESENTATION - 10th April 2014 GCC letter in which then Director of Legal Services stated on Page 3 *"Given this comprehensive response, which has taken up a considerable resource, I do not consider that there is any merit in continuing this dialogue, unless any new matters of materiality emerge"* And this response of course to be unequivocal did not disclose the then known contract breach. Why was the Contract Breach not disclosed then? And how could it then have been a comprehensive response when the *true position* was not disclosed?

FALSEHOOD or MISREPRESENTATION - May 2004 GCC DRS Executive Director Rodger McConnell stated to the Lord Provost/First Minister/Councillors/Owners the following FALSEHOOD! *"The circumstances surrounding the CPO process have now been explained to Union Street and a follow up meeting will be held with them, their solicitor and the Council's Solicitor to provisionally agree the way forward"* Again if the CPO Amendment had been disclosed or the 1999 Contract Breach then PRESCRIPTION ACTION WOULD HAVE THEN BEEN APPLIED and would have been 1M% successful without any doubt whatsoever.

WHO IS TELLING THE TRUTH GOES TO THE HEART OF THIS COMPLAINT- Kidstons Kenneth Gerber stated that GCC's Chief Solicitor apologised for the non disclosure of the CPO Amendment mid 2002 in correspondence March 2014, GCC Legal's then Director of correspondence denied this ever happened in April 2014 correspondence but provided no confirmation proof from the former Chief Solicitor that had stated this. Mr Gerber then reiterated he had in fact received an apology from Mr Graham McDiarmid in an updated statement that GCC Legal has failed to comment on.

The **FACT** that within this correspondence GCC Legal also chose with pre-meditation to also not disclose the then known contract breach speaks volumes for the unethical conduct practices implemented by GCC Legal from mid 1999 to the current day (see more overleaf).

HISTORICAL FACTS CHRONOLOGICAL ORDER 1980 - 2019

FACT - GCC's Buildings at Risk Register notes the Upper Floors problems as beginning in 1980-37 years ago! GCC then 11 years later in 1991 issued an LBRN to the then 10 ownership interests.

FACT - GCC with the 1st Consortium promoted the 1996 Upper Floors CPO 16 years later.

FACT - The 1996 CPO was awarded £1.5M grant funding, now 22 years later £20M+ is needed.

FACT - The project was originally intended to be the highlight of Glasgow's 1999 City of Architecture and Design celebrations.

FACT - The Upper Floor owners lodged a Court of Session Appeal in late 1997.

FACT - Feb 1998 GCC noted it had implemented a CPO Amendment without the approval of the 1st Consortium and which has now caused a near 20-year delay at least.

FACT - USP became involved in mid 1998 and based on a conservation- centric assessment of the approved scheme proved it was undeliverable to both GCC and HS, which both accepted.

FACT - USP'S architect's alternative scheme was then recognised by both GCC and HS as being significantly more preservation biased (on record) than the original scheme.

FACT - This 2nd scheme needed £2M of grant funding to preserve and not destroy a Grade A architectural masterpiece as the first approved scheme would have done!

FACT - USP became the driving force behind the 2nd Ground Floor Consortium and negotiated with the former owners to drop their Court of Session Action.

FACT - GCC then entered contemporaneously into a legally binding contract Dec 1999 with USP that was impossible to deliver.

FACT - It's extraordinary that GCC's then Chief Solicitor negotiated and signed this agreement ignorant of the existence of the CPO Amendment, which made performance by GCC impossible.

FACT - GCC failed to disclose this massive error and fundamental breach of contract law.

FACT - USP would have protected their position and sought damages as early as Jan 2000.

FACT - USP purchased No 84 Union Street on the basis it was to get the Upper Floors conveyed to it by the terms of the 1996 CPO Missives ergo General Vesting Declaration.

FACT - If USP had known of the existence of the CPO Amendment it would not have purchased No 84 Union Street as a straight no pre-conditions purchase. Also USP would have purchased No 100 in 2005 under similar conditions.

FACT - USP would have reconciled the CPO Amendment issue as early as mid-1999.

FACT - GCC's CPO 1998 Amendment was legally irreversible and has delayed project since then coupled with the effects of the 2008 recession accelerating the project increasing non-viability.

FACT - GCC then induced USP to sign updated CPO contracts, which would not have been signed if GCC had disclosed their contractual breach.

FACT - GCC has stated it would act to protect its position and it certainly has actioned this.

FACT - Mid 2004 GCC DRS misrepresented the circumstances surrounding the CPO process to USP, and also GCC's Lord Provost who then misrepresented this to the then First Minister, who had in fact written to the Lord Provost requesting clarification on why there was such a delay.

FACT - It took GCC 8 years to lodge an action for compensation with the Lands Tribunal instead of the projected 12-18 months!

FACT - USP reconciled the CPO in 2008 not GCC and GCC have acknowledged this formally.

FACT - The CPO Amendment which USP has still never seen sight of has caused a near 20 year delay which is extraordinary for something which gained a 28 day time advantage to carry out Urgent Repairs, which GCC has been unable to provide evidence they were in fact implemented.

FACT - GCC states in a Report July 2010 that the project is non - viable in commercial terms.

FACT - HES states the project is non-viable August 2010 **FACT**- since 2010 the non-viability has increased significantly by circa £1M-£1.5M per year.

FACT - GCC stated in July 2010 *“As you may know the Council has been working with USP Properties for many years in order to help them bring the building into a single ownership. And **the developer has committed very significant expenditure on bringing the building into a single ownership, on preparing a range of technical and conservation studies, and in completing both option and development appraisals for a variety of potential end uses.**”*

FACT - GCC-Scot Govt - Co Owners should be working effectively to save the Egyptian Halls.

FACT - The type of CPO Amendment GCC used is now not permitted under 2011 Legislation.

FACT - In 2014 GCC and HES supported an application for a £5M HLF grant and in 2015 GCC and HES then “torpedoed” an updated application for a £5M HLF grant.

FACT - In July GCC was presented a Joint Venture/Purchase Document it has yet to respond.

FACT - Feb 2018 a Review of GCC’s 1996 CPO was called for again! [CPO Review Update '18.pdf](#)

FACT - 1999-2019 GCC has refused to date to discuss any aspect of the 1999 USP-GCC CPO Agreement; including refusing now SEVEN separate FOI requests to disclose the relevant correspondence.

FACT - Jan-March 2019 More scheme delays either by via continuing funding or legal arguments will only see “scheme” costs and non -viability increase, current Ground Floor deficit – **circa -£25M**

FACT - April 2019 onward The consequences of the non-disclosed 1998 CPO Amendment and now admitted contractual breach by GCC have caused this £30M+ funding problem.

FACT - April 2019, GCC’s flawed and failed CPO strategy now imperils the future of the world renowned Grade A “architectural masterpiece.

CONJECTURE- how can this be reconciled?



Derek J Souter - Director USP/USD/USI 3rd April 2019