

COMMONS REGISTRATION ACT 1965



Reference No. 212/U/241

In the Matter of Land in The Street, Kirby-
le-Soken, Essex

DECISION

This reference relates to the question of the ownership of land in The Street, Kirby-le-Soken, being the land comprised in the Land Section of Register Unit No. VG 201 in the Register of Town or Village Greens maintained by the Essex County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference the Frinton and Walton Town Council claimed to be the freehold owner of the land in question and the Essex County Council claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Colchester on 30 November 1982.

At the hearing the Town Council was represented by Mr J P McLarney, its Clerk.

Mr McLarney has known the land since 1952, when he became Clerk to the former Frinton and Walton Urban District Council. In the late 1950's that Council planted trees in the land and kerbed it. The Council placed seats on one part of the land between 1952 and 1964 and on the other part in 1964. In 1954 the Council moved the war memorial from another site and re-erected it on the land and made flower beds, which have since been maintained. All this work was done without permission from anyone and without any complaint.

In my view the Urban District Council acquired a possessory title to the land.

On 1 April 1974 the Urban District became part of the District of Tendring. The land did not, however, pass to the Tendring District Council, since effect was given to an agreement to its transfer to the Parish Council (now the Town Council) of Frinton and Walton outside the general rules by an extension to Schedule 1 of the Local Authorities (England) (Property etc.) Order 1973 (S.I. 1973 No. 1861) in a supplementary transfer of property order laid before Parliament.

On this evidence I am satisfied that the Frinton and Walton Town Council is the owner of the land, and I shall accordingly direct the Essex County Council, as registration authority, to register the Town Council as the owner of the land under section 8(2) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this

16th

day of

December

1982

Chief Commons Commissioner