



COMMONS REGISTRATION ACT 1965

Reference No 236/D/97

In the Matter of The Heath,  
Weybridge, Elmbridge District,  
Surrey

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DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No CL. 192 in the Register of Common Land maintained by the Surrey County Council and is occasioned by Objection No 44 made by British Railways Board and noted in the Register on 17 March 1970.

I held a hearing for the purpose of inquiring into the dispute at Guildford on 18 October 1977. At the hearing Weybridge Residents' Association were represented by Mrs C E Toler, their Hon Secretary.

At the same time, I held a hearing for the purpose of inquiring into a dispute relating to the same registration occasioned by Objection No 398 made by Walton & Weybridge Urban District Council and noted in the Register on 16 October 1970.

As to the first mentioned dispute ("the Railways Dispute"):- The grounds of Objection No 44 are: "The land shown by red verge on plan no 49083, forming part of the operational land of the railways, was not common land at the date of registration"; the said plan shows a narrow strip about 130 yards long parallel to and on the southeast side of the railway, extending from Heath Hotel on the southwest to the road which nearby by a bridge crosses the railway on the northeast. In a letter received on 14 September 1977, British Rail Property Board (Southern Region) say in effect that the property to which Objection No 44 relates was sold to Lynbrook Properties in 1971 who subsequently sold to Mr & Mrs Trantum in 1972. At the hearing Mrs Toler handed me a statement signed on behalf of Weybridge Residents' Association and signed by Mr Francis William Trantum and Mrs Margaret Joyce Trantum by which they requested the Commons Commissioner to refuse to confirm the registration of common land of that part of the CL. 192 Register Unit which was referred to in Objection No 44 and to give his decision in accordance with such a request without a hearing.

Regulation 31 of the Commons Commissioners Regulations 1971 provides that the Commons Commissioner may if agreed terms have been signed by or on behalf of all persons entitled to be heard at the hearing, to give a decision in accordance with such terms without a hearing. The statement handed in by Mrs Toler was not in accordance with this regulation, because it is not signed on behalf of British Railways Board or on behalf of Surrey County Council or on behalf of Elmbridge District Council. However as I have held a hearing, there is no need to rely on the Regulation. The said letter from British Railways Board and the said statement handed in by Mrs Toler, in the absence of evidence to the contrary are I think a sufficient basis on which I can properly decide that the registration was not properly made at least as regards land ("the Objection No 44 Land") mentioned in the said Objection.



As to the dispute ("the Council Dispute") occasioned by Objection No 398:- I have a letter dated 12 October 1977 from Elmbridge Borough Council requesting an adjournment and a letter dated 14 October 1977 from Surrey County Council saying that they have no objection to this. Mrs Toler said that she was agreeable to an adjournment, there being discussions between her Association and the Council which might result in an agreement and make a hearing unnecessary. I decided that I would accordingly adjourn the proceedings relating to the Council Dispute to a date and place to be fixed by a Commons Commissioner. This adjournment does not preclude me from giving a decision on the Railways Dispute, although it will preclude me from confirming the registration so far as it relates to land other than the Objection No 44 land.

In order to relieve the persons concerned with the Railways Dispute of the burden of having to give such dispute any further consideration, I consider I should now give a decision.

My decision on the Railways Dispute is that the Objection No 44 land at least should not have been included in this registration and the Objection succeeds. Accordingly whatever may be the result of the Council Dispute, the Objection No 44 land at least will be removed from the Register.

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 26<sup>th</sup> day of October — 1977

a. a. Barbara Fuller

Commons Commissioner