

***“The risk posed  
by incompetent  
government leaders,  
the displacement in  
time between action  
and impact can be  
disastrous.”***

**Michael Lewis  
Fifth Risk 2018**

FAO SCOTTISH PARLIAMENT RESEARCH CENTRE  
THE EGYPTIAN HALLS MAY 1996 CPO  
HOW DID THE “FEW MONTHS DELAY”  
GCC STATED ITS FEB 1998 CPO  
AMENDMENT WOULD CAUSE BECOME  
300 MONTHS+

SURELY REQUIRES TO BE EXPLAINED???

PREPARED ON BEHALF OF USD AND USP LTD  
24th SEPTEMBER 2019

# RESTORE & REGENERATE



*or*

# REBUILD & REGENERATE



[www.egyptianhalls.co.uk](http://www.egyptianhalls.co.uk)

## How a projected “few months delay” became 300 months+

Feb 1998 - A CPO Amendment is unilaterally imposed by GCC onto the ground floor consortium and changes the title conveyance from a GVD to NI and states “*this will only cause a few months delay*” despite it being legally irreversible and having the potential to become an open ended delay, which was not considered given the then current owners were non contactable. (Appendix A)

Dec 1999 GCC breaches CPO Agreement with USD due to not disclosing existence of CPO Amendment changed title conveyance from a GVD to a Notarial Instrument. (Appendix B)

July 2002- CPO TITLE TIMESCALES SLIP *a few months delay* is now 53 months (Appendix C) (not sent to USP), which poses even more questions as from reading this letter one would surmise GCC has not caused the title transfer delays and somehow it's over to USD and USP to reconcile these.

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*” (Appendix D). And “*a few months delay*” has become 77 months.

April 2014 GCC disclose the Feb 1998 CPO Amendment after 16 years (but crucially don't disclose the known, historical contract breach) Further GCC's claim 11/4/2018 that the CPO Amendment change offered legal advantages see Page 2 (which contradicts their timescales slippage letter and now “*a few months delay*” is 194 months, GCC also take no responsibility for this. (Appendix E)

May 2018- The change from a GVD to a NI has been described as follows by an ex Director of Legal Services for two Councils ***I have re-visited your file of papers and I keep coming back to the decision to depart from the condition in the original missives to proceed by GVD and, instead, to proceed by Notice to Treat. I remain puzzled by that decision as GVD was the better way to go particularly as GCC had to acquire several interests and needed to have a good title (which it would get under GVD procedures but would probably be significantly delayed in being able to get under Notice to Treat procedures which really only gives a (marginal) benefit in getting entry) in order to sell on to developers.*** (Appendix F)

July 2018 GCC Legal admits to GCC DRS “*The only point he has was that in December 1999 we entered into missives with Union Street Developments Ltd (not USP Ltd). These missives contained the provision that GCC would obtain title using the GVD procedure. This procedure had in fact been effected before we entered into the 1999 missives. Accordingly we were in breach of the missives entered into 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.*” (Appendix G) and “*a few months delay*” is now 247 months.

October 2019- At the end of October a comprehensive structural survey/development options/development will be issued to all stakeholders, which will it is believed lead to a final decision on what the future of the Egyptian Halls is to be. And a copy of this will be supplied to all relevant stakeholders. And “*a few months delay*” will then be 260 months

October 2022 -the projected earliest date for a Façade Retention scheme or New Build scheme

USP/USD/USI now ask that someone asks GCC to explain why the objectives of the 1996 CPO, which were to preserve the Egyptian Halls and return the Upper Floors to long term commercial sustainability have failed given there have been four approved planning applications (1997,2000,2005, 2013). And a scheme that was only going to have “*a few months delay*” will now take at least 26 years (316months) to achieve this and that may well be only for a Façade Retention which will require circa £25M of public funding when in Year 2000 only £2M was required for a 100% preservation scheme.

And given the 1998 CPO Amendment has now directly caused such a massive delay despite GCC stating it would only cause *a few months delay*! Surely GCC has to explain why this has occurred given it has refused all requests for a CPO Review since mid 2002, yes more than 17 years ago.

**APPENDIX A**

GCC'S Feb 1998 CPO Amendment.

This 1 page letter, which it took GCC 16 years and FOUR UNFAIR contracts to disclose, has now spawned a 21-year+ timescale and a potential £40M+ cost as I then took GCC another four years to then admit in July 2018 that the non disclosure of this unilaterally imposed, legally irreversible CPO Amendment meant GCC then breached a legally binding contract that GCC state they knew about but failed to disclose – yes for 20 years!

And still GCC seek to deny that the consequences of this flawed and failed CPO process, which GCC stated would cause a “few months delay” and which now 21 years later imperils the future of one of Glasgow’s finest Grade A “architectural masterpieces” 21 years ago.

Who within GCC, HES and the Scottish Government can slice this Gordian Knot of toxic cultural and financial non-accountability?

Director  
Ian G Cumming LLB

Legal Services  
Glasgow City Council  
City Chambers  
George Square  
Glasgow G2 1DU

DX GW145

Telephone: 0141 287 4529  
Fax No: 0141 287 5662  
If phoning please ask for Ms Farrell

Date: 11 February 1998  
Our Ref: CPD3333/KF/SMK  
Your Ref: WCF/22263.1/LAW M5

**FAX NO. 0141 204 1902**

Messrs Bird Semple  
Solicitors  
DX GW 10  
GLASGOW

Dear Sirs

**EGYPTIAN HALLS LIMITED  
PORTFOLIO HOLDINGS PLC  
EGYPTIAN HALLS, 84-100 UNION STREET, GLASGOW**

I refer to the above and write to advise you that we have received further correspondence from the Solicitors for Paratus (No. 403) Limited, Messrs Murray Beith Murray. The Solicitors have indicated that they are likely to submit an Appeal against the Compulsory Purchase Order. As you are aware, the last date to lodge this Appeal is 20 February 1998. We will inform you as soon as we are advised that the Appeal has been lodged.

If an Appeal is lodged, it will mean a delay of several months to the commencement of your clients' development, assuming the Appeal is unsuccessful. Can you advise us if this delay will mean that your clients will not wish to proceed with the CPO, in view of the fact that you expressed that a delay of a few weeks would have severe implications on your clients' Plans. This was the reason the Notice to Treat and Notice of Entry procedures were implemented rather than taking entry by General Vesting Declaration.

I look forward to hearing from you.

Yours faithfully

CPO Officer

1KF543.DOC

**APPENDIX B**

GCC-USD Dec 1999 CPO Agreement.

# KIDSTONS

& Co. SOLICITORS



Protective Services  
Glasgow City Council  
City Chambers  
GLASGOW  
G2 1DU

Your Ref: C1111754/ZZ006

Our Ref: UNION02.012523/KSG/AL

20 December 1999

*/u/wpksg/data/contract/off/union02.egyptianhalls*

Dear Sirs

## THE EGYPTIAN HALLS, 84/100 UNION STREET, GLASGOW COMPULSORY PURCHASE ORDER 1996

On behalf of and as instructed by our clients, Union Street Developments Limited, whose registered office was formerly at 27 Lauriston Street, Edinburgh EH3 9DQ and is now at 50 Castle Street, Dundee, Angus DD1 3RU (hereinafter referred to as "the Company") we hereby offer to renew and amend the missives (hereinafter referred to as "the original missives") entered into between Bird Semple on behalf of Portfolio Holdings plc and the Depute Town Clerk (Legal Services) on behalf of the City of Glasgow District Council dated 28th March 1996 relative to preparing and submitting a Compulsory Purchase Order in respect of 84/100 Union Street and in respect of works to said property, and all that subject to the following terms and conditions:—

- (a) All references in the original missives to the Company shall be deemed now to be references to the said Union Street Developments Limited.
- (b) The original missives are renewed and amended in terms of this offer and your acceptance to follow hereon, notwithstanding the fact that the original missives have lapsed by virtue of Clause 7 thereof.
- (c) All references to the Council contained in the original missives as hereby amended shall be references to the City of Glasgow District Council and its statutory successor as relevant, being Glasgow City Council.
- (d) It is explained and understood that the Compulsory Purchase Order as defined in the original missives has been submitted to and was confirmed

1 ROYAL BANK PLACE, BUCHANAN STREET, GLASGOW, G1 3AA Tel: 0141-221 6551 Fax: 0141-204 0507 DX GW56

Edinburgh Office 3rd Floor, Conference House, The Exchange, 152 Morrison Street, Edinburgh, EH3 8EB Tel: 0131-200 6272 Fax: 0131-200 6200

Bearsden Office 43 Milngavie Road, Bearsden, G61 2DW Tel: 0141-943 1188 Fax: 0141-942 5886

e-mail [mail@kidstons.co.uk](mailto:mail@kidstons.co.uk) web site <http://www.kidstons.co.uk>

Partners IAIN F. ATACK, DOUGLAS G. McKERRELL, ROBERT F. FRAME, ALISON M. ATACK, KENNETH S. GERBER

Accredited Specialists IAIN F. ATACK Employment Law KENNETH S. GERBER Commercial Leasing

Associates CAROLINE A. F. HANLON, LYNNE McLEAN, DOUGLAS A. STRANG Property Manager STUART CLELLAND

Incorporating TORRANCE BAIRD ~~EDINBURGH & CO. HARRIS & McLEOD~~

by the Secretary of State for Scotland on 23rd May 1996 and the Notice of Confirmation was advertised on 9th January 1998, and that there is presently an appeal lodged at the instance of the proprietor of one-half of the upper floors, such appeal being to the Court of Session, Scotland, and in respect of which a hearing date is awaited.

- (e) No compensation figure has yet been agreed or determined and no negotiations are ongoing in respect of compensation payable to any party in respect of the Compulsory Purchase Order.
- (f) Clause 6 of the original missives is deleted and the following clause is hereby substituted therefor:—

"It is an essential condition of the missives to follow hereon that insofar as the CPO subjects are concerned, the Company or its successors as proprietors foresaid shall carry out and complete the refurbishment works in accordance with the planning consent number 1590/95 and listed building consent number 1592/95 dated 20th September 1995 and that within thirty months (subject to delays caused by force majeure) from the date of entry of the Company to the CPO subjects or the last part thereof to be conveyed/otherwise acquired by the Company in terms of the missives to follow hereon and the foregoing conditions contained in this clause shall be created real conditions upon and affecting the CPO subjects in the Disposition or Dispositions to be granted by the Council in favour of the Company in terms hereof and fenced by an irritancy clause in normal form."

- (g) The missives of which this offer forms part are conditional upon Paratus (No. 403) Limited, whose registered office is at 63 Brown Street, Dundee DD1 5AQ, as owner of a one-half *pro indiviso* interest in the upper floors of the building 84/100 Union Street, Glasgow withdrawing the appeal which was lodged by it to Court of Session, Scotland in respect of the Compulsory Purchase Order, and your legal expenses in respect of the appeal amounting to £3,200 being paid.

This condition and all aspects thereof are suspensive in nature and in the event that said conditions contained in this clause have not been purified by 5 p.m. on 22nd January 2000 then either party will be entitled to resile from the missives of which this offer forms part and that without claim,

penalty or expense due to or by either party, such rescission being by written intimation to that effect served on the other.

- (h) Clause 7 of the original missives shall be amended to the effect that
  - (i) the words occurring in the second, third, fourth, sixth, seventh and eighth lines thereof starting with the words "for a period of" and ending with the words "Purchase Order" are deleted and there will be substituted therefor the words "until 5.00 p.m. on 30th November 2002 after which," and
  - (ii) the words "Prior to the expiry of the said period of three years or eighteen months as the case may be" in the final two lines are deleted and there will be substituted therefor the words "by 5.00 p.m. on 30th November 2002".
- (i) Clause 8 of the original missives is amended to the effect that references to Portfolio Land Limited shall be deemed to be references to the said Union Street Developments Limited.
- (j) Clause 11.2 of the offer forming part of the original missives is amended to the effect that the words "Bird Semple" in the second line thereof are deleted and there will be substituted therefor the words "Kidstons & Co".

A copy of the original missives is annexed and signed as relative hereto.

The terms of this offer unless sooner withdrawn or varied are open for acceptance to reach us by 5.00 p.m. on 22nd December 1999.

Yours faithfully

This formal letter comprising this and the preceding two pages are subscribed at Glasgow on the Twentieth day of December Nineteen hundred and ninety nine by Kidstons & Co. in the presence of Anne Livingston, Secretary of One Royal Bank Place, Buchanan Street, Glasgow.

## **APPENDIX C**

July 2002 GCC admits to “timescale slippage.”



**Glasgow City Council**

**Chief Executive**

Chief Executive  
James Andrews. CPFA, DPA

Angus Livingstone, B.A., LL.B. N.P.  
Head of Legal Services  
City Chambers  
George Square  
Glasgow G2 1DU  
DX GW145  
Legal Post : LP-1, Glasgow 10  
Fax No: 0141 287 5662  
e-mail: karen.farrell@ced.glasgow.gov.uk

Date: 19 July 2002  
Our Ref: CPD3333/KF/KH  
Your Ref: UNION02/012523/KSG/AL

K S Gerber Esq  
Messrs Kidstons & Co  
Solicitors  
DX GW 56  
GLASGOW

RECEIVED

25 JUL 2002

KIDSTONS & CO

Dear Mr Gerber

**EGYPTIAN HALLS, 84/100 UNION STREET, GLASGOW  
COMPULSORY PURCHASE ORDER 1996**

Messrs J Myles, Solicitors, who are agents for Paratus (No 403) Ltd, have contacted me in connection with the CPO over the Egyptian Halls. They have advised me that they are currently preparing a substantial claim for compensation. I am still waiting for the £40,000 from Union Street Developments Ltd to be deposited to cover any compensation claims, please advise me if this will follow shortly.

If the claim from Paratus (No.403) Ltd is higher than we valued the property then we may have to take this case to the Lands Tribunal. As the Notice to treat has been served on the owners this means that should we receive their claim for compensation we have 6 weeks in which to decide to withdraw the Notice to Treat and not proceed with the CPO. If not, we then take the title once compensation is agreed, and transfer it on to Union Street Developments Ltd.

If Union Street Developments Ltd decide not to proceed then the Council have no wish to own the Egyptian Halls and we will have to consider withdrawing the Notice to treat and the CPO will fall. The Egyptian Halls will then remain in the ownership of Paratus (No. 403) and Man Fung Lung.

Can you advise me by return if your clients are willing to proceed with the acquisition when a claim comes in? We would of course advise you of the sum being claimed before agreeing to it and I have to highlight that a decision about proceeding would have to be made within 6 weeks of the receipt of a claim, no matter how the position stands with funding.

Messrs J Myles have indicated that their clients would be interested in carrying out a development here, you may wish to contact them.

I must also draw your attention to the urgent situation of timescales. The Agreement entered into by your clients with the Council states that the agreement expires on 30 November 2002. Further to this if the title has not been taken by January 2003 then the CPO will fall and we will no longer have the option to take this title. The Agreement is not conditional on whether funding is in place but that the title will be transferred to Union Street Development Ltd when the CPO is completed. We are now in a position to take the title and transfer to Union Street Developments Ltd. Please confirm that your clients wish to proceed.

We understand Historic Scotland are still awaiting information from your clients before they are in a position to come to a positive decision on funding. Please clarify.

Yours sincerely

*K. Farrell*  
Officer

If phoning or calling please ask for Karen Farrell, 0141 287 4529

3KF104 (Jim Frances) 0141-287-5684.

## **APPENDIX D**

May 2004 GCC states its told the truth to its Lord Provost and Scotland's  
First Minister but has not!



Our Ref: RM/IBL/pt/cc96620  
Your Ref:  
Date: 25 May 2004

Please contact:  
Patricia Thomson  
0141-287 6006

Ian Easton  
Lord Provost's Secretariat  
City Chambers  
Glasgow  
G2 1DU

Dear Ian

**THE EGYPTIAN HALLS  
UNION STREET PROPERTIES LIMITED**

With reference to your memorandum, dated 31 March, enclosing a copy of the letter of 22 March from Union Street Properties Ltd, I would ask you to advise the Lord Provost of the following comments:-

- There is a complex and lengthy history to the Council's involvement with Union Street Properties and its predecessors in relation to securing the future of the Egyptian Halls. The upper floors of the building have been vacant for over 10 years. The ground floor, now owned in its entirety by Union Street Properties Limited, is occupied by retailers on a variety of lease agreements. With a view to taking the project forward the Development and Regeneration Services (Property) Sub-Committee at a meeting on 22 January 2003 agreed firstly, the Council should pursue the acquisition of the upper storeys by means of a Compulsory Purchase Order originally approved in 1996 and, secondly, to extend the Missives with Union Street Developments Limited (an associated company of Union Street Properties Ltd) in relation to the onward disposal of the subjects to be compulsorily acquired.
- The building is 'A' listed and is recognised as an important design by Alexander 'Greek' Thomson. With this in mind Historic Scotland and the City Council have agreed to offer substantial grant funding towards the scheme proposed by Union Street, which they estimate to cost £3.28m. Historic Scotland has agreed funding of £930,000 with the Council offering £150,000 from the Historic Building Repair Grant Scheme. The balance of the funding is to be provided by a funding package assembled by Union Street which includes substantial monetary contributions from two of the ground floor retail tenants who have obligations in their lease to contribute to the common repair of the building.
- The works proposed by Union Street properties are designed to address outstanding structural and fabric repairs to the Egyptian Halls. As currently envisaged, if Union Street meet certain criteria in the Missives they will then acquire the upper storeys and, with no direct linkage to the Council, be able to dispose of the property, by sale or lease, for appropriate forms of development/use. Union Street are still investigating appropriate future development and the mechanisms for this but currently intend to retain ownership and lease the upper storeys. Given the number of years which have passed since the Council became involved with predecessors of Union Street in trying to secure a future for the building and the perceived shift in commercial and residential values in the City Centre it was felt appropriate to raise with Union Street the potential of the Council participating in any uplift in the value of the upper storeys.
- As things stand Union Street have shown considerable energy in relation to making the project work. However there are still important issues they must resolve before the project can go forward. Under the Missives they are bound to satisfy the Council on several counts before title can be passed to them:-

- (i) to exhibit satisfactory evidence of their funding package - this has been demonstrated to a certain extent.
- (ii) to obtain tenders for the implementation of the works costing an estimated £3.28m - given the risk Union Street would be exposed to in relation to the costs of tendering etc they wish to see all relevant legal and financial issues resolved before taking this step.

The Compulsory Purchase Order process adopted by the Council in this case involves compensation being determined **before** the Council can gain a satisfactory title for onward disposal. The Council can either agree compensation by negotiation with the two parties having compensatable interests, or have the compensation determined by the Lands Tribunal. Neither method has any absolutes in terms of timescale and there is potential for significant delay in title being available for Union Street. At this stage the details of how to resolve the various issues surrounding the parties possessing compensation rights are being explored by my Department in association with the Chief Executive's Office. An added difficulty is that one of the parties has proved untraceable (professional searching agents were employed but it is believed they are currently resident in China).

I can understand the frustration expressed by Mr Souter. The resolution of all the above matters is not straight forward. The circumstances surrounding the CPO process have now been explained to Union Street. As a follow up, a meeting will be held with them, their solicitor and the Council's solicitor to provisionally agree the way forward. It is in the nature of these matters that delays can arise throughout the process and it should be noted that the Council has shown considerable support and patience in its dealing with Union Street throughout.

I trust the foregoing observations are sufficient to the Lord Provost's requirements. I am, of course, willing to meet with her to discuss the matter further. If the Lord Provost requires further information then I should be pleased if you would contact Patricia Thomson, Members Liaison Officer, on 76006.

In line with Council protocol I am copying this memo to Councillor Alex Mosson (Ward 17 - Anderston) in whose area the building lies.



cc: Councillor Alex Mosson, Ward 17 - Anderson, Glasgow City Council, City Chambers, Glasgow

<b>FILE NOTE</b>
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**UNION STREET DEVELOPMENTS LTD**  
**Note of Meeting at Glasgow City Council Offices on**  
**27<sup>th</sup> May 2004**

Present        Iain Love - GCC Development Regeneration  
                  John Telfer - GCC Property Valuation Division (deputising for Alan Jardine)  
                  Lawrence Tough - Group Manager - Contracting and Maintenance  
                  David Black - GCC Legal Department  
                  Derek Souter - USD/USP  
                  KSG - Kidstons & Co.

1.    The Building

Mr Tough said that basically the Building is in reasonable condition, although there is some corrosion to the wrought iron and steel and to parts of the roof slab. There are one or two localised problems in the rear elevation, but these have been shored. Derek Souter authorised Mr Tough to speak to the Morrison partnership to get costings and to sort out works that are necessary to the roof. Costs spent by GCC to date incurred on work to the building and on security are £21,000 of which two-thirds approximately relates to common parts. Derek Souter said that the tenants would pay their part.

2.    End User and Ideas

Iain Love said that GCC would like to participate in profit from the whole exercise; Derek Souter explained that there had been delays, the withdrawal of GDA funding, the ground floor consortium faced 60% cost increase and USP had invested 6 years in the project. Therefore USP would need full recompense for the significant risks expended and opportunity cost of capital invested before it could consider this. GCC also recognise the present CPO agreement makes no provision for this.

The Council is sensitive regarding what the property could end up being used for, especially in view of the fact that it is a prominent listed building.

Derek Souter explained that there is likely to be a 20 year lease granted to Colin McDougall and Anna Ryder Richardson for a members only nightclub on top floor, studio

for graphics on the third floor, offices on the second floor, restaurant on the first floor and a bar at No. 84 Union Street with a lift going up to the night club. It is possible that Nos. 96 and 100 might be included, and that No. 88 would be a coffee shop. If this does not go ahead, then USP would fund development for offices in respect of the upper floors.

Iain Love wants USP to undertake that no appeal would be lodged in respect of refusal (or conditional grant) of planning permission. KSG indicated that this would be unfair and over-restrictive, but it is acknowledged that certain offensive uses should be excluded and KSG asked for a note of what these uses are. GCC are going to come up with some sort of wording initially for a waiver of right to appeal, but they will consider USP's position regarding having general allowing of various uses.

### 3. Funding

The tenant contributions are as follows:—

Birthdays Ltd	£ 390,600
Superdrug	£ 391,720

Derek Souter reported that USP is still negotiating with the two tenants regarding a possible renunciation and that there is likely to be a meeting taking place within the next ten days. The Council wants to see a fresh commitment from the two tenants in respect of the scheme. Derek reported that there are two outstanding issues outstanding, namely the amendments to the existing lease documentation and the request for rent abatement during the works when the units require to be closed (2 months max or £23k combined). KSG is to give to David Black a copy of Kidstons' covering letter to the tenants' solicitors giving details of the concessions/amendments that are agreed to by USP. KSG is also to confirm the amounts that the tenants are paying and our understanding of whatever points remain outstanding.

GCC wants the actual issued planning permission consents referred to in the documentation.

GCC are to look through the draft Deed of Conditions that Kidstons have issued — their initial reaction is that it looks sensible and reasonable — and to revert to KSG. KSG pointed out that the existing missives with the Council provide for a new Deed of Conditions to be put in place.

### 4. Tendering

The tender document is presently being prepared, but it will cost £242,000 to go to tender — There are six potential bidders for the construction work and five of these have confirmed that they will be willing to lodge tenders.

### 5. CPO

David Black explained that a general vesting declaration is impossible because the Council did an expedited procedure in order to obtain early physical entry to the property, and

therefore it is essential that title is completed only by way of Notarial Instrument. For this to happen, the matter of compensation needs to have been sorted out, and cannot run in tandem. The Council got a tracing agent to try to find Man Fung Lung and eventually his (alleged) brother was located and this person claims to be his attorney. A representative of Man Fung Lung has been in contact with the Council and they will ask for formal agreement to be indicated within two weeks, failing which they will ask the Lands Tribunal to award compensation. Paratus has claimed compensation and there have been various discussions and an offer of £5,000 has been made by the Council, but this has been rejected. Hamish Munro is conducting the negotiations for Paratus, and there has been some muttering by Paratus regarding the possibility of seeking judicial review. It was noted at the meeting that Paratus had previously appealed to the Court of Session in respect of procedural aspects of the CPO, but had dropped the appeal. It was agreed that USP (within next 7 days) will speak (at a meeting) with Mr Dyer of Paratus and will then report back to the Council. The Council is happy to meet with Paratus but only to discuss compensation and it will be surveyors who meet Paratus. The Council is not willing to let the matter drift and will impose a deadline and, if agreement is not reached by that time, will then put it to the Lands Tribunal.

David Black said that it is likely that the Lands Tribunal process will take four to six months, but it was agreed by the Council that the tender process can move forward at the same time as the Lands Tribunal so that the project will not be held up. (Derek Souter said it will be some four or five months before work could commence anyway because of the tender procedure). Derek Souter volunteered that the compensation bond would be increased, within reason, if so required, and this was very gratefully noted by the Council.

6. Missives and Title

The Council wants to amend the existing missives between the Council and USD so that the missives run in the name of USP, because USP owns the shops and the Council would feel more comfortable having the contract with a company that has some assets. Title would be conveyed to USP as well. (There is no reason why USD should not be the developer and for USD (as opposed to USP) to enter into the building contract and appointments).

KSG commented that it is essential that there is an absolute binding obligation on the Council to convey the upper floors to USP without there being any item of conditionality. KSG also asked for the irritancy (forfeiture) clause to be dropped on the basis that the Council has other enforcement remedies, but the Council would probably want to retain the forfeiture right, but to allow step-in rights to funders etc. The Council will consider the aspects in respect of which it wants to vary the existing missives.

Meeting duration — 1 hour 55 mins.

KSG — 27/5/04



The Rt Hon The Lord Provost of Glasgow  
Councillor Liz Cameron MA

3 June 2004

Our Ref: LC/IE/LS  
Please quote reference on reply

Mr Derek J Souter  
Director  
Union Street Properties Ltd  
26 Foundry Lane  
Dundee DD4 6AY

Dear Mr Souter

**Union Street Property**

I refer again to your letter of 22 March regarding the Egyptian Halls in Union Street. Having approached the Director of Development & Regeneration Services the matter is obviously a very complex situation and I attach a copy of his report to me.

While I am obviously concerned that a proper use is found for this property, I am reluctant to become involved in what is a quite detailed and complex legal/property issue. I have copied this letter back to the Director of Development & Regeneration Services and indicated to him that I am keen to see progress made.

Yours sincerely

**Liz Cameron**



**UNION STREET  
PROPERTIES LTD**

Registered in Scotland  
No: 186601

26 Foundry Lane  
Dundee  
DD4 6AY

Tel: (01382) 451702  
Fax: (01382) 456778

7 June 2004

Councillor Liz Cameron MA  
Lord Provost of Glasgow  
Glasgow City Council  
City Chambers  
Glasgow  
G2 1DU

Dear Lord Provost

**Egyptian Halls, Union Street, Glasgow**

Firstly thank you for your response dated 3 June 2004, and your involvement so far and one would anticipate in the future given this project is very close to fruition.

With regard to Mr McConnell's letter dated 25 May 2004, there was a meeting on 27 May 2004 which USP Ltd believes has removed much of the uncertainty relating to what USP Ltd has to deliver.

In essence the scheme progress now lies almost entirely with GCC to be able to demonstrate that it can deliver the title and do this within a prescribed timescale, which would then allow USP Ltd to proceed to tender, either with the title or with the cast iron assurance that once cost certainty is secured the title will be conveyed to USP Ltd. Any potential delay in being able to transfer the title could also lead to significant cost increase for the envisaged scheme being incurred - something all stakeholders will work together to mitigate I would envisage.

USP Ltd and its ground floor consortium members requires to be satisfied on these issues prior to committing to a near £250k tender investment.

Yours sincerely

Derek J Souter  
**Director**

cc Rodger McConnell (GCC)  
Iain Love (GCC)  
Shelagh Thorne (Historic Scotland)  
Ken Gerber (Kidstons)

**Subject: LP's Letter 3rd June 2004**

**Date:** Monday, June 7, 2004 1:11 pm

**From:** derek@djscm.com <derek@djscm.com>

**To:** "Love, Iain" <Iain.Love@drs.glasgow.gov.uk>

**Cc:** John Kerr <kerr-john@btconnect.com>, Duncan Souter <souter@glamisok.fsnet.co.uk>

Iain

1, Received today Mr R.McConnells letter dated 25th May 2004 addressed to the LP, which supercedes our subsequent meeting 27th May 2004. Is there any update on the stated position as a result of the aforementioned meeting specifically;

- The ability to allow USP to proceed to tender with title or once cost certainty is established it automatically passes to USP- in effect all challenges are reconciled apart from cost certainty.
- Satisfying GCC that USP can deliver the project

2, USP will have an informal meeting with Paratus this week. It will assist discussions if GCC could explain the background to why it has offered Paratus £5,000 compensation as Paratus seem to be unaware of the valuation criteria used for this exercise.

3, Can the missives now also be extended until say 21st August to leave the holiday period clear of this requirement?

Derek Souter BA (Hons) MBA, MCIM  
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## **APPENDIX E**

April 2014 GCC discloses the CPO Amendment and states it had “advantages” in doing so despite by then it causing a 194 month delay.



**Chief Executive**  
George Black CBE  
CPFA FCCA

**Executive Director – Corporate Services**  
Annemarie O'Donnell LLB DipLP  
Glasgow City Council  
City Chambers  
George Square  
Glasgow G2 1DU  
Phone 0141 287 4522  
Fax No 0141 287 3627

Our Ref: AMO'D/dmd/ci/souter  
Your Ref:

11 April 2014

Mr Derek J Souter  
Union Street Properties Ltd  
26 Foundry Lane  
DUNDEE  
DD4 6AY

Dear Mr Souter

### **Egyptian Halls – 84-100 Union Street- Compulsory Purchase Order (CPO)**

I refer to your letter of 19 March 2014 addressed to Derek Mackay MSP and copied to George Black Chief Executive, Glasgow City Council ("GCC") headed 'The Egyptian Halls Upper Floors CPO; why did GCC change the Government approved process without permission? And why should the private sector co-owners be expected to fund what are clearly the ramifications of this non-disclosed change?'

I also refer to your letter of 21 February 2014 addressed to Forbes Barron, Head of Planning, your comment made through GCC's online complaints forum on 3 March 2014 and your email of 7 April 2014 at 09:25 to Forbes Barron. This reply is the council's response to all of the above.

Your position can be summarised as follows:

- (1) GCC did not disclose the change of method of entry for the Egyptian Halls CPO from a General Vesting Declaration to a Notarial Instrument to the consortiums of the lower floors. GCC should explain and account for why the decision was made to change from using a General Vesting Declaration to a Notarial Instrument to gain entry.
- (2) GCC did not disclose the change in the method of entry to Union Street Properties Ltd ("USP"). If GCC had disclosed the change in method of entry, USP would not have purchased numbers 84, 88, 96 and 100 Union Street.
- (3) The use of a Notarial Instrument to gain entry was highly unusual at the time and still is. This is supported by the Scottish Government's 2011 guidance 'Compulsory purchase and compensation – A guide for owners, tenants and occupiers in Scotland'.
- (4) GCC apologised to USP's solicitor for the non disclosed change to the mode of entry from General Vesting Declaration to Notarial Instrument.
- (5) GCC re-assured USP that a solution would be found and funding for the project realised.
- (6) In 2011 GCC admitted in a letter to USP that the Compulsory Purchase Order had not worked, that GCC had "failed to unify ownership" and that USP had reconciled ownership instead.
- (7) GCC's Legal Department should comment on the article by Iain Doran 'Minefield in law for liquidators' published in The Scotsman on 27 January 2014 which relates to the Court of Session's Outer House decision Re The Scottish Environmental Protection Agency and others [2013] ScotCS CSIH 108 (12 December 2013).

A comprehensive review of the files held by the council's property law team has been carried out and the findings from that are as follows:

As you will be aware, The City of Glasgow District Council entered into CPO agency missives dated 28 March 1996 with Portfolio Holdings Limited ("Portfolio Holdings") (formerly known as Portfolio Holdings PLC). At that time Portfolio Holdings were leading the consortium of shop owners/tenants.

The compulsory purchase order was confirmed by the Secretary of State on 23 May 1996 and the Notice of Confirmation was advertised on 9 January 1998. A Notice to Treat and Notice of Entry was served on those affected by the CPO on 23 January 1998. On 11 February 1998, Glasgow City Council sent a letter to Bird Semple, solicitors for Portfolio Holdings, advising that one of the owners of a property at 84-100 Union Street was likely to appeal the CPO. A copy of this letter is attached to this letter for ease of reference. As you will note from the content of the letter, the decision to proceed by serving a Notice to Treat and Notice of Entry rather than by General Vesting Declaration was taken at the behest of the consortium.

In September 1998 USP purchased numbers 88 and 96 Union Street and then purchased number 84 Union Street in February 1999. The decision to purchase these properties was made by USP prior to the missives between The City of Glasgow District Council and Portfolio Holdings being amended by letters dated 20 December and 22 December 1999 to refer to USP.

Furthermore, Kidstons & Co (acting for Union Street Developments Limited ("USD")) agreed on 29 November 2002 to the missive dated 29 November 2002 submitted by GCC wherein references to 'General Vesting Declaration' in the missives of 28 March 1996 between The City of Glasgow District Council and Portfolio Holdings Plc as amended by missives of 20 December 1999 and 22 December 1999 are delete and substituted therefor are references to 'Notarial Instrument/Notice of Title following on Notices to Treat'.

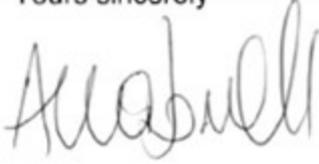
I also draw your attention to the missive of 17 October 2005 submitted by Kidstons on behalf of USP addressed to The Chief Executive Property Law City Chambers wherein completing title by GCC by Notarial Instrument is envisaged as an alternative to General Vesting Declaration. GCC therefore do not believe that there has been any misrepresentation of the use of Notarial Instrument to take entry.

Accordingly GCC's response to your position is as follows (using the same numbering):

- (1) GCC did disclose the change of entry for the Egyptian Halls CPO from a General Vesting Declaration to a Notarial Instrument to the consortiums of the lower floors as is evidenced by the letter from GCC to Bird Semple acting for Portfolio Holdings representing the consortium of shop owners/tenants dated 11 February 1998, the decision to use the Notarial Instrument being in fact taken at the request of the consortium.
- (2) There is no basis for USP claiming that they would have acted in a different manner had GCC disclosed that the method of entry would be by Notarial Instrument. USP purchased numbers 84, 88 and 96 Union Street prior to entering into any agreement with GCC. Furthermore, USP did not purchase 100 Union Street until February 2005, after Kidstons acting for USP had been party to missives specifically permitting recourse to the Notarial Instrument method.
- (3) While it is more common for the General Vesting Declaration method to be used to take entry to a property rather than Notarial Instrument, both methods are competent and each has its advantages and disadvantages. The Scottish Government's 2011 guidance was not in force at the time the decisions were taken relating to the method of entry to the Egyptian Halls.
- (4) GCC did not apologise to USP's solicitor for the decision to use a Notarial Instrument to take title to the property.
- (5) There is no evidence of GCC re-assuring USP that a solution would be found and funding for the project realised.
- (6) The letter by GCC dated 11 January 2010 was written in response to a request by USP's solicitors requesting that GCC confirmed that they would not enforce their rights under the CPO now that ownership of the property had passed to USP.
- (7) GCC has no comment to make in relation to the article by Iain Doran 'Minefield in law for liquidators' nor the decision in Re The Scottish Environmental Protection Agency and others [2013] ScotCS CSIH 108 (12 December 2013).

Given this comprehensive response which has taken up a considerable resource I do not consider that there is any merit in a continuing dialogue unless any new matters of any materiality emerge.

Yours sincerely

A handwritten signature in black ink, appearing to read "Annemarie O'Donnell". The signature is written in a cursive, flowing style.

**ANNEMARIE O'DONNELL**  
**EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

Director  
Ian G Cumming LLB

Legal Services  
Glasgow City Council  
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Glasgow G2 1DU

DX GW145

Telephone: 0141 287 4529  
Fax No: 0141 287 5662  
If phoning please ask for Ms Farrell

Date: 11 February 1998  
Our Ref: CPD3333/KF/SMK  
Your Ref: WCF/22263.1/LAW M5

**FAX NO. 0141 204 1902**

Messrs Bird Semple  
Solicitors  
DX GW 10  
GLASGOW

Dear Sirs

**EGYPTIAN HALLS LIMITED  
PORTFOLIO HOLDINGS PLC  
EGYPTIAN HALLS, 84-100 UNION STREET, GLASGOW**

I refer to the above and write to advise you that we have received further correspondence from the Solicitors for Paratus (No. 403) Limited, Messrs Murray Beith Murray. The Solicitors have indicated that they are likely to submit an Appeal against the Compulsory Purchase Order. As you are aware, the last date to lodge this Appeal is 20 February 1998. We will inform you as soon as we are advised that the Appeal has been lodged.

If an Appeal is lodged, it will mean a delay of several months to the commencement of your clients' development, assuming the Appeal is unsuccessful. Can you advise us if this delay will mean that your clients will not wish to proceed with the CPO, in view of the fact that you expressed that a delay of a few weeks would have severe implications on your clients' Plans. This was the reason the Notice to Treat and Notice of Entry procedures were implemented rather than taking entry by General Vesting Declaration.

I look forward to hearing from you.

Yours faithfully

CPO Officer

## **APPENDIX F**

July 2018 GCC Legal admit a known for 19 years but non disclosed contract breach.

**Subject:** RE: e mail of the 21st June 2018  
**Date:** Tuesday, 3 July 2018 at 15:20:39 British Summer Time  
**From:** Fisher, Richard <Richard.Fisher@glasgow.gov.uk>  
**To:** Derek Souter <derek@djscm.com>  
**CC:** Miller, Iain <Iain.Miller@glasgow.gov.uk>

Ken , I rest my case ! Every response results in the same rehashed diatribe going over old ground .

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 .

In fact GCC had agreed with the consortium that they would use the Notice of Title / Notice to Treat procedure in order to obtain immediate entry. This procedure had in fact been effected before we entered into the 1999 missives .

Accordingly we were in breach of the missives entered into ( subject to a weak argument on error ). If USP had expended money or altered their position in some way prior to knowing about this error in 2002 and had taken action then they may have had some sort of case. This is subject to them being able to get over the difficulty that the missives were not with them, which seems to me to be a major initial difficulty .

They would further have to show they relied upon the GVD procedure being utilised and that if they had known the notice to treat procedure was being used they would never have proceeded .

However they were fully aware in 2002 of the change and in fact agreed that it should be used in all missives since 2002 . As far as I am aware no property was acquired by USP between 1999 and 2002 ( as they could not get finance arranged ). Most of the properties were acquired before they entered into the missives and self-evidently could not have been induced by anything in subsequent missives .

USP then purchased a further property in the block in 2005 when they were fully aware of the agreed utilisation of the Notice to Treat procedure .This is entirely inconsistent with the position now advanced : that if they had known they would have pulled out of the deal.

No complaint let alone legal action was made until c 2013 .

On this basis any right of action has long since prescribed .

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 .

I think it is strongly advisable to maintain the position that 1) It was agreed that all correspondence on the historic legal issue would be between myself and his solicitor and 2) that our position has been set out clearly and finally .

On the non-legal issues of grants , redevelopment , designs etc obviously these can be addressed if so wished .

I hope this is OK but no matter what we do it will not prevent widely circulated , histrionic e-mails being circulated .

Regards

**From:** Derek Souter [mailto:derek@djscm.com]

**Sent:** 03 July 2018 14:20

**To:** Clark, Ken (DRS) <Ken.Clark@glasgow.gov.uk>

**Cc:** Hamilton, Lynn (DRS) <Lynn.Hamilton@glasgow.gov.uk>; Fisher, Richard <Richard.Fisher@glasgow.gov.uk>; Bolander, Eva (Councillor) <Eva.Bolander@glasgow.gov.uk>; Braat, Philip (Councillor) <Philip.Braat@glasgow.gov.uk>; Mearns, Christy (Councillor) <Christy.Mearns@glasgow.gov.uk>; Millar, Angus (Councillor) <Angus.Millar@glasgow.gov.uk>; Aitken, Susan (Councillor) <Susan.Aitken@glasgow.gov.uk>; McAveety, Frank (Councillor) <Frank.McAveety@glasgow.gov.uk>

**Subject:** Re: e mail of the 21st June 2018

Mr Clark

Afternoon

Further to your email below can I be an unequivocal as possible on behalf of USP Ltd and re-state that it is not accepted that GCC can just claim this is this final position. Especially when to crystallise the mess this Grade A "architectural masterpiece is in due to "GCC's flawed and failed CPO, which has turned a circa **£3M**" valuation in Year 2000 into a circa **-£23M** deficit in 2018. Therefore USP will redouble its efforts as it has a democratic right to ask GCC to account for a flawed and failed CPO via a CPO Review. I have also copied in the Ward Councillors and local political leaders to continue to make them aware of the GCC's continuing failure to answer very simple questions.

Therefore the contents of the attached email are requested to be answered as this pre-dates the GCC letter of 14th March 2017. This email also sets out further examples of GCC's long term misrepresentation despite GCC's claims never to have done this . USP Ltd believes strongly that in relation to the January 1999 CPO agreement and thereafter that GCC did not on the basis of the application of a "fair and reasonable" approach

**Contract effectively with USP, as it could not deliver what it was agreeing too.**

**Breached the contract due to being unable to deliver what it agreed.**

**Misled why it breached the aforementioned contract.**

**Failed to disclose the true nature of the amendment for 16 years-2 months**

**&#8226 Failed to contract fairly and reasonably from 1999- 2014 and especially in relation to the 2002 and 2005 CPO missives agreed with USP Ltd.**

GCC DRS/LEGAL has also stated 11th March 2018 via 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***

Whilst failing prior to this and since then to answer the following very simple **FOUR** questions as well as the attached.

**1, Did GCC breach it's 1999 contract with USP, which made no reference to the existence or legal irreversibility of the CPO Amendment?**

**2, If GCC did breach the 1999 Agreement with USP, why then did GCC fail to disclose this and that the**

**breach was due to a non disclosed CPO Amendment?**

**3, Did GCC between May- June 2004 mislead USP/Kidstons and also its Lord Provost who then misled both USP and the First Minister in on record correspondence about full disclosure of all CPO related facts? Given**

- A) A) GCC DRS quote of 27th April 2004 states **"an appropriate and informative response will be sent to the Lord Provost"**.
- B) B) GCC stated 25th May 2004 **"the circumstances surrounding the CPO process have now been explained to Union Street. as a follow up a meeting will be held with them, their solicitor and the Council's Solicitor to provisionally agree a way forward.**

**4, Did GCC's then Chief Solicitor apologise to USP's lawyer circa mid 2002 about GCC's failure to disclose the 1998 CPO Amendment prior to agreeing the 1999 CPO Agreement**

**ALSO WHY DOES GCC HAVE ACCESS APPARENTLY TO CPO RELATED FILES AND USP IS REFUSED THE SAME ACCESS?**

Given GCC

1. Has refused to date FOUR FOI requests with a FIFTH FOI request pending- a very simple one too asking for a copy of 1 document.
2. Mr Fisher has also stated he's reviewed all the files
3. This surely cannot be accurate as the FOI refusal stated these files were too costly to retrieve, which if this true means GCC's decisions continue to be misformed and based on very imperfect information and any assessments made ergo the 14th March 2017 correspondence to repeat have to be both inaccurate and misformed.

*We appreciate that you have submitted earlier information requests on this same subject which have exceeded the cost threshold and that you have attempted to narrow the scope of your requests. We would advise you that in order to locate the information you are asking about, the Council would require to manually search a large volume of paper files, held in different areas of the Council. As you will be aware, the matter to which your requests relate has been on-going for a number of years and has, as a result, generated a significant amount of paperwork. We believe that all of this information would require to be searched in order to provide the information you have requested. This is the reason that the Council is unable to respond to your information requests within the cost threshold.*

4, Or if these files are to hand and the FOI statement is either inaccurate or disingenuous and therefore the files requested can be supplied timeously to USP Ltd.

And you're already aware of the following ; **However USP recognises the cultural importance of the Egyptian Halls hence why GCC et al has been given the opportunity to purchase the Ground Floor units to allow it to fund and preserve the Egyptian Halls ( see attached Hidden Treasures article from just 5 years ago!). Given GCC possesses all the economic development levers and access to funding to make this happen as proven by the raft of projects it has achieved this for very successfully this past decade and also what its got "shovel ready" for the future.**

As you also know USP (and probably USI) door(s) are open to effective dialogue and communication. And we are on record as stating GCC 2018 is not responsible for the non intended consequence of a CPO Amendment that was stated would cause "only a few months delay" and yet here we are some 20 years later.

Regards

Derek J Souter BA Hons, MBA, FCIM

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---

**From:** Ken Clark <[Ken.Clark@glasgow.gov.uk](mailto:Ken.Clark@glasgow.gov.uk)>

**Date:** Tuesday, 3 July 2018 08:29

**To:** Derek Souter <[derek@djscm.com](mailto:derek@djscm.com)>

**Cc:** "Hamilton, Lynn (DRS)" <[Lynn.Hamilton@glasgow.gov.uk](mailto:Lynn.Hamilton@glasgow.gov.uk)>, "Fisher, Richard" <[Richard.Fisher@glasgow.gov.uk](mailto:Richard.Fisher@glasgow.gov.uk)>

**Subject:** e mail of the 21st June 2018

**The Egyptian Halls- PRIME PROOF OF HISTORIC, BLATANT GCC MISREPRESENTATION - CPO Review surely now to be APPROVED**

Mr. Souter,I refer to your e mail of the 21<sup>st</sup> June 2018 with the above title sent to Richard Brown and Richard Fisher to which I have been asked to reply.

With regard to the legal matters you again raise,the Council's view on the historic legal position has been made clear to you previously in correspondence between Richard Fisher of the Council and your representative Mr.Gerber in detail in a letter of the 14<sup>th</sup> March 2017 .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.

Regards,

Ken Clark,B.S.c.,M.S.c.,M.R.T.P.I.,  
Group Manager,  
Planning and Building Standards,  
Development and Regeneration Services,  
231 George Street,  
Glasgow.  
Tel. 0141 287 6091.  
E mail [ken.clark@glasgow.gov.uk](mailto:ken.clark@glasgow.gov.uk)

Glasgow - UK Council of the Year 2015

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**APPENDIX G**

May 2019 - former Legal Director for two Councils casts doubt  
on CPO Amendment rationale.

**From:** [REDACTED] >

**Date:** Wednesday, 8 May 2019 18:02

**To:** Derek Souter <[derek@djscm.com](mailto:derek@djscm.com)>

**Subject:** RE: e mail of the 21st June 2018

Thanks for your e-mail.

I have re-visited your file of papers and I keep coming back to the decision to depart from the condition in the original missives to proceed by GVD and, instead, to proceed by Notice to Treat.

I remain puzzled by that decision as DVD was the better way to go particularly as GCC had to acquire several interests and needed to have a good title (which it would get under GVD procedures but would probably be significantly delayed in being able to get under Notice to Treat procedures which really only gives a (marginal) benefit in getting entry in order to sell on to developers.

GCC were entitled to agree a variation to the original missives with the first developers and it is a separate and secondary aspect as to whether GCC were subsequently required to disclose the variation to the second developers which is a question that would depend on the whole circumstances (including whether the second developers relied on the original missives being applied and whether GCC understood that).

That's as far as I can go with the information you've been kind enough to give me and I see you have referred the matter to the SLCC. I'd be interested in hearing what their view is although I would understand them having perhaps some reluctance in getting too involved in a complicated dispute where the parties are fully legally represented.

By all means let's have an informal chat when I get back.



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**UNION STREET  
INVESTMENTS**

