

**PROPERTY REGISTRATION AUTHORITY**

**SECTION 72 DECLARATION**

**COUNTY DUBLIN**

**FOLIO 117192L**

I, \_\_\_\_\_ of EBS d.a.c., The EBS Building, 2 Burlington Road, Dublin 4, Ireland aged 18 years and upwards do solemnly and sincerely declare as follows:-

1. I am an Asset Management Manager of EBS d.a.c. (hereinafter called the **Bank**) and I say that I am duly authorised to make this Statutory Declaration on its behalf from facts within my own knowledge save where the contrary appears.
2. This Declaration relates to the property known as Apartment 54, Trimleston, Hamlet Lane, Balbriggan, County Dublin being the property comprised in Folio 117192L in the County of Dublin (hereinafter called the **Property**).
3. I am advised that section 72(1) of the Registration of Title Act 1964 subject to the amendments thereto referred to in this Statutory Declaration, is as follows:

“72(1) Subject to subsection (2), all registered land shall be subject to such of the following burdens as for the time being affect the land, whether those burdens are or are not registered, namely:-

- a) estate duty, succession duty, former crown rents, tithe rents charges and payments in lieu of tithe or tithe rent charge;
- b) land improvement charges and drainage charges;
- c) annuities or rent charges for the repayment of advances made under the provisions of any of the Land Purchase Acts on account of purchase money;
- d) rights of the Land Commission or of any person under a vesting order, vesting fiat, final list or transfer made or published under the Land Purchase Acts;
- e) rights of the Land Commission upon the execution of an order for possession issued under section 37 of the Land Act 1927;
- f) rights of the public or of any class of the public;
- g) customary rights, franchises and liabilities arising from tenure;
- h) easements and profits a prendre, unless they are respectively created by express grant or reservation after the first registration of the land;

- i) tenancies created for any term not exceeding twenty-one years or for any less estate or interest, in cases where there is an occupation under such tenancies;
  - j) the rights of every person in actual occupation of the land or in receipt of the rents and profits thereof, save where, upon enquiry made of such person, the rights are not disclosed;
  - k) in the case of land registered with a possessory, qualified or good leasehold title, all rights excepted from the effect of registration;
  - l) a perpetual yearly rent (in this section referred to as the superior rent) which is superior to another such rent (in this section referred to as the registered rent) registered as a burden on registered land and which, as between the said registered land and the registered rent, is primarily payable out of the registered rent in exoneration of such land;
  - m) the covenants and conditions contained in the deed or other document creating the superior rent, in so far as those covenants and conditions affect such land;
  - n) a purchase annuity payable in respect of a cottage which is the subject of a vesting order under the Labourers Act 1936;
  - o) restrictions imposed by section 21 of the Labourers Act 1936 on the mortgaging or charging of cottages purchased under that Act;
  - p) rights acquired or in course of being acquired under the Statute of Limitations 1957;
  - q) burdens to which sections 59 or 73 apply”
4. I am advised that subsection (2) of section 72 of the Registration of Title Act 1964 is as follows:
- “(2) Where it is proved to the satisfaction of the Registrar that any land registered or about to be registered is exempt from, or has ceased to be subject to, any estate duty, succession duty, former crown rent, tithe rentcharge, payment in lieu of tithe or tithe rentcharge, land improvement charge, drainage charge or annuity or rentcharge for the repayment of any advance made on account of purchase money as hereinbefore is mentioned, the Registrar may enter on the register notice of the fact”
5. I am advised also that sections 59 and 73 of the Registration of Title Act 1964 are as follows:
- “59 (1) Nothing in this Act shall affect the provisions of any enactment by which the alienation, assignment, subdivision or subletting of any land is prohibited or in any way restricted.
- (2) It shall be the duty of the Registrar to note upon the register in the prescribed manner the prohibitive or restrictive provisions of any such enactment; but such provisions shall be, though not registered, burdens on the land under section 72”
- “73 (1) A person may be registered as owner of the land with or without all or any of the mines and minerals therein, or as owner of any mines and minerals.

- (2) A person registered as owner of land shall not, merely by virtue of such registration, be deemed to be owner of the mines and minerals therein.
- (3) Where a person is registered as owner of land, but the registration does not extend to all the mines and minerals therein, all such powers of working, way leaves or rights of way, rights of water and drainage and other powers, easements, rights and privileges for or incident to or connected with the mining purposes, as are for the time being subsisting over the land, and are not created by express grant or reservation after the first registration of the land, shall be, though not registered, burdens on the land under section 72”

6. I am advised that section 43 of the Gas Act 1976 is as follows:

“43. Section 72 of the Registration of Title Act 1964 is hereby amended by —

- a) the insertion after paragraph (h) of Subsection (1) of the following paragraph:

“(hh) any wayleave which is a wayleave to which this section applies;” and

- b) the insertion after subsection (3) of the following subsection:

“(4) This section applies to any wayleave on, over or beneath the surface of land which:

- a) pursuant to an agreement in writing is granted to or by The Irish Gas Board, or pursuant to an acquisition order within the meaning of the Gas Act 1976, is granted to that Board, and
- c) is intended to be used, or is used, in providing a pipeline for the transmission of gas, and
- d) in case the wayleave is granted under such an agreement, under the agreement it is to be enforceable against persons deriving title to the land under a party to the agreement”.

7. I am advised that section 28 of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 is as follows:

“28 (1) Where a person having an interest in land acquires the fee simple in the land, all covenants subject to which he held the land, other than a covenant specified in subsection (2), shall thereupon cease to have effect and no new covenant shall be created in conveying the fee simple

(2) In the case of a covenant:

- (a) which protects or enhances the amenities of any land occupied by the immediate lessor of the grantee; or
- (b) which relates to the performance of a duty imposed by statute on any such person; or
- (c) which relates to a right of way over the acquired land or a right of drainage or other right necessary to secure or assist the development of other land;

the covenant shall, notwithstanding anything contained in this Act, continue in full force and effect and shall be enforceable as follows:

- i) in the case of a covenant which does not relate to a right of way, right of drainage or other right aforesaid, by any such person or his personal representatives or successors in title, as if the acquisition had not occurred, and
- ii) in the case of a covenant which does so relate, by any person aggrieved by breach of the covenant.

(3) In any case where the fee simple in land was acquired since the commencement of the Act of 1967 by a person who had an interest in the land, any covenant subject to which the grantee held the land, other than a covenant specified in subsection (2), shall be deemed to have ceased to have effect at the date of the acquisition.

(4) Section 72(1) of the Registration of Title Act 1964 (which relates to burdens that affect land without registration) is hereby amended by the insertion of:

“(r) covenants which continue in force by virtue of section 28 of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978”.

8. I am advised that section 22 of the Gas (Amendment) Act 2000 is as follows:

“22. Section 72 of the Registration of Title Act 1964, is amended by the substitution in subsection (4) (inserted by the Principal Act) of the following paragraph for paragraph (a):

“(a) pursuant to an agreement in writing is granted to or by the Irish Gas Board or a relevant person (within the meaning of section 20 of the Gas (Amendment) Act 2000) or pursuant to an acquisition order within the meaning of the Gas Act 1976, is granted to that Board or such a person, and”.

9. I am advised that section 60 of the Registration of Deeds and Title Act 2006 is as follows:

“60. Section 72 (burdens affecting land without registration) of the Act of 1964 is amended in subsection (1)(i) by the insertion of “(or such other period as may be prescribed)” after “twenty-one years”.

10. I am advised that regulation 38(2)(b) of the European Communities (Internal Market in Natural Gas and Electricity) Regulations 2011 (S.I. No. 630 of 2011) is as follows:

“(b) Without prejudice to the generality of paragraph (1), reference to the “Board” in section 72 (4) of the Registration of Title Act 1964 (No. 16 of 1964) shall be taken to include the ITO.”

11. To the best of my knowledge, information and belief but only to the extent of matters of which I have actual notice since the Bank took possession and save as is evident from inspection of the

Property or otherwise disclosed to the Purchaser none of the burdens set out in Section 72 of the Registration of Title Act 1964 (as amended), and therein stated to be capable of affecting registered land without registration, and which are not so registered, affect the Property.

12. I understand the effect and import of this Declaration, which has been fully explained to me by my solicitor.
13. I make this Statutory Declaration conscientiously believing the same to be true (but as qualified above) for the benefit of the purchaser of the Property and by virtue of the Statutory Declarations Act, 1938.

**DECLARED** before me by the said

who is personally known  
to me (or who is identified to me by

who is personally known to me) at

this      day of      2020

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**COMMISSIONER FOR OATHS/ PRACTISING SOLICITOR**