

NI Houses in Multiple Occupation Unit



**NI Houses
in Multiple
Occupation**

Being dealt with by: : Steven Law

Ext: 028 9027 0414

Date: 24 February 2020

Mr Gavin Fong

Dear Mr Fong

Re: Licence Application: 85 Dunluce Avenue, Belfast, Antrim, BT9 7AW

I refer to the above matter and your emails dated 20th and 24th January 2020.

Please accept our apologies for the delay in providing a substantive response to your emails. The NIHMO Unit sought advice from the Council's Legal Services and Civic Services Department, regarding your application to renew an HMO licence for the property at 85 Dunluce Avenue, Belfast. We now respond as follows:-

You advised in your email of 20th January 2020, that you had transferred ownership of the property at 85 Dunluce Avenue, Belfast, to your father in December 2019. At the same time, you had an application to renew an HMO licence under consideration by the Council.

Your application was subsequently heard by the Council's Licensing Committee on 22nd January 2020 and the committee agreed to renew the said licence.

Unfortunately, due to an administrative oversight, the NIHMO Unit did not become aware of your email of 20th January 2020 until after the committee had taken its decision. You again advised the Council in your email dated 24th January 2020, that you had transferred ownership of the property to your father in December 2019.

Section 28 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 provides as follows:-

- (1) A licence may be transferred to another person only in accordance with this section.
- (2) Accordingly, except as set out in subsection (3), where—
 - (a) there is a transfer of ownership of a licensed HMO,
 - (b) as a result of the transfer there is a new owner (or more than one), and
 - (c) no person who was a licensee before the transfer continues to be an owner after it, the licence ceases to have effect on the date of the transfer.”

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The effect of section 28, as set out above, is that the HMO licence held by you ceased to have effect in December 2019, on the date when you transferred the ownership of the property to your father. In order for the licence to have remained in effect, your father would have had to submit an application for an HMO licence for the property, prior to the property being transferred to him. Following same, the licence would have continued to have effect until a decision was taken in respect of the application.

Whilst the Council's Licensing Committee made its decision on 22nd January 2020, it is important to note that the Committee was unaware of a material consideration, being the change of ownership, when it considered this matter. In view of same and given that formal notice of the decision to renew the licence has not been issued, this matter is to be referred back to the Committee for re-consideration on the advice of Legal Services.

This will be brought before the Licensing committee at its meeting on 18th March 2020 at 5.00pm, at the Lavery Room, Belfast City Hall. The purpose being to have the matter reconsidered with the recommendation that the renewal application be refused as the licence had ceased to have effect, meaning it was not capable of being renewed.

Your father should apply for a HMO licence, which will be considered as a grant rather than a renewal application. He may also wish to make an application for a Temporary Exemption Notice pursuant to section 15 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, whilst the licence application is being processed. Pursuant to such a notice, the owner would be required to take such steps as necessary to secure that the property ceases to be an HMO. A HMO is not required to be licensed during the period for which a Temporary Exemption Notice is in place.

The notice, if granted, has effect for a period of 3 months and can be extended for a further period of up to 3 months, should the Council be satisfied that such special circumstances justify same.

You may wish to take legal advice in relation to this correspondence.

Should you have any queries please do not hesitate to contact me.

Yours sincerely

Steven Law
Senior Officer

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