

RATES APPEAL OVER BOAT MOORING IS TEST CASE

£7 assessment on river bank

C.T. July 9, 1965

A LOCAL case at the Lands Tribunal in Christchurch on Tuesday affected a boat which had been moored 500 yards off Christchurch Quay for 14 years before it was moved at the end of May this year.

The boat was the Fair Lady II, owned by Mr. David William Stacey, and the Lands Tribunal case — regarded as a test case — was into an appeal by valuation officer Mr. W. E. Peak against a decision by the local valuation court.

The court had disallowed a proposal for an assessment of £7 rateable value on land for mooring the boat. The proposal was disallowed because the court was not satisfied that the occupation was exclusive.

Conducting the tribunal was Sir William Fitzgerald, QC, and Mr. B. R. D. Clarke, a solicitor for Inland Revenue, appeared for Mr. Peak.

The issue, said Mr. Clarke, was whether there was rateability and was the fact that the boat— quite a long one which had been moored to the bank—had remained in the same place for 14 years too transient to justify rateability and was such 14 year occupation in fact exclusive?

EXCLUSIVE

He would contend, continued Mr. Clarke, that the use of the land for mooring had, in fact been exclusive and that the respondent had had exclusive occupation of the land for the particular purpose of mooring for 14 years.

Referring to the facts of the appeal, Mr. Clarke said Fair Lady II was a motor yacht 65 feet long. The boat was sold this year by Mr. Stacey, who still retained an interest in it.

It had remained in the same position, in the Bournemouth rating area, since 1950, and was in that position at the date of the proposal on March 21, 1963. It was still capable of being moved, and in fact had been moved under its own power to Hamworthy on May 30, two years after the proposal which came under the old list.

The hereditament was described as land for mooring on the bank of Christchurch Harbour and was on the seaward side of the harbour. The boat was kept parallel to the bank by ropes and chains attached to it. Two kedge anchors, one on the bank and the other hanging over a ditch made the boat secure.

There was a portable gang plank which was covered with water in time of flood and several small boats were moored nearby on the bank. Access to the boat was mainly by boat from Christchurch Quay as there were no footpaths.

The bank was owned by Bournemouth Corporation, who had leased it to a tenant for cattle grazing. Owners of the bed of the river were the West Hants Water Company, who had leased part of it to the Christchurch Sailing Club, and the respondent paid the Sailing Club a rent of 30s. a year levied for boats over 40ft.

On March 21, 1963, the proposal was made by Mr. Peak, the respondent objected and the valuation court upheld his objection when the case was heard.

He contended that Mr. Stacey was in occupation of the hereditament which was the land necessary for the mooring of the boat.

Mr. Clarke made the statement made by Mr. Stacey to the valuation court, Mr. Stacey said that no permanent mooring had ever been laid, he was not in rateable occupation of the land in question and neither did he gain any advantage from it.

The land in question was marshy, overgrown with weeds and brambles and subject to frequent flooding. There were no road, tracks or footpaths, and the land was of no practicable use. There was a rubbish tip nearby and cattle grazed in the area.

PUBLIC RIGHT

He did not claim exclusive use of the land only the public right to anchor his vessel.

His boat was anchored by lines one on the ground the other dropped over the edge of a ditch. The anchors had to be moved from time to time to contend with the washing away of the soil.

He did not use the boat as a houseboat or as business premises; it was a mobile equipped vessel for his work as a marine engineer.

Giving his evidence, Mr. Eustace Peak, valuation officer said that for many years boats had been moored in the rivers, streams and in Christchurch Harbour and licences had been granted by the West Hants Water Company. He had taken steps to assess the land in the valuation area of Bournemouth and Christchurch.

PHOTOGRAPHS

Mr. Peak said he had visited the appeal site in June last year and had taken photographs of the boat and its surroundings.

From his observations he didn't think any other boat could use the same piece of land for mooring while it was being used by Fair Lady II, which was 65ft. long.

The site was in an isolated position and its chief access was by boat from Christchurch Quay, and he had assumed that the rental value of this piece of land for the purpose for which it was used was 2s. 6d. a week or £7 a year. He estimated the length of the land to be approximately 90ft. by 15ft. in depth and the £7 was equivalent to 1s. 6d. per foot of bank length.

Answering a question from Sir William Fitzgerald, Mr. Stacey said he was not disagreeing about the amount of money, the argument was on a question of law.

NO EVIDENCE

Questioning Mr. Peak, Mr. Stacey asked if he knew that other people had moored their boats to the bank in past years. Mr. Peak said he had no evidence of this.

Mr. Stacey contended he was not in rateable occupation because the boat was not occupied. But he agreed he got an advantage by anchoring on the bank.

He said that he paid the Sailing Club 30s., but had made it clear to them that he was not paying a mooring fee or for permission to moor.

There had been no discussion of rent between him and the lessee of the land from Bournemouth Corporation, he said.

It was stated that another appeal was pending concerning the boat Endeavour II, but this was awaiting the outcome of the present case, which will be announced later.

Rates must be paid on yacht mooring

C.T. July 30, 1965

THE Lands Tribunal in London on Tuesday ruled that land used for mooring vessels is liable to be rated. This follows a test case bought by the local valuation officer at Christchurch involving a motor yacht moored at Christchurch Harbour.

Tuesday's decision could affect thousands of yachts moored around the coast and on inland waters.

Bournemouth valuation court recently ruled that land for mooring a 65ft. long motor yacht called "Fair Lady II" opposite Christchurch Quay was not liable to be rated. Appealing against this decision was the local valuation officer, Mr. W. E. Peak.

The owner of the yacht, Mr. D. W. Stacey, is a marine engineer who uses Fair Lady to repair vessels and engines. The yacht has been moored in the same position in Christchurch Harbour for the past 14 years.

Announcing his decision, the president of the tribunal, Sir William Fitzgerald, said: "I am of the opinion that the facts in this case establish that these moorings were rateable. In the first place, I would point

out that it has been established in many cases that for purposes of rating there may be occupation without even the existence of the relation of tenants towards the owner of the property.

"There is no doubt in my mind that Mr. Stacey was in actual occupation. This occupation was exclusive for the particular purposes of the possessor and had been used by him for 14 years exclusively. It cannot be denied that it was of some value or benefit to him; and lastly, I cannot see how I could regard continuous possession for 14 years as too transient. For these reasons this appeal must be allowed", said Sir William.

He ruled that the valuation officer's figure of £7 rateable value was the appropriate sum for the yacht.

