



St. George's Hill, Weybridge, Estate Act 1990

CHAPTER i

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ELIZABETH II



1990 CHAPTER i

An Act to make provision for the maintenance, preservation and regulation in the interest of the residents thereof of the St. George's Hill Estate at Weybridge in the borough of Elmbridge in the county of Surrey; and for other purposes.

[22nd February 1990]

WHEREAS—

The estate known as the St. George's Hill Estate at Weybridge in the borough of Elmbridge and the county of Surrey was in or before the year 1912 laid out and subsequently developed as a residential estate of the highest quality:

And whereas the residue of the said estate comprising the private roads and certain open land therein is now vested in the St. George's Hill Residents' Association Limited, a private company registered under the Companies Act 1929 in 1932 for purposes which included the acquisition and maintenance of the roads and other common parts of the said estate, and the Company are registered at H.M. Land Registry as proprietors of some parts thereof with title absolute, under title numbers SY 179300, SY 265040, SY 386017 and SY 386716, and own in fee simple other parts which have not been registered:

1929 c. 23.

And whereas by virtue of covenants entered into by the Company or their predecessors in title the Company are now liable to the owners of hereditaments on the said estate for the maintenance and the lighting of the roads and verges and for the maintenance of the footpaths on the said estate:

And whereas by virtue of other covenants entered into by the owners of hereditaments on the said estate provision was made—

- (a) for contributions by owners to the cost of such maintenance to be assessed on the basis of an annual rate of 2½p or 5p in the pound of the net rateable value of the hereditaments vested in them; and
- (b) imposing restrictions on owners for the purposes of regulating the said estate and preserving the amenities thereof:

And whereas doubts have subsequently arisen as to the enforceability of some of the said covenants against successors in title of the original purchasers, and in certain cases contributions due under the said covenants have not been paid:

And whereas to meet the increased costs of maintenance, the Company have made arrangements under which purchasers have entered into direct covenants with the Company for the due payment of contributions at a rate higher than that provided in the original conveyances and for the performance of other obligations in consideration of the release of the obligations imposed by the original conveyances:

And whereas in some cases such covenants are now lost or misplaced or are thought never to have been executed so that difficulties arise in connection with the enforcement of the obligations to pay contributions towards the cost of maintaining the said estate and carrying out the other obligations hereinbefore mentioned:

And whereas it is expedient that the responsibilities of the Company in maintaining the roads, footpaths and open spaces should be redefined and that the liability of the owners of premises on the said estate to contribute towards the costs of such maintenance and of complying with the other obligations of the Company for the maintenance of the character of the said estate should be continued:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the St. George's Hill, Weybridge, Estate Act 1990.

Interpretation. 2.—(1) In this Act unless the subject or context otherwise requires—

- “the appointed day” means 1st March 1990;
- “chargeable hereditament” means any hereditament forming part of the estate (other than land for the time being used as an open space) in relation to the use and enjoyment of which the owner or occupier exercises rights of passage over the estate roads or any of them;
- “the Company” means St. George's Hill Residents' Association Limited and includes their successors in title to the common parts of the estate;
- “the estate” means so much of the estate known as the St. George's Hill Estate as lies within the outer edge of the line coloured black on the

substituted plan, five copies of which have been signed by the Lord Aberdare, the Chairman of the Committee of the House of Lords, to whom the Bill for this Act was referred and deposited respectively at the office of the Clerk of the Parliaments of the House of Lords, in the Private Bill Office of the House of Commons, at the office of the Company and at the offices of the Surrey County Council, County Hall, Kingston upon Thames and of the Elmbridge Borough Council, Town Hall, Walton-on-Thames; and includes any part thereof;

“estate road” means a road or footpath on the estate (whether constructed before or after the passing of this Act) which is for the time being a private street within the meaning of the Highways Act 1980 which is in the ownership of the Company and includes the verges thereto and the private surface water drains lying therein, and “the estate roads” means all such roads and footpaths;

1980 c. 66.

“maintain” in relation to the estate roads includes—

- (a) maintaining verges and road signs;
- (b) lighting (where and to the extent reasonably necessary) such roads including the verges but not the footpaths;
- (c) removing and replanting (where necessary) the trees on the verges;
- (d) cleansing, repairing and to the extent reasonably necessary, replacing the surface water drains, gullies and manholes lying thereunder and therein; and
- (e) such other works as are reasonably necessary for the proper enjoyment of the estate roads;

but does not include the making-up of any unmade road;

“original conveyance” means in relation to an hereditament forming part of the estate (other than an estate road or an open space comprised in the estate) the assurance by which the hereditament was conveyed by the Company or their predecessors in title (including any instrument entered into on a subsequent date (whether before or after the passing of this Act)) which in the case of a chargeable hereditament imposed an obligation to contribute towards the costs incurred in maintaining the estate roads (or any of them) or in the exercise of any of the powers conferred on the Company;

“owner” in relation to any hereditament forming part of the estate, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack-rent of the hereditament or, where the hereditament is not let at a rack-rent, would be so entitled if the hereditament were so let and, where the context so admits, predecessors in title.

(2) Any reference in this Act to a covenant in an original conveyance to contribute towards the cost of maintaining the whole or any part of the estate roads or towards the cost of the exercise of any of the powers conferred on the Company shall be construed as including a reference to any provision in the conveyance (howsoever expressed) imposing an obligation to make such a contribution.

3.—(1) As from the appointed day—

- (a) the Company shall, save as provided in subsection (5) below, be under a duty to maintain the estate roads but the Company shall not be

Maintenance of estate.

required in any year to incur any expense in paying the cost of maintaining the estate roads in excess of the amount which the Company are entitled to recover by way of the estate charge for that year and the amount (if any) which can be transferred from the reserve fund authorised by section 8 below;

- (b) any covenant in a conveyance of any hereditament on the estate entered into before the appointed day (howsoever expressed and whether express or implied)—
- (i) by the Company to maintain the estate roads or any of them or to perform any other duty in connection therewith; and
 - (ii) by the owner of a chargeable hereditament to contribute towards the cost of maintaining the estate roads or any of them or to contribute towards the cost of exercising any of the powers of the Company by the payment of a rate or charge assessed on the yearly value of the hereditament;

shall be void and of no effect but without prejudice to any accrued right or liability under any such covenant being such a right or liability which subsists immediately before the appointed day.

(2) Proceedings shall not be instituted against the Company to enforce the duty to maintain the estate roads imposed by subsection (1) (a) above except by the owner of a chargeable hereditament or by any other person being a person to whom the Company would have owed such a duty if this Act had not been passed.

(3) In an action against the Company in respect of damage resulting from their failure to maintain an estate road, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) for the Company to prove that they had taken such care as in all the circumstances was reasonably required to secure that the part of the estate road to which the action relates was not dangerous for traffic or otherwise defective.

(4) For the purposes of a defence under subsection (3) above, the court shall in particular have regard to the following matters, that is to say:—

- (a) the character of the estate road, and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a road of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the estate road;
- (d) whether the Company knew, or could reasonably have been expected to know, that the condition of the part of the estate road to which the action relates was likely to cause danger to users of the estate road; and
- (e) where the Company could not reasonably have been expected to repair that part of the estate road before the cause of action arose, that notices warning of its condition had been displayed;

but for the purposes of such a defence it shall not be relevant to prove that the Company had arranged for a competent person to carry out or supervise the maintenance of the part of the estate road to which the action relates unless it is also proved that the Company had given him proper instructions with regard to the maintenance of the estate road and that he had carried out the instructions.

(5) The duty to maintain the estate roads shall not extend to cutting the grass growing on the verges thereof.

4.—(1) For the purpose of raising moneys to meet the expenses for which the Company are liable by virtue of section 3 above, for the maintenance of such other common parts of the estate as the Company in their discretion consider should be maintained by them for the benefit of the estate and for the provision of such other services for the enhancement and protection of the appearance and amenities of the estate as the Company consider desirable and to make reasonable provision both for administrative expenses including the provision of necessary staff and office accommodation and for contingencies the Company may levy and recover from the owners of the chargeable hereditaments a charge to be known as “the estate charge”

Power to levy estate charge.

(2) In any case where after the passing of this Act land forming part of the estate is sold by the Company no provision shall be made in the original conveyance of that land which would have the effect of relieving the owner of an hereditament, which apart from that provision would be a chargeable hereditament, of the liability to pay the estate charge payable under this Act.

5.—(1) Every estate charge shall be levied in respect of a year of assessment commencing on 1st April and ending on 31st March following at a poundage to be fixed not later than 31st March in the preceding year of assessment and shall, subject to subsection (2) below, be levied at a uniform rate in the pound (in this section referred to as “estate charge poundage”) calculated on the net annual value of each chargeable hereditament appearing in the valuation list (in this section called “the continuing list”) in force on the appointed day one-half of the charge being treated for the accounting purposes of the Company as income of the accounting year in which it is levied, and the other half being carried forward as the income of the next accounting year.

Assessment of estate charge.

(2) For the purpose of calculating the estate charge leviable in relation to the hereditaments comprising the Golf Club, the Tennis Club and any building referred to in Part I of the Schedule to this Act the net annual value in the continuing list of each of those hereditaments shall so long as it is used for the purpose of such sports and recreations or any of them be deemed to be increased seven times.

(3) Where on the estate a new building is in course of construction or the construction thereof is commenced on or after the appointed day, the estate charge in relation to the chargeable hereditament of which that building forms part shall—

- (a) be calculated on a net annual value for the hereditament equivalent to that in the continuing list of a comparable hereditament entered therein;
- (b) be leviable in respect of the period commencing on the appointed day or, if later, the date of commencement of construction whether by the excavation of foundations or otherwise; and
- (c) become payable as to the first instalment thereof on the completion of the building or, if later, the date on which the amount of the estate charge shall be settled.

(4) In this section the expression “new building” means a new dwelling-house or a new building referred to in Part I of the Schedule to this Act.

(5) If on or after the appointed day a building forming part of a chargeable hereditament is substantially improved the estate charge in relation to that hereditament shall be leviable from the completion of the improvement on a net annual value equivalent to that in the continuing list of an hereditament of which a building comparable to the building as so improved forms part.

(6) No estate charge shall after the appointed day be levied in any year unless the following provisions of this section have been complied with.

(7) Before fixing the estate charge poundage in any year the Company shall not later than 31st January in that year prepare accounts for the year ending on 30th September immediately preceding and submit the same to the members of the Company for approval at an annual general meeting to be held in February or March then following.

(8) The accounts referred to in subsection (7) above shall be accompanied by a statement specifying the amount to be provided for the purposes of intended expenditure in the year distinguishing each separate principal head of expenditure and the amount (if any) which it is proposed to carry to the reserve fund authorised by section 8 below and specifying the general programme of works of maintenance which it is intended shall be carried out in the year and specifying the estate charge poundage proposed for the year.

(9) The estate charge poundage for the year shall be such estate charge poundage not exceeding that proposed by the Company as shall be approved at the annual general meeting.

(10) If no estate charge poundage for the year is approved at the said annual general meeting then the estate charge poundage for the year shall be the same as that last levied.

(11) (a) If any question arises in relation to subsection (3) or (5) above it shall be settled by arbitration.

(b) Any dispute or difference which may arise between the Company and the owner of a chargeable hereditament under this section shall be settled by a single arbitrator to be appointed by agreement between the parties or, failing agreement, by the President of the Rating and Valuation Association.

(c) An arbitrator agreed upon or appointed as aforesaid may (if he thinks fit) be assisted by a financial assessor.

6.—(1) The amount of the estate charge payable in respect of any year shall be payable without any deduction whatsoever and shall be due on the expiry of 28 days from the date on which the demand therefor is served on the owner of the chargeable hereditament to which it relates and shall carry interest at a rate 3 per cent. above the base rate of the bankers of the Company for the time being if not paid on the date on which it becomes due.

(2) In proceedings for the recovery of estate charge the defendant shall not be entitled to raise by way of defence any objection that the charge approved by the Company under section 5 above is excessive.

(3) If and in so far as any defence to proceedings for the recovery of estate charge is based on the ground of some informality, defect or error in or in connection with the demand for the sum due, the court shall disregard it, if it is satisfied that the informality, defect or error was not a material one.

7.—(1) All moneys received by the Company by way of the estate charge shall be applied for the following purposes in the following order of priority:—

- (a) payment of any costs incurred under section 5 or section 6 above;
- (b) payment of interest on moneys borrowed by the Company;
- (c) performance of the duties imposed or exercise of the powers conferred on the Company by this Act;
- (d) payment of the costs of acquiring, replacing or repairing any plant, machinery, vehicles or thing belonging to the Company or required for the performance of the duties or in exercise of the powers conferred upon the Company;

Recovery of
estate charge.

Application of
moneys.

(e) setting apart in a reserve fund formed under section 8 below moneys for contingencies.

(2) Any power to borrow vested in the Company shall to the extent that the amount outstanding at any time would exceed one-quarter of the yield of the estate charge for the previous accounting year of the Company be exercisable only with the consent of the Company given by ordinary resolution passed at an annual general meeting or an extraordinary general meeting.

8.—(1) The Company may, by setting apart in any year out of the moneys mentioned in section 7 (1) (e) above such sum as they think fit, form and maintain a reserve fund, for the purpose of meeting any extraordinary expenditure, claim or demand which may at any time be made upon the Company.

Reserve fund.

(2) Any sum so set apart for the formation or maintenance of a reserve fund may from time to time be invested so as to accumulate at compound interest for the credit of the fund.

9. As from the appointed day—

(a) the Company shall have power to enforce against each owner in relation to his hereditament the obligations set out in the Schedule to this Act;

(b) any covenant with the Company or its predecessors in title in a conveyance of any hereditament entered into before the appointed day (howsoever expressed) by the owner of an hereditament on the estate restrictive of the use and enjoyment of that hereditament shall in so far as it concerns the same subject matter and is inconsistent with the obligations set out in the Schedule to this Act be void and of no effect but without prejudice to any right or liability under any such covenant being a right or liability which subsists immediately before the appointed day.

Enforcement by Company of scheduled obligations.

10. The power of the Company under this Act to levy the estate charge on the owners of chargeable hereditaments, and to enforce against the owners of all hereditaments forming part of the estate the obligations set out in the Schedule to this Act, shall be a local land charge; and the Company shall, for the purposes of the Local Land Charges Act 1975, be treated as the originating authority as respects the charge.

Registration of Act in register local land charges.
1975 c. 76.

11.—(1) Any notice, application, consent, approval, demand or other document required or authorised by or under this Act to be given to or served on a person being a body corporate, shall be duly given or served if it is given to or served on the secretary or clerk of that body.

Service of notice etc.

(2) Subject to the provisions of this section, any notice, application, consent, approval, demand or other document required or authorised by or under this Act to be given to or served on any person may be given or served either—

(a) by delivering it to that person; or

(b) by leaving it at his proper address; or

(c) by post;

so however that, where such a document as aforesaid is sent by post otherwise than in a letter sent by the recorded delivery service, it shall be deemed not to have been given or served if it is proved that it was not received by the person to whom it was addressed.

1978 c. 30.

(3) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of any person to or on whom such a document as aforesaid is to be given or served shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of the corporation, and, in any other case, be the usual or last known place of business or abode of the person to whom the notice is given:

Provided that, where the person to or on whom such a document as aforesaid is to be given or served has furnished an address for service in accordance with arrangements agreed to in that behalf, his proper address for the purpose aforesaid shall be the address so furnished.

(4) If the name or address of any owner of any hereditament to or on whom any such document as aforesaid is to be given or served cannot after reasonable inquiry be ascertained by the person seeking to give or serve the document, the document may be given or served by addressing it to the person to whom it is to be given or on whom it is to be served by the description of "owner" of the hereditament (describing it) to which the document relates, and by delivering it to some responsible person resident or appearing to be resident on the hereditament, or, if there is no such person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the hereditament.

(5) The foregoing provisions of this section shall not apply to the service of a summons.

(6) This section shall take effect, in the case of a chargeable hereditament the owner of which shall be a body corporate residing outside Great Britain, subject to section 12 below.

Service of notices, etc., where owner resident outside Great Britain.

12.—(1) If the owner of a chargeable hereditament is a body corporate resident outside Great Britain they shall, within one month of the appointed day or, if later, of their becoming so resident, deliver to the secretary of the Company the names and addresses of one or more persons resident in Great Britain authorised to accept on their behalf service of process and any notices requiring to be served on the owner.

(2) Any process or notice required to be served on an owner referred to in subsection (1) above shall be sufficiently served if addressed to any person whose name has been delivered to the secretary of the Company under subsection (1) above and left at or sent by post to the address which has been so delivered:

Provided that—

(a) where any such owner makes default in delivering to the secretary of the Company the name and address of a person resident in Great Britain who is authorised to accept on his behalf service of process or notices; or

(b) if at any time all the persons whose names and addresses have been delivered are dead or have ceased to reside in Great Britain, or refuse to accept service on behalf of the Company, or for any reason cannot be served with notice;

a document may be served on the owner by leaving it at or sending it by post to the hereditament in question.

Notices, etc., to be in writing.

13. All notices, consents, approvals, demands and other documents authorised or required by or under this Act to be given, made or issued by the Company and all notices, consents and approvals authorised or required by or under this Act to be given or made to the Company shall be in writing.

14.—(1) Any notice, consent, approval, demand or other document which is authorised or required by or under this Act to be given, made or issued by the Company may be signed on behalf of the Company by an officer of the Company authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document.

Authentication documents.

(2) Any document purporting to bear the signature of any person expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorised by the Company to sign such a document or the particular document, shall for the purposes of this Act be deemed, until the contrary is proved, to be duly given, made or issued by authority of the Company: and in this subsection the expression "signature" includes a facsimile of a signature reproduced by whatever process.

15.—(1) For the purposes of this Act, in reckoning any period which is herein expressed to be a period from or before a given date, that date shall be excluded.

Reckoning of periods.

(2) Where the day or the last day on which anything is required or permitted by or in pursuance of this Act to be done is a Sunday, Christmas Day, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days above mentioned.

16. In any proceedings under this Act a document purporting to be certified on behalf of the Company as a copy of a resolution passed or made by the Company on a specified date, or of the appointment of, or of any authority given to, an officer of the Company on a specified date, shall be evidence that that resolution, appointment or authority was duly passed, made or given by the Company on the said date.

Proof of resolutions, etc

17. Nothing in this Act shall prejudice or affect the powers of a street works authority under Part XI of the Highways Act 1980 in relation to any of the estate roads.

Saving for Part of Highways Act 1980. 1980 c. 66.

18. All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and may in whole or in part be defrayed out of revenue.

Cost of Act.

Section 9.

SCHEDULE

PART I

OBLIGATIONS APPLICABLE TO ANY PART OF THE ESTATE FOR THE TIME BEING USED OR INTENDED TO BE USED FOR SPORTING OR RECREATIONAL PURPOSES

1. No building may be erected on any part of the estate for the time being used or intended to be used for sporting or recreational purposes except a building required for or in connection with such purposes (not being a building required for or in connection with a sporting or recreational activity primarily involving the use of motorised vehicles).

2. For the purposes of paragraph 1 above a building required for the accommodation of staff employed in connection with sporting or recreational activities is to be taken as required for or in connection with sporting or recreational purposes.

PART II

OBLIGATIONS APPLICABLE TO ANY PART OF THE ESTATE AT ANY TIME USED OR INTENDED TO BE USED OTHERWISE THAN FOR THE PURPOSES REFERRED TO IN PART I ABOVE

1. In this Part of this Schedule where the context so admits—

“dwelling” means a residential unit resulting from the conversion or division of a dwelling-house;

“dwelling-house” includes the usual garages and proper and suitable outbuildings and conveniences for occupation with a dwelling-house, and “dwelling” shall be construed accordingly; and

“the specified area” means one acre or such lesser area as shall be specified in a resolution of the Company passed by a majority of the members holding together not less than 85 per cent. of the total issued shares having a right to attend and vote at a meeting of which notice has been duly given, and includes the land on which a dwelling-house stands.

2. The obligations contained in this Part of this Schedule shall apply to any part of the estate at any time used or intended to be used otherwise than for the purposes referred to in Part I above.

3. Except in the case of reinstatement or replacement of or addition to existing buildings, no buildings may be erected on the estate other than detached dwelling-houses including the usual garages and proper and suitable outbuildings and conveniences for occupation therewith.

4. No such dwelling-house may be erected on a site which—

(a) is of less than the specified area; or

(b) comprises any land previously occupied with another dwelling-house or dwelling so as to leave that other dwelling-house or dwelling with a site of less than the specified area.

5. No land within the estate shall be disposed of so as to leave any dwelling-house (whether erected on the land disposed of or not) with a site of less than the specified area or, where the site of a dwelling-house is of not more than the specified area, so as to reduce that site.

6.—(1) Subject to sub-paragraph (2) below—

(a) in the case of a dwelling with a site which exceeds the specified area—

(i) no land included in that site shall be disposed of so as to leave the dwelling with a site of less than the specified area; and

- (ii) the dwelling shall not be disposed of except with a site of not less than the specified area; and
- (b) in the case of a dwelling with a site which does not exceed the specified area—
 - (i) the dwelling shall not be disposed of otherwise than with the whole of the site; and
 - (ii) no part of the site shall be disposed of apart from the dwelling.

(2) For the purposes of ascertaining the extent of the site in the application of sub-paragraph (1) above, the principles set forth in paragraph 8 below shall where relevant apply.

7. No dwelling-house on the estate shall at any time be converted or divided into more than one dwelling unless there shall be exclusively occupied with each such converted or divided dwelling a site of not less than the specified area and in determining the extent of such site paragraph 8 below shall apply.

8.—(1) The site of a dwelling resulting from a vertical conversion or division of a dwelling-house shall include the relevant part of the land on which that dwelling-house stands.

(2) In the case of any other conversion or division of a dwelling-house the site of a dwelling resulting from such conversion or division shall include an appropriate proportion of the land on which that dwelling-house stands.

(3) The appropriate proportion for the purposes of sub-paragraph (2) above shall be the fraction of which the numerator shall be the floor area of the dwelling in question and the denominator the aggregate of the floor areas of all the dwellings comprised in the dwelling-house so converted or divided.

9. Nothing in this Schedule shall have the effect of preventing—

- (a) the owner of a dwelling-house whether detached or not; or
- (b) the owner of a dwelling in a dwelling-house which has been converted or divided;

which on the appointed day is exclusively occupied with a site of less than the specified area, constructing a new detached dwelling-house on that site in place of the original dwelling-house or dwelling.

10.—(1) No tree having a diameter at a height of 2 feet from the ground of 9 inches or greater shall be cut down or lopped without the prior consent in writing of the Company, which consent shall not be unreasonably withheld, and any question whether such consent is unreasonably withheld shall be determined by a single arbitrator to be appointed by agreement between the parties or, failing agreement, by the President of the Royal Horticultural Society.

(2) If any tree is cut down in breach of the provisions contained in this Schedule the person cutting it down or causing it to be cut down shall remedy the breach and the Company shall at their discretion be entitled in lieu of any other remedy to require the owner of the hereditament on which the tree stood, at his expense, to replace the tree in question by a tree as similar in character and of as mature a size as reasonably possible.

(3) If within a period of 28 days after the service upon the Company by registered post or the recorded delivery service of any written application for consent under this paragraph the Company do not in writing inform the applicant that they disapprove of the application, stating the grounds of their disapproval, they shall be treated for the purposes of this paragraph as having approved it.

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