**A COMMISSION OF INQUIRY**

**INTO HISTORIC LAND LOSSES**

**IN BERMUDA**

**CHAIRMAN**

**MR. WAYNE PERINCHIEF, JP**

**COUNSEL**

**MR. DIRK HARRISON**

**COMMISSIONERS**

**MS. MAXINE BINNS (via Zoom)**

**MS. LYNDA MILLIGAN-WHYTE**

**MS. FREDERICA FORTH**

**MR. JONATHAN STARLING**

**TRANSCRIPT OF PROCEEDINGS**

**LOCATION: WARWICK CAMP**

**MONDAY, JANUARY 18, 2021**

**AFTERNOON SESSION (d)**

**(**Continued from Morning Session (c)

**MR. WAYNE PERINCHIEF** 0:00

Good afternoon everyone, good afternoon. Counsel, we're ready to resume the afternoon session of the Commission.

**COUNSEL DIRK HARRISON** 0:07

Thank you Chairman, I just would like to confirm, I know Commissioner Binns is connected to us via Zoom and I’m not certain that she is there.

**MR. WAYNE PERINCHIEF** 0:23

We do have a quorum in any case, so if we could just indicate later on whether she has joined us, that would be fine. We have gotten the okay. Mrs. Binns has joined us via Zoom so we do have a quorum.

COUNSEL DIRK HARRISON 0:40

Thank you.

Thank you. I’d just like to indicate we had at the time of the lunch adjournment, we had been looking at **Slide 36**. I would like us to continue from that point with witnesses. I just aske that at this point that the witnesses could be reminded, Chairman, that they're still under oath that they took before the luncheon break. Now, in respect of **Slide 36** where we were, I just aske you to pick up there, Ms. or Mrs. Robinson, with regards to the presentation being made.

**MS. BRITNEY ROBINSON** 1:28

When we left off on **Slide 36**, I was discussing some of the other court cases and encounters that would have followed that 1947 Supreme Court case between Mrs. Amelia Chiappa and my great-grandfather, Heman Montgomery Bascome Smith.

So some of the other court cases and responses are listed below and I will talk in some detail about some of these cases because I do not want to take away the message that I had shared for that 1947 Supreme Court case.

**COUNSEL DIRK HARRISON** 2:05

Yes, please proceed.

**MS. BRITNEY ROBINSON** 2:10

So the first court case we have…

**COUNSEL DIRK HARRISON** 2:13

You’re on **Slide 37**?

**MS. BRITNEY ROBINSON** 2:15

Yes**,** this is **Slide 37**. And this is the 1959 Supreme Court Case, No: 19 between the Spanish Point Boat Club and my great grandfather, Heman Montgomery Bascome Smith.

In this court case, the Spanish Point Boat Club was taking my great-grandfather to court. We're going to read #7 of the Statement of Claim.

**COUNSEL DIRK HARRISON** 2:43

When you say 7, you mean paragraph 7?

**MS. BRITNEY ROBINSON** 2:45

Paragraph 7 yes of the Statement of Claim that is on the far right hand side of the document that's being displayed as ***Exhibit Q***. It states that the Defendant on the 18th and 25th of January, 1950 did wrongfully enter and erect a barbed wire fencing on the said parcel of land hereinbefore described in part a paragraph 1 hereof and thereby did cause damage…

**COUNSEL DIRK HARRISON** 3:15

Too fast, I’m sorry. Read it slower for us please. I’d appreciate that please.

**MS. BRITNEY ROBINSON** 3:23

So #7 states the Defendant on the 18th and the 25th of January, 1959 did wrongfully enter and erect a barbed wire fences on the said parcel of land, herein before described in paragraph 1 hereof and thereby did cause damage to the said premises. So as you can see, based off of this court case, that my great-grandfather still believed that he owned that parcel of land that we previously discussed. He was still fighting for his land past that 1947 Supreme Court case verdict.

**COUNSEL DIRK HARRISON** 4:06

Now this document that you refer to there and which we will come to eventually and see the actual copy of it, where did you obtain this document?

**MS. BRITNEY ROBINSON** 4:16

I obtained this document in the Bermuda Archives. It was filed in the Supreme Court cases in 1959. And also in that file, it does not appear that the case proceeded or that there was a verdict.

**COUNSEL DIRK HARRISON** 4:39

And you say that because no record was found of a verdict or judgement in that regard.

**MS. BRITNEY ROBINSON** 4:45

Yes, that's correct.

**COUNSEL DIRK HARRISON** 4:53

Yes, please.

**MS. BRITNEY ROBINSON** 4:55

And then the next encounter, we have the 1964 Windsor Development vs Albert Jones and Newbold Smith. Newbold Smith was my grandfather and the son of Heman Montgomery Bascome Smith, and he would have inherited the land of my great-grandfather. In a letter addressed to the Chairman of the Joint Standing Committee on Private Bills, the House of Assembly< Hamilton, Bermuda…

**COUNSEL DIRK HARRISON** 5:25

I'm sorry, and just for certainty, the basis of you knowing that Albert Jones, I’m sorry, Newbold Smith, you say is your uncle?

**MS. BRITNEY ROBINSON** 5:37

No, he is my grandfather.

**COUNSEL DIRK HARRISON** 5:40

Who’s your uncle? Did you just say your grandfather's son?

**MS. BRITNEY ROBINSON** 5:45

My great-grandfather's son.

**COUNSEL DIRK HARRISON** 5:49

Apologies, your great-grandfather's son, his name is…

**MS. BRITNEY ROBINSON** 5:54

Newbold W. Smith.

**COUNSEL DIRK HARRISON** 5:57

Okay, and you know that how?

**MS. BRITNEY ROBINSON** 6:00

That is my mom's dad.

**MRS. GENA ROBINSON** 6:02

That is my father.

**COUNSEL DIRK HARRISON** 6:03

Okay, because I just want to ensure that you know who the person is

**MS. BRITNEY ROBINSON** 6:11

And this letter is indicated on **Slide 38** of ***Exhibit R*** and it's on the far right hand side of the slide. And in this letter, it addresses the Chairman of the Joint Standing Committee on the Private Bills. A company by the name of Windsor development limited had entered a Private Bill Notice in the Royal Gazette on January 17, 1964. The letter that is in the middle part of the page that's yellow, this is where my grandfather Newbold Smith sends a letter to Appleby Spurling & Kempe and it says: Gentlemen, in reference to the bill to incorporate a portion of property in Spanish point Pembroke West by Mr. John Peter Chiappa and his sister Mrs. Mary Dallas, I beg to inform you that I am in possession of a portion of the property in paragraph 3 of the list of properties. I also have a house on the said portion of property and I have been living in the house for the past fifteen years without any interference. I have my deeds for this portion of property, which were made out by Graham Smith. And I would also like to add that the three-foot right-of-way is not in the correct position. Yours truly, Mr. Newbold Smith.” So, the reason as to why I entered this encounter was because Windsor Development Limited, the company itself, I believe, was there to disguise the individuals who held this company, namely John Peter Chiappa and his sister, Mary Jane Dallas which were the grandchildren of Mrs. Amelia Chiappa, which we saw in 1947 court case.

**COUNSEL DIRK** HARRISON 8:16

Where did you, this document that you referenced here? Where did you obtain this document?

**MS. BRITNEY ROBINSON** 8:21

So, my grandfather's letter, we found…

**MRS. GENA ROBINSON** 8:31

I found…

**COUNSEL DIRK HARRISON** 8:29

Could you just repeat your name for me,

**MRS. GENA ROBINSON** 8:32

It’s Gena. I found this particular letter in the pack, but it was just this letter with a copy of a deed, nothing else.

**COUNSEL DIRK HARRISON** 8:39

And this letter, however, is unsigned.

**MRS. GINA ROBINSON** 8:42

That's correct.

**COUNSEL DIRK HARRISON** 8:45

Yes, please continue.

**MS. BRITNEY ROBINSON** 8:50

So I have also inserted an image, a copy of the Private Bill, in which the Windsor Development…

**COUNSEL DIRK HARRISON** 9:01

I'm sorry, just before, could I take you back to **Slide 38**. There are two documents on the slide. However, you made reference to only one. What is the other document on the right hand side of the slide?

**MS. BRITNEY ROBINSON** 9:17

We were able to obtain that document from Mr. Albert Jones, his granddaughter. It is letter to the Joint Standing Committee of Private Bills, the House of Assembly, and it's a Notice of Intention to petition the incorporation of a company named Windsor Development and it was sent in by Mr. Colridge Williams on behalf Albert Jones and my grandfather, Newbold W. Smith.

**COUNSEL DIRK HARRISON** 9:47

Thank you, and what is it dated?

**MS. BRITNEY ROBINSON** 9:57

It’s dated February 14, 1964.

**COUNSEL DIRK HARRISON** 9:59

Thank you, and you have a copy of that document?

**MS. BRITNEY ROBINSON** 10:02

Yes, in the packet, the entire document.

**COUNSEL DIRK HARRISON** 10:08

Okay, thank you. You may proceed. You’re now on **Slide 39**?

**MS. BRITNEY ROBINSON** 10:20

Yes, this is **Slide 39** and I found, actually, I didn't find it, but the lady at the Bermuda National Library was able to assist me in locating this journal of the House of Assembly Bermuda Sessions for the period of 1963 to 1969, pages 165 to 166, in which the Windsor Development Company Act of 1964 was adopted, it was without the inclusion of the parcels of land that Albert Jones and Newbold Smith owned and on the first image, where I have the red arrow, it says: ”N. The Windsor Development Company Act of 1964. Number 2. With regard to the last named Bill, it was brought to the attention of the Committee that a dispute exists as to the title of the land described in paragraph 3 of the schedule to the Bill. With concurrence of the petitioners, the Committee recommends deletion of this paragraph solely in order to facilitate the passage of the Bill through the Legislature and upon clear understanding that the petitioners, in assenting to this course, do not entirely, do not do so entirely without prejudice to their claim to the land in question and without making any admission or denial In respect thereof.” So basically it is stating that they incorporated the Bill without Mr. Jones and my grandfather's land as they have petitioned for it.

**COUNSEL DIRK HARRISON** 12:01

So let us move past that without a question being asked. The previous slide and this slide, where reference is being made to, finally to this document, you say, you say as to say what, the absence of the land that is referenced references your grandfather and your uncle, what exactly is he?

**MS. BRITNEY ROBINSON** 12:31

He’s a neighbour..

**COUNSEL DIRK HARRISON** 12:34

My apologies. What exactly are you saying?

**MS. BRITNEY ROBINSON** 12:37

I’m stating that the Windsor Development Company who was under the direction of Mr. John Peter Chiappa who was also involved in that 1947 court case between Amelia Chiappa and my great-grandfather, they used a, I believe, they used a development to come back and claim that portion of the land again. And when I go through further slides, the portion that they are claiming is also marked on the map that I previously showed, that was presented for that 1947 court case.

**COUNSEL DIRK HARRISON** 13:14

And specifically as it relates to the Bill which is referenced on **Slide 39**, the land owned by your, which you purport to be owned by your great-grandfather, is that a part of the Bill?

**MS. BRITNEY ROBINSON** 13:32

No, I inserted a copy of that Bill that has now been excluded with my, of grandfather's land.

**COUNSEL DIRK HARRISON** 13:40

What I'm trying to focus on. And you, Is there any comment you've make as to the absence of that portion of the land in this will?

**MRS. GENA ROBINSON** 13:52

I believe that they realized that the land was not theirs and it would later be proven that it was not their land, because there was a subsequent court case.

**COUNSEL DIRK HARRISON** 13:59

Okay. So just to be clear, and we'll come to the document eventually, what land is referenced, we'll come to that later. what land is referenced in this document?

**MS. BRITNEY ROBINSON** 14:14

What's referenced in this document is other, the portion ,are you asking the portion that was adopted?

**COUNSEL DIRK HARRISON** 14:19

Just for the Bills, referencing the Bill, because you already said that they they did not reference your great-grandfather's land which you purported, which you say he owned. I'm asking you what land did they reference in this Bill, however?

**MS. BRITNEY ROBINSON** 14:38

So unfortunately, we were unable to obtain the actual notice that involved my grandfather's land, like what actually paragraph 3 was. But we know that based off of the letter that is an Exhibit R that it was part of my grandfather and Mr. Albert Jones’s land.

**COUNSEL DIRK HARRISON** 15:05

Let me let me repeat that. Just to clarify, the Bill, which was placed before this Joint Standing Committee, a Private Bill. It's referenced ‘property’. The property that it referenced, did it have any bearing on what you had referred to earlier as *Exhibit A* I think, the Deed of Gift. Does it reference that property at all?

**MS. BRITNEY ROBINSON** 15:47

No, it wouldn't have referenced the area for the 1888 Deed. I think I've previously discussed how my grandfather would have purchased the back portion of the land. That portion was then given to his son, Newbold Smith. And if you look at the map, that Mrs. Amelia Chiappa presented for that 1947 court case, the areas Marked 'A' and that were coloured pink, that was the area that was trying to be incorporated into this Windsor Development Limited Bill.

**COUNSEL DIRK HARRISON** 16:29

Thank you. Thank you.

**MS. BRITNEY ROBINSON** 16:37

So then, we then have in 1969, a Supreme Court Case No. 26.

**COUNSEL DIRK HARRISON** 16:45

Sorry, you’re now on **Slide 40**?

**MS. BRITNEY ROBINSON** 16:53

**Slide 40.** In this Supreme Court Case #216, we have the Plaintiff as Mr. Jordan Henry Dallas who, if I may just refresh your memory, Mrs. Mary Jane Dallas was previously Chiappa. She was the granddaughter of Mrs. Amelia and Peter Chiappa. She married Mr. John Henry Dallas. So the Plaintiff in this case was Mr. John Henry Dallas and it was against Mr. Arthur Jones, Newbold Smith, Heman Montgomery Bascome Smith and Carlton K. Wellman. And I'm just going to read the Statement of Claim which is ***Exhibit S*** because I believe that the portion in the Statement of Claim and in the next slide I'm going to show you a plan that will depict the kind of the area that they were claiming. So it says: “Statement of Claim. 1. The Plaintiff is entitled to the possession of all of the certain or parcels of land situated in Bermuda Parish in the islands of Bermuda delineated and outlined in pink on the plan and the indenture dated the 9th of July, 1960 and made between Amelia Chiappa of the First Part, John Peter Chiappa, Cecil Christopher Chiappa and Mary Jane Dallas of the Second Part. John Henry Dallas of the Third Part and Lawrence John Medeiros of the Fourth Part and estimated to comprise 0.536 of an acre and bounded northerly by the public road known as the Spanish Point Road and there measuring on the set plan 133 feet, easterly by a public road way 10 feet wide and measuring as shown on the said plan 199 feet, southerly by a roadway three feet wide, and there measuring as shown on the said plan 82 feet and six inches, westerly by the existing wall separating the land now being described from the land recently conveyed to the Spanish Point Boat Club and there measuring as shown on the said plan 66 feet and south westerly and north westerly by the said existing wall separating the land now being described from the said land recently conveyed to the said Spanish Point Boat Club; and there measuring as shown on the said plan a sum of the total of 146 feet.

**COUNSEL DIRK HARRISON** 20:00

Thank you. for you may proceed.

**MS. BRITNEY ROBINSON** 20:07

And so on **Slide 41**, to the far right hand side, I have a copy of a plan that was submitted for this 1969 court case in which it depicts the individuals who were in possession and had proper title deeds for the area that Mr. John Henry Dallas was claiming that he had proper title to. As you can refer to some of these measurements, I know it's a bit difficult to see in the PowerPoint, but it's also exhibited in the PDF version a little bit larger, Mr. John Henry Dallas stated that his land was bounded northerly by 133 feet and if you see up in the right-hand side of the plan, the two lots, namely, C and A, measure about 134 feet. He said that he was bounded easterly by a public roadway 10 feet wide which, if you go easterly to A, the Lot A that is the right of way, that's 10 feet wide. And then it says that it's bounded easterly by 199 feet, it's bounded southerly by a roadway three feet wide and then it goes on to say that it's bounded westerly by an existing wall of the Spanish Point Boat Club. So I believe that they were trying to claim the lands marked A, B, C and E of this plan that was submitted on behalf of the neighbours that were living in the time, that were living in the land at the time.

**COUNSEL DIRK HARRISON** 22:10

And of present day, can you on that document indicate where the Robinson house is now? Where is it now presently? Even though this is something that's attached to a 1969. Statement of Claim, where is the Robinson house now?

**MS. BRITNEY ROBINSON** 22:35

Yes. So my house that I live now is marked ‘E’, Newbold W. Smith and the area that we are here today for would have been directly west of our land.

**COUNSEL DIRK HARRISON** 22:56

And you said 'E'.

**MS. BRITNEY ROBINSON** 22:58

Yes.

**COUNSEL DIRK HARRISON** 23:11

And then just to repeat, the area that you are here now in terms of your claim and concern, that this property was owned by your great grandfather is west of what is depicted of 'E'?

**MS. BRITNEY ROBINSON** 23:33

Yes.

**COUNSEL DIRK HARRISON** 23:35

Thank you. You may continue.

**MS. BRITNEY ROBINSON** 23:41

When we look at that 1947 Supreme Court case plan that was drafted on behalf of the Chiappa family, as I stated a little while ago, the areas that are marked pink and labelled ‘A’ were the areas that Mr. John Henry Dallas was claiming that he then owned in1969.

Now I'm on ***Slide 42***. So the 1969 verdict in the middle column, you can see Notice by Plaintiff of Discontinuance as against the Second, Third and Fourth Defendants. The Second Defendant was my grandfather, Newbold Smith. The Third Defendant was my great grandfather, Heman, Montgomery Bascome Smith and the Fourth Defendant was Mr. Carlton K. Wellman. I think it's important to note that even though Mr. Wellman's name was initially put into this Statement of Claim, at the time he did not own the area. It was then in the possession of Mr. And Mrs. Williams who were then the Fifth Defendant. And this Notice by the Plaintiff of Discontinuance against Second, Third and Fourth Defendant states: “Taking notice that the Plaintiff hereby solely discontinues this action as against the Second Defendant, the above-named Newbold W. Smith, the Third Defendant, the above-named Heman Montgomery Bascome Smith and the Fourth Defendant, the above-named Carlton K. Wellman” and it was dated the 29th December, 1971. I’m also going to…

**COUNSEL** **DIRK HARRISON** 25:51

The document you referred to, can you just indicate who the , is it signed?

**MS. BRITNEY ROBINSON** 25:58

It signed by Appleby, Spurling & Kempe who were the lawyers for Mr. John Henry Dallas.

**COUNSEL DIRK HARRISON** 26:08

Thank you.

**MS. BRITNEY ROBINSON** 26:11

I am going to read a portion of the top article that is depicted on the far right hand side of this slide.

**COUNSEL DIRK HARRISON** 26:20

I'm sorry, just before you continue. The document you refer to of Notice by Plaintiff of Discontinuance and they put on the document, it's addressed to whom?

**MS. BRITNEY ROBINSON** 26:37

It's addressed to Mr. Vaucrosson who was the attorneys for the First Defendant, Mrs. Lois Browne Evans, the attorneys for the Second and Fourth Defendants, to Heman Montgomery Bascome Smith who was the Third Defendant and Mr. Eric A Jones who was the attorney for the Fifth Defendant.

**COUNSEL DIRK HARRISON** 27:03

And just for ease of reference, Mr. Heman Montgomery Bascome Smith, any relation?

**MS. BRITNEY ROBINSON** 27:10

That’s my great-grandfather. I am going to read a portion of the article entitled 'Question of Ownership of Spanish Point Land’. I'm going to read the second column of this article. It says: The court…”

**COUNSEL DIRK HARRISON** 27:29

Sorry. Can you say where this article was taken from?

**MS. BRITNEY ROBINSON** 27:32

So we actually had the original clipping of this article. Unfortunately, we have not been able to obtain a reference as to when or a date as to when this was actually submitted into the Royal Gazette. We have been to Bermuda National Library but unfortunately, time did not permit for us to go through reels and reels of microfilm. So the second paragraph states: “The court ruled that Mr. Newbold W. Smith was entitled to the property in his possession and later the Plaintiff withdrew action against Mr. Carlton Wellman and Mr. Heman Montgomery Bascome Smith who were represented by Mr. Flake (?) During a lengthy cross-examination by Mr. Eric Jones, Mr. Dallas told of seeing some form of building activity on his alleged lot in 1969, but said he had instructed a lawyer to investigate. Mr. Dallas said that he was in the area some months later and saw a house had been completed on the spot where the work was taking place. Mr. Jones said, ‘You knew a structure was being erected and you made no effort to find out who was doing the building.’ Mr. Dallas replied that he had taken steps to have the matter dealt with by a lawyer. Mr. Jones was still in the process of cross-examining when the case adjourned yesterday until today. It is being heard by the Chief Justice, the Honourable J.C. Summerfield.”

**COUNSEL DIRK HARRISON** 29:16

And you read that second part to say what?

**MS. BRITNEY ROBINSON** 29:20

To say that my grandfather's land was one of the first Defendants to be ruled to say that he had proper title to this land which Mr. John Henry Dallas, based off of a lineage from Mrs. Amelia Chiappa,, thought that he had proper title and that was depicted in the plan of that 1947 Supreme Court case.

**COUNSEL DIRK HARRISON** 29:45

And you, further, you say that to say that your great-grandfather, the claim that you make in terms of his ownership, you use that in support of it?

**MS. BRITNEY ROBINSON** 29.58

Yes.

**COUNSEL DIRK HARRISON** 30:00

Thank you. You may proceed.

**MS. BRITNEY ROBINSON** 30:03

And then I am going to read “The Spanish Point Land Ownership”, the article entitled "The Spanish Point Land Ownership Agreed" in its entirety, because I feel as though it gives a full context as to this 1969 verdict. So it says: “Ownership of two pieces of land at Spanish Point was agreed out of court yesterday”.

**COUNSEL DIRK HARRISON** 30:25

Sorry. Sorry. Just for clarification, you said you're about to read this article in full which gives, in my words, credence to the 1969 verdict. What 1969 verdict are you referring to?

**MS. BRITNEY ROBINSON** 30:40

The fact that the Plaintiff withdrew his action against all of the Defendants in this court case. So it says: “After another full morning of evidence, Mr. David Brewster, the lawyer representing the Plaintiff, Mr. John Henry Dallas, said that they did not want to proceed with the case in view of what has transpired. He said that he now agreed that the two Defendants had good title to the land. There were only two Defendants left in the case after action was withdrawn against three others. The two remaining defendants were Mr. Ethyl Jones, represented by Mr. Charles Vaucrosson, and Mr. and Mrs. Elliott Williams, represented by Mr. Eric Jones. The Chief Justice the Hon. J.C. Summerfield, closing the case, said that it was agreed by consent that the two Defendants had good title to the land and that costs had been agreed between the parties. ‘I congratulate you on reaching an amicable settlement,’ he said. The settlement was reached after more evidence was produced during the morning hearing. Much of it concerned with previous deeds to the land. Mr. Robert H. Clark, who was the surveyor for the Parish Vestry, spent some time in the witness box explaining the history of the land, dating back to the middle of the 19th century. He agreed that there was some difficulty in determining the ownership of the land in the area. ‘I have never been happy about that entire area with claims and counterclaims along the line,’ he said. He said that a detailed investigation of 2000 properties could not be carried out. Cross-examined by Mr. Vaucrosson, the witness gave evidence of a Title Deed to the land made in 1876 when part of the land was sold to James Nelson, an Evangelist from Quebec. This was prior to the 1913 deed which was a central point in the claim of ownership by the Plaintiff. Mr. John Peter Chiappa, grandson of the man who owned much of the property in the area and brother-in-law of the Plaintiff, said that in 1960 the four beneficiaries of his grandfather's will conveyed the land at Spanish Point to the Plaintiff. He said that he was a director of a company, Windsor Development Limited, who had built a fence around the land and put up’ no trespassing signs’. These were removed shortly afterwards, he said. He also said that he had paid parish taxes for the property up to 1971. It was after the lunchtime adjournment that Mr. Brewster made his application, saying that the Plaintiff accepted that the two Defendants had proper title to the land in dispute.” So I read that to say that although this Plaintiff believed that he did own the title to the land based on his grandmother’s and his grandfather’s will which would have ruled in the 1947 court case saying that she did own the land, It was in the subsequent court case that it was proven that they did not own that land.

**COUNSEL DIRK HARRISON** 34:34

You may proceed.

**MS. BRITNEY ROBINSON** 34:47

I'm now on **Slide 43**. And if we circle back to the area in question, the question is that the Chiappa family claimed that they owned all of the land in the map produced for that Supreme Court case in 1964 and 1867 and it was discovered in subsequent court cases that they did not own that land. So then the question remains, how is the Spanish Point Boat Club, who would have acquired their land through the Chiappa family have claimed a portion of land that's in front of our property today, when this parcel of land stems from that 1888 Deed of Gift from Mr. Jeremiah Hinson.

So now on **Slide 44**, I'm just going to go through the aerial images again, as a reference. So this is what the land would have been in 1941. This is 1962. This is…

**COUNSEL DIRK HARRISON** 36:01

I am going to ask you just to start again and not go so fast.

**MS. BRITNEY ROBINSON** 36:05

This is going to be the aerial image of 1962 in which we still see our house labelled number 2 on this aerial and in front of our house is undeveloped land. You can see that it's a lot of trees and bushes, and directly west of those trees and bushes you can see sand with some individuals’ boats on the beach,

**COUNSEL DIRK HARRISON** 36:31

And to the extreme left, the lower, the foot of the pictorial, those appear to be boats.

**MS. BRITNEY ROBINSON** 36:43

Yes, yes, that's Peter Tucker Bay area. And then in 1981, that's the structure that we are now here today for.

**COUNSEL DIRK HARRISON** 36:58

Just by way of reference, when you indicated the right-of-way, that is known, that is a road now known as?

**MS. BRITNEY ROBINSON** 37:09

As Spanish Point Road. Sorry, as Plaice's Point Road.

**COUNSEL DIRK HARRISON** 37:18

That is directly behind the house that has No. 2 on it and runs alongside it?

**MS. BRITNEY ROBINSON** 37:26

Yes, it's directly east to it. And this is an area of that structure again, in 1997. So this is exactly what the building looks like. And this is ***Exhibit T*** in your packet. And this is what the building looks like from the view of Peter Tucker's Bay, in that lower image on the far left hand side,

**COUNSEL DIRK HARRISON** 37:58

I think, Chairman, it may have be better to view what is projected on the screen, on the screen to your extreme left, the one directly behind you from my appearance. I'm not certain what appears there is not as clear.

MR. WAYNE **PERINCHIEF 38:20**

I could see quite clearly.

**COUNSEL DIRK HARRISON** 38:22

That image to the right is extremely sharp.

**MS. BRITNEY ROBINSON** 38:28

And the picture to the right-hand side in the lower quadrant of this screen is the aerial view from 2012 that I previously showed, that I was able to obtain from our Bermuda Government website. And the picture above that aerial view is just another portion of Lot 33-3 from that 1934 map that I showed previously. So you can see the changes in the land from that 1934 Parish Vestry Map to what it looks like now in that 2012 aerial view now having the Spanish Point Boat Club shed on Lot 33-3

**COUNSEL DIRK HARRISON** 39:14

Now I know you're viewing **Slide 45,** but could you just provide some clarity. When one looks at what appears to be an aerial shot of the aerial photograph on **Slide 45**, what we see I think is quite clear as you as you had indicated your house as what is known as the Robinson house and what is actually the shed?

**MS. BRITNEY ROBINSON** 39:50

Yes.

**COUNSEL DIRK HARRISON** 39:52

But as it relates to the picture on the left hand side, where is your house in relation to that, what appears to be the shed?

**MS. BRITNEY ROBINSON** 40:04

In relation to this picture, it will be directly behind this image. I would be directly behind this building.

**COUNSEL DIRK HARRISON** 40:14

So, in fact, prior to the erection of this shed, what type of, what could you see. if anything, from your house?

**MRS. GENA ROBINSON** 40:28

Well, I am the number six of nine kids, so I can just basically tell based upon my experience it's always been the border wall and trees. So based upon my experience, it’s nine of us, my dad had nine children, I’m the sixth youngest, I’m sixth. And so based on my experience, we had a wall that was inserted to stop the water from coming into the yard. I remember the wall and I remember the oleander trees in front of it because there used to be oleander trees. My brothers remember….

**COUNSEL DIRK HARRISON** 41:01

Trees? What type of trees?

**MRS. GENA ROBINSON** 41:04

There used to be like oleander bushes in the front that used to kind of make just like, I wouldn’t say a boundary, but that’s how the land used to be, was nothing but trees at that particular area. But my brothers do recall that the land was flat at that particular time and they used to literally go overboard and walk the whole shoreline before they raised the land and put the wall up to stop the water from coming in.

**COUNSEL DIRK HARRISON** 41:28

Now since the erection of the shed, how have things changed, if anything at all?

**MRS. GENA ROBINSON** 41:03

Well they erected the shed and they also put up fencing and as long as my grandfather was alive, he always pulled the fencing down. So you might have noted that the individuals were saying that they put fencing up and then it was torn down. We believe it was my grandfather that tore that fence down each time. When my grandfather passed, they did put the fencing back up. We were not allowed to go through that area snd we used to swim instead from my uncle's property, which is two houses up from where we stayed.

**COUNSEL DIRK HARRISON** 42:14

So what year did your grandfather pass?

**MRS. GENA ROBINSON** 42:19

I am not exactly certain.

**COUNSEL DIRK HARRISON** 42:23

Can you gain access to that area of the beach from your premises as it is situated now, as it is now?

**MRS. GENA ROBINSON** 42:39

Yes.

**COUNSEL DIRK HARRISON** 42:40

How would you be able to gain access?

**MRS. GENA ROBINSON** 42:43

The hurricane came through about, maybe six or seven years ago and pulled the fencing down.

**COUNSEL DIRK HARRISON** 42:49

Access could have been gained then?

**MRS. GENA ROBINSON** 42:52

Access was gained then. They tried to put the fencing back up and I put a stop to it. They started again, even though Planning had come out and told them not to do it.

**COUNSEL DIRK HARRISON** 43:02

Even though who?

**MRS. GENA ROBINSON** 43:03

Planning had come back and told them they were not allowed to put the fencing back up.

**COUNSEL DIRK HARRISON** 43:11

Just to be clear, what Ministry or Department of Government is referred to as ‘Planning’?

**MRS. GENA ROBINSON** 43:15

The Department of Planning.

**COUNSEL DIRK HARRISON** 43:17

Okay.

**MRS. GENA ROBINSON** 43:18

And so we had seen an ad in the paper that they wanted to do some work.

**COUNSEL DIRK HARRISON** 43:24

They who?

**MRS. GENA ROBINSON** 43:24

The Spanish Boat Club, sorry.

**MRS. GENA ROBINSON** 43:25

They wanted to put a fencing back up and I objected.

**COUNSEL DIRK HARRISON** 43:41

And you objected to who?

**MRS. GENA ROBINSON** 43:33

The fencing, I sent a letter to Planning. And I told them that that was my wall that was put up that was not established as a boundary wall. And the Spanish Boat Club came back through their lawyer or whoever it was to ask if they removed that particular area, would we allow the Planning to go forward? I don't have a problem with your building, I had a problem with access to our beach. And so it was agreed that they would remove that particular item from their Planning application. And we allowed them to go ahead and it was like fixing a bathroom or something like that. However, during that period of time, they started to try and erect the fencing. And I called Planning, they came out and they stopped them. The next day, they came back again and they proceeded to put up piping to then erect the fencing again and I called Planning again and they had to come back out and stop them again from inserting the fencing.

**COUNSEL DIRK HARRISON** 44:39

So just to pause a bit. What timeline are we speaking about? Over what period was this happening, this communication between yourself and Planning, the attempts to erect a fence, the attempts to do further building?

**MRS. GENA ROBINSON** 44:54

This would have been about five (5) years ago. So it would have been been, it went on about maybe six weeks or thereabouts, but it would have been a June time, June 2015 or thereabouts.

**COUNSEL DIRK HARRISON** 45:12

Now, just to take us back a little before we continue, I recall the evidence being given regarding the estimated timeline within which this shed may have been erected. You gave a timeline through your daughter, Miss Robinson gave a timeline in respect of a number of years, because there is no certainty as to when the building was erected. I would like to know, in terms of your access that we just spoke about, can you give me some timeline, however, in terms of your estimation as to when access for you had changed?

**MRS. GENA ROBINSON** 46:06

Where we now access the waterfront from our property? That would have been, well my husband started to do it, might have been seven or eight years ago when the fence was blown down. And so he literally, he would just climb over our wall and walk overboard.

**COUNSEL DIRK HARRISON** 46:25

Also, based on the last two slides that have been presented, it appears that litany is a strong word, but it appears that there was a flood of court actions that have been the subject of this beach, touching and concerning the beach. Is there anything, and please don't take offense to this, is there anything really, what is it about this place that it appears that there is this repeated and continuous activity to acquire, what is it about this place?

**MS. BRITNEY ROBINSON** 47:17

I truly believe as long as, along with my family, is that we had litigation after litigation after litigation stemming from the result of that 1947 Supreme Court case in which the jury and the Hon. RC Hollis Hallett ruled against my grandfather and adopted that plan that is coloured green and pink and blue that we showed. It is because of this plan that those same areas we’re trying to be claimed over and over and over and over. It wasn't until that 1969 Supreme Court case that we finally got a little break from the Chiappa family.

**COUNSEL DIRK HARRISON** 48:10

And what is it about this area that it appears that persons want to acquire it? What is it about this place? Is there something special about it?

**MS. BRITNEY ROBINSON** 48:23

Oh yes, it has a beach attached to it. So I believe that you know, as being a Spanish Point Boat Club, that was one of the reasons that they kind of fought so hard for that area is because it adds value to their land, but at the same time, it has also depreciated the value of our property, blocking the beach front access.

**COUNSEL DIRK HARRISON** 48:48

Now, you are aware that this Commission is not a Court of Law. You are aware that this Commission, after consideration by the Commissioners, they can make no award, but what is it that the Robinsons would actually, you're here, what actually do you want, what would you like to see?

**MS. BRITNEY ROBINSON** 49:11

So, based upon the evidence that we have produced for you today, we would respectfully request for the Commission to recommend for the property to be rightfully returned back to our family if possible.

**COUNSEL DIRK HARRISON** 49:30

You may continue with the presentation. We still have some way to go because we have to go through all the exhibits but please continue.

**MS. BRITNEY ROBINSON** 49:43

My last slide, **Slide 46**. I would just like to publicly thank the following individuals because as you can see, this has been a mass amount of research and documentation that we have had to acquire for this inquiry and so the information in this presentation has been pulled from a number of resources. And our family would like to thank these individuals for their assistance in helping us locate these documents. First and foremost, Mrs. Judith Chambers, it's because of her that we were able to zone in on that 1888 Deed of Gift that we previously showed, which started the whole lineage of that Lot of land, Lot 33-3. We would also like to thank Mrs. Margie Lloyd of the Bermuda National Trust as well as the lovely staff of the Bermuda Archives. We were there on a weekly basis and they pulled numerous and numerous files for us. We couldn't thank them enough. As well as Mrs. Nikki and Ella Jane Hollis at the Bermuda National Library, as well as Mrs. Renee Lewis who is the granddaughter of Mr. Albert Jones and she is now our neighbour.

**COUNSEL DIRK HARRISON** 51:08

Okay.

Do, let us exactly start all over, but in respect to the documents that you have made reference to, I'd like you to go to them and ask the Chair to consider to have them accepted as exhibits.

Let us start with, I know you don't have the brown paper bag, but you had made reference earlier to Mrs. Robinson, after the passing of an aunt, I would not want to call it spring cleaning was being done, this brown paper bag had been found and it contained the deed.and it contained a number of other items. Let us start there.

**MS. BRITNEY ROBINSON** 52:14

So on **Slide 7,** I showed an image of the original Deed of Gift between Mr. Jeremiah Hinson and Mr. William Brown. And we have today that actual 1888, or original I should say, Deed of Gift.

**COUNSEL DIRK HARRISON** 53:06

Chairman, what I'm proposing to do at this stage, as I indicated earlier, the document which has been referred to by the witness, Ms BRITNEY Robinson, the original document is here. I wish to have the witness identify it and I wish to have a copy certified as a true copy of the original which is present and ask that the original is returned to the witness.

**MR. WAYNE PERINCHIEF** 53:37

Yes sir, proceed.

**COUNSEL DIRK HARRISON** 54:05

Now that document that you refer to Ms. Robinson, how is it labelled? The copy, sorry.

**MS. BRITNEY ROBINSON** 54:11

The copy is labelled Exhibit A. And this is, what I had included in the packet is the typed version of this 1888 Deed. And what I have today is the hand-written version of it.

**COUNSEL DIRK HARRISON** 54:38

Thank you. So the original deed, how many pages does it comprise of?

**MRS. GENA ROBINSON** 54:55

Three (3) pages.

**COUNSEL DIRK HARRISON** 55:25

The application, Chairman, is that the Deed of Gift that is being referenced, I'd ask that it be tendered as Exhibit C, I’m sorry, BR3, I'm presenting, Chairman, the original as also a copy. I'd ask that the copy, well the original, could be examined just to ensure it is the same content that appears on the typewritten copy and then I ask that the typewritten copy is endorsed.

**END OF TRANSCRIPTION JANUARY 18 (AFTERNOON D) AT 56:21**