**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 (f)**

**(**Continued from Afternoon Session (e)

**COUNSEL DIRK HARRISON** 1:16: Now earlier you had made reference to six (6) slides, as regards Exhibit, what you have described as ***Exhibit L***.

**MS. BRITNEY ROBINSON** 1:26: Yes, Exhibit L has the 1941 - 2012 aerial photos that we were able to retrieve from The Bermuda Planning Map Viewer website. These images were superimposed on one another on **Slide 19**.

**COUNSEL DIRK HARRISON** 1:47: They comprise seven (7) slides.

**MS. BRITNEY ROBINSON** 1:50: Yes, that's correct.

**COUNSEL DIRK HARRISON** 2:50: Chair, I would just ask that the documents that are being presented and that the witness had identified ***as Exhibit L***., they represent photographs of seven (7) slides, what designation ***Exhibit L***, so I ask of the seven they could be labelled as L1, L2, L3, L4, L5, L6, L7 but I’m asking that they be made Exhibit BR14, what the witness has referred to as *Exhibit L* and ask that they be made BR14, but it constitutes seven slides.

**MR. WAYNE PERINCHIEF** 3:44: I'll sign each page

**COUNSEL DIRK HARRISON** 3:53: Chair, you could number them as you go along L,1 through 7. I would appreciate it.

 Now madam, the exhibit what you refer to as M, what is that?

**MS. BRITNEY ROBINSON** 8:14: Yes, ***Exhibit M*** as in Mom was displayed on **Slides 21 and 31** and it is the notice of the land ownership entered into the Royal Gazette newspaper dated June 10, 1946, page 12 by Bascome Smith. The back page of this exhibit begins ***Exhibit N***.

**COUNSEL DIRK HARRISON** 8:43: Just going to ask that what the witness refers to as ***Exhibit M*** which is an extract from the Royal Gazette dated June 10. An extract from the Royal Gazette dated June 10, 1946 at page 12. I'd ask that it be tendered and admitted as Exhibit BR16. I'm sorry, BR15. Just for completeness before we proceed, just refer to exhibit what is ***Exhibit N***

**MS. BRITNEY ROBINSON** 9:20: ***Exhibit N*** as in Nancy was displayed on **Slide 22** and this is a draft copy of the 1947 Conveyance between the Adelia Ann Robinson and Heman Montgomery Bascome Smith.

**COUNSEL DIRK HARRISON** 9:39: How many pages does ***Exhibit N*** comprise of, madam?

**MS. BRITNEY ROBINSON** 9:45: It has four pages, but five slides.

**COUNSEL DIRK HARRISON** 9:58: Chairman, in respect of what the witness has designated ***Exhibit N*** which comprises of four pages, witness has referred to it as a draft of a document and I'll ask that those pages be tendered and admitted as Exhibit BR16.

**MR. WAYNE PERINCHIEF** 10:33: So noted, BR16.

**COUNSEL DIRK HARRISON** 11:05: Thank you for your patience, Chairman, Commissioners, but just because of the amount of documents and supporting documents, we just want to ensure that we make the proper notation. Thank you for your patience.

**MR. WAYNE PERINCHIEF** 12:19: Consul, similarly for ***Exhibit M***, I could mark the pagers 1 through 4 if you wish.

**COUNSEL DIRK HARRISON** 12:24 Thank you, Chairman.

 I was seeking to determine if we could, we have probably another fifteen minutes to complete this exercise. And I know we would all prefer to complete it now, rather than to complete in the morning. So I just ask everyone present, support staff, witnesses, Commissioners, persons from the media and technicians just bear with us for probably another fifteen minutes so we can complete this exercise.

**MR. WAYNE PERINCHIEF** 16:32: Yes, I accept that it's logical to continue till the end, to conclusion. And now we'll continue.

**COUNSEL DIRK HARRISON** 16:45: Madam, could you just take us to the next item, item O.

**MS. BRITNEY ROBINSON** 16:50: Sure. So **Exhibit O** was demonstrated on **Slides 23 to 32** and I apologize in advance if this causes any confusion, but this is the entire case file of that 1947 Supreme Court case between Amelia Chiappa and Heman Montgomery Bascome Smith.

**COUNSEL DIRK HARRISON** 17:15: And based on my account, what you have designated as ***Exhibit O***, it comprises 20 pages. Could you have a look at this document please.

**MR. WAYNE PERINCHIEF** 17:38: Just for clarification, Consul, at ***Exhibit N***, that was original 1947 Deed. Was that to be included in the last group of documents, exhibits to be signed? We went from M and then there was one page N which I did not sign

**COUNSEL DIRK HARRISON** 18:02: N was the Notice of the purchase being a final

**MR. WAYNE PERINCHIEF** 12:19: A final draft copy from Appleby Spurling and Kempe dated June 7, 1946. An indenture.

 No, I think the page that is on the reverse side of the page that you're holding now, Chairman, if you flip the page that you have in your hand, flip it, there's a Notice that was placed in the Gazette of the purchase, that was ***Exhibit M*** and that was referred to as BR15, that was designated BR15. Now after that, the witness had made reference to **Exhibit N** but it is comprised she indicated about draft and it was four pages.

**MR. WAYNE PERINCHIEF** 19:10: Well, in that case I will sign this ultimate page

**COUNSEL DIRK HARRISON** 19:15: The witness has said four but it appears that it has come out as five pages in fact, but that is the Exhibit BR16.

**MR. WAYNE PERINCHIEF** 19:26: I will sign it and it can be added to the other exhibits.

**COUNSEL DIRK HARRISON** 19:31: Thank you. The document, Madam, that you have designated and referred to as ***Exhibit O***, excuse me, how many pages does this comprise of?

**MS. BRITNEY ROBINSON** 20:30: I count eleven pages.

**COUNSEL DIRK HARRISON** 20:39: I overheard you saying 22 slides. Is that correct?

**MS. BRITNEY ROBINSON** 20:44: Yes, that is correct..

**COUNSEL DIRK HARRISON** 20:47: I’d ask that the 22 slides which have been printed, but documents constitute 11 pages which the witness has referred to as ***Exhibit O***, the application is that they are tendered and admitted as Exhibit BR17. I’d just ask, designated as BR17, the 22 slides, I’d ask that that they could be numbered in Roman numerals, but for completeness, it may be easier if we had something to affix to them and they could be kept together for now. We'll complete that task after.

**MR. WAYNE PERINCHIEF** 21:54: So you're proposing that right now the 22 slides…

**COUNSEL DIRK HARRISON** 22:02: Which have *Exhibit O* on them.

**MR. WAYNE PERINCHIEF** 22:05: Yes. ***Exhibit O***, should be kept as one file. Is that correct

**COUNSEL DIRK HARRISON** 22:16: That is so and given a designation of Exhibit BR17t

**MR. WAYNE PERINCHIEF** 22:26: Do you wish me to sign every page?

**COUNSEL DIRK HARRISON** 22:31: I wish you to do that.

**MR. WAYNE PERINCHIEF** 22:32: And then you stamp them afterwards or..

**COUNSEL DIRK HARRISON** 22:36: The designation, yes and the New Roman numeral could be placed in order by the witness as they appear so they could be given the designation Roman numeral.

**MR. WAYNE PERINCHIEF** 22:40 Yes, I'll do that task now if you like.

**MS. BRITNEY ROBINSON** 34:26: ***Exhibit P*** was shown on **Slide 33** nd this is Heman Montgomery Bascome Smith's hand letter detailing the 1947 Supreme Court proceedings from his perspective. It is on one page, printed front and back.

**COUNSEL DIRK HARRISON** 34:45: And this is what you had, your mother, indicated that she had received from a relative of your deceased aunt in that brown paper bag.

**MS. BRITNEY ROBINSON** 34:56: That's correct. And we have the original right here in front of us as well.

**COUNSEL DIRK HARRISON** 35:00: I was going to ask you to take, a copy and an original can be handed to the Chairman for my application for it to be tendered and admitted as BR18. We just signed the copy.

**MR. WAYNE PERINCHIEF** 35:25: Noted hand letter penned by HMB Smith. Exhibit BR18

**COUNSEL DIRK HARRISON** 35:33: Thank you. The original is being shown to you as also a copy. I’d ask that the copy is endorsed to indicate that it is a certified copy of the original which has been seen.

**MR. WAYNE PERINCHIEF** 35:53: How would you want me to ? this activity? Exhibit Q..

**COUNSEL DIRK HARRISON** 35:58: It is BR18. That can be done on a copy. The original, Mrs. Robinson is watching you to see if it is defaced, Chairman.

**MS. BRITNEY ROBINSON**  37:24***: Exhibit Q*** comprises of two pages, three slides. On the back of the last page, it has the beginning of ***Exhibit R***. I demonstrated ***Exhibit Q*** on **Slide 37** and it is the 1959 Supreme Court case between the Spanish Point Boat Club and Heman Montgomery Bascome Smith.

**COUNSEL DIRK HARRISON** 38:00: Then documentary you refer to is a Statement of Claim.

**MS. BRITNEY ROBINSON** 38:03: Yes, that's correct.

**COUNSEL DIRK HARRISON** 38:10: Where did you obtain this?

**MS. BRITNEY ROBINSON** 38:12: I obtained this from the Bermuda Archives

**COUNSEL DIRK HARRISON** 38:34: Abundance of caution and I would ask that the document be exhibited as BR19.

**MR. WAYNE PERINCHIEF** 38:43: BR19, so noted.

**COUNSEL DIRK HARRISON** 40:30: At the end of the exercise, Chair, we recommend that submission of added documents will be sent to the Archives so that they could certify them also, that they are, I don't doubt the word of the Robinsons, but just to ensure that we have all the certification in place.

**MR. WAYNE PERINCHIEF** 40:57: Counsel ??

**COUNSEL DIRK HARRISON** 41:04: The one that is referred to as ***Exhibit Q***, the application is that it be tendered and admitted as Exhibit BR20. It comprises of

**MR. WAYNE PERINCHIEF** 41:14: **Exhibit Q** yes, yes. indeed

**COUNSEL DIRK HARRISON** 41:38: I’m told it’s BR19. It’s a Statement of Claim that the witness had made reference to

 We are in the middle of the end, not to worry

 This is two (2) pages. . ***Exhibit R***

**MS. BRITNEY ROBINSON** 42:37: ***Exhibit R*** was demonstrated on **Slides 38 and 39** and the beginning of ***Exhibit R*** is on the back of ***Exhibit Q*** and this demonstrates the correspondence between Windsor Development Limited and the representation for Albert Jones and Newbold Smith.

**COUNSEL DIRK HARRISON** 43:00: ***Exhibit R*** comprises of six pages.

**MS. BRITNEY ROBINSON** 43:08: ***Exhibit R*** comprises of 11 pages, 23 slides.

**COUNSEL DIRK HARRISON** 43:27: I stand corrected.

**MR. WAYNE PERINCHIEF** 43:33: Yes Counsel, I heard the correction, 11 pages.

**MS. BRITNEY ROBINSON** 43:42: We also have the original version of my grandfather Newbold Smith’s letter to Appleby, Spurling and Kempe. I'm not sure if you want that to be shown as well

**COUNSEL DIRK HARRISON** 43:54: Yes. Could you just remind me of the original document that you have there.

**MS. BRITNEY ROBINSON** 44:15: Yes, it is the original letter from my grandfather, Newbold Smith, to Appleby Spurling and Kempe in reference to Windsor Development Limited.

**COUNSEL DIRK HARRISON** 44:31: Well that’s ***Exhibit R***. I understand***.***

 I'm just going to ask you to go through the pages, confirm for me the number of pages, kindly.

 Thank you, Chairman. We are 11 pages, but 23 slides.

 For brevity, though, not taking a short cut because it would take us some time. Then, I just ask that something could be affixed to the documents to indicate that they are the number of pages once they could be numbered, so numbered so we may shorten the process.

 In respect of the BR20 which comprises 23 slides and 11 pages and the reason for the difference, the first page of what has been described as ***Exhibit R*** is the…

 I’d just ask, Chairman, that what is numbered ***Exhibit R*** by the witness, but which we have have designated BR20, we have placed on one, on that very first page of BR20, I’m just going to ask that on that first page, that notation could be made that the original of this document has been certified, just this single page that has number one on it, as having seen the original, just this page. The original hasn't been produced by the witness, as it was found, amongst the great grandfather's things, I’m just asking that the single page be certified.

**MR. WAYNE PERINCHIEF** 55:55: That would be a single page pen by HMB Smith?

**MS. BRITNEY ROBINSON** 56:05: It is penned by Newbold Smith.

**COUNSEL DIRK HARRISON** 56:10: But it's unsigned but it is was found amongst the papers.

**END OF TRANSCRIPTION JANUARY 18 (AFTERNOON SESSION f) AT 56:13**