

**A COMMISSION OF INQUIRY
INTO HISTORIC LAND LOSSES
IN BERMUDA**

**CHAIRMAN
JUSTICE NORMA WADE-MILLER**

**COUNSEL
MR. DIRK HARRISON**

**COMMISSIONERS
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MS. MAXINE BINNS
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MS. FREDERICA FORTH
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TRANSCRIPT OF PROCEEDINGS

**LOCATION: WARWICK CAMP
FRIDAY, DECEMBER 4, 2020
MORNING SESSION (a)**

JUSTICE NORMA WADE-MILLER	0:24:	Good morning. Counsel, you may begin please.
COUNSEL DIRK HARRISON	0:26:	May it please you, Madam Chair and Commissioners, the first matter that we have this morning, and before I proceed to it, I'd like to invite Mr. Kim White. He could introduce the parties as he appears with regards to this matter. I will allow him to do the introductions.
MR. KIM WHITE	1:01:	Madam Chair, I'm here on behalf of Cox Hallett Wilkinson Limited. Sir John Swan is here and Nicholas Swan.
JUSTICE NORMA WADE-MILLER	1:12:	Thank you. There are two matters before us this morning, well more than two (2), but in terms of the matters that you have just mentioned, and there are two (2) matters of Adverse Notice that were sent and responses were made. And so could we deal with the John Swan matter first, Sir John Swan, and then we'll deal with your matter

COUNSEL DIRK HARRISON 1:38: Certainly Madam. Madam Chair, in respect of matter before the Commission, evidence had been led on behalf of a claimant. The claimant had indicated by way of his evidence certain facts which seek to, which cause us to formally serve Adverse Notice on Sir John Swan. Counsel Mr. Kim White is here in that regard. It was thought prudent based on what had been said by the witness that an opportunity be given for Sir John Swan to appear through his Counsel with a view to have an opportunity to put questions, if so desired, to the witness. The relevant documentation which touch or concern what has been said by the witness, the transcripts, all statements and all documentation, if they have not yet been provided and served upon Counsel, certainly, they certainly will be done today. As far as I'm aware, all things had been prepared and they are to be served if they have not been done so already. We have no objection to an application for standing and certainly if one is made at this time, having had the Adverse Notice served, there is no objection on all parts as permission Counsel to any such application.

JUSTICE NORMA WADE-MILLER 3:40: Thank you. Mr. Kim Swan. Will you be speaking on behalf of Sir John Swan?

MR. KIM WHITE 3:49: I look just like the Minister.

JUSTICE NORMA WADE-MILLER 3:56: So, Mr. White, you may take off your mask when you speak. Sir John, if you wish to speak as well, you may take off your mask. I don't believe your son Nicholas will be speaking. Just here giving support to dad.

MR. KIM WHITE 4:09: Madam, in the interest of brevity of time, our Application at Cox Hallett Wilkinson Limited is premised on the same grounds that Counsel has just indicated to, so I speak for both. We're seeking standing for Sir John Swan and for Cox Hallett Wilkinson Limited to receive, to be able to question witnesses, to receive transcripts, documents and to submit evidence, if saw fit to do so, to the Commission.

JUSTICE NORMA WADE-MILLER 4:39: What happens, Mr. Swan, in these instances when we feel reputational damage may be caused to someone, that's when we issue the Adverse Notice, because we think it's only fair and in the interest of justice that people, individuals be given an opportunity to speak.

MR. KIM WHITE 4:56: And we are grateful for that, Madam.

JUSTICE NORMA WADE-MILLER 4:57: And that's what we did in terms of issuing the Adverse Notice. So, as Counsel has indicated, there will be no opposition to the application and I'll make an Order in terms of the respective applications. So, in terms of the Sir John Swan matter, the Commission's Order will be, and I'm the first among equals, so I speak, on behalf of all the Commissioners. The Order will be upon hearing Counsel for the Applicant and the Respondent, whose Counsel is Mr. Harrison. It is hereby ordered as follows: That Sir John Swan is granted standing to be heard by the Commission of Inquiry (COI), COI, that's for short. The COI shall serve Sir John as soon as possible the evidence on which the COI wishes to rely.
And then Sir John will serve on the Commission of Inquiry any evidence on which he wishes to rely. I don't know, if we wish to put a time constraints on this, Mr. White, in terms of the timeline. I know that a Google Drive has been set up which you have been given access to for...

MR. KIM WHITE 6:31: You're talking to the last digital dinosaur, Madam.

JUSTICE NORMA WADE-MILLER 6:34: Sorry,

MR. KIM WHITE 6:35: You're talking to the last digital dinosaur in myself. A Google Drive? I'm sure I'll find out What that is.

JUSTICE NORMA WADE-MILLER 6:44: You need hard copies. We need some more time to provide you with the hard copies and so perhaps Counsel you can find out from Mrs. Dyer-Tucker how long it will take for us to have hard copies. It's quite a bit of material and I think in the interest of justice, you

should be served with everything.

MR. KIM WHITE 7:05: Will that include the transcripts of the claimants' evidence?

JUSTICE NORMA WADE-MILLER 7:08: The transcripts.

MR. KIM WHITE 7:09: Thank you, Madam.

COUNSEL DIRK HARRISON 7:11: Madam Chair, Tuesday of next week, we propose to have the hard copies prepared.

JUSTICE NORMA WADE-MILLER 7:17: By Tuesday of next week? So certainly by Tuesday of next week and once you have had an opportunity to review it, then perhaps in ten (10) days or fourteen (14) days, Mr. White, you will...

MR. KIM WHITE 7:31: We will be well into Christmas at that point, Madam.

JUSTICE NORMA WADE-MILLER 7:36: Okay, shall we say 21?

MR. KIM WHITE 7:39: 21, well, that's...

JUSTICE NORMA WADE-MILLER 7:41: That's New Year's.

MR. KIM WHITE 7:42: I hope so.

JUSTICE NORMA WADE-MILLER 7:43: Well Counsel, assist me please in in terms of the time frame, because once they serve their evidence, we have to organize to have the Browns return. So we will have to serve it on the Browns.

MR. KIM WHITE 8:03: That's right. So what you're suggesting, Madam, once we have the hard copies, we will have up to 21 days to preserve any evidence on that we wish to rely on. Yes. Okay. And if we don't wish to go any further, we'll let you know.

JUSTICE NORMA WADE-MILLER 8:18: I'll make the same order in respect of each of the two.

MR. KIM WHITE 8:22: Excellent, thank you Madam.

COUNSEL DIRK HARRISON 8:24: Just to indicate, Madam Chair, just for clarity, Counsel will require one set of documents or does he require a set for himself and a set for Sir John Swan?

MR. KIM WHITE 8:34: I think it would be best to have two (2) sets.

JUSTICE NORMA WADE-MILLER 8:41: Thank you. And in terms of perfecting the Order for the Commission's signature, should I say Commission, Counsel that I'll give ten (10) days that between you and Mr. White you'll be able to perfect an Order for my signature?

COUNSEL DIRK HARRISON 8:58: Certainly, Madam Chair

MR. KIM WHITE 8:59: Thank you.

JUSTICE NORMA WADE-MILLER 9:00: That's adequate I would think.

MR. KIM WHITE 9:02: I was suggesting 10 minutes, but that's fine. Senior Counsel...

JUSTICE NORMA WADE-MILLER 9:07: So I think that will be the end of these proceedings. Anything else I've omitted, Counsel?

COUNSEL DIRK HARRISON 9:13: Nothing, Madam Chair. Just to indicate, you did indicate that in respect of the other matter, the similar Order's being made.

JUSTICE NORMA WADE-MILLER 9:21: Indeed, in respect of each.

COUNSEL DIRK HARRISON 9:23: I would just ask that just for the record, I would just indicate what that matter is.

JUSTICE NORMA WADE-MILLER 9:31: Yes, will you do that for me please?

COUNSEL DIRK HARRISON 9:35: In respect of the said matter in respect of a claim by the Browns, the firm of Wilkinson Hallett & Company.

MR. KIM WHITE 9:49: Cox Hallett Wilkinson Limited. As reported in the paper, we don't know what they're actually called these days.

COUNSEL DIRK HARRISON 9:55: Thank you for the correction and I'd ask that a similar Order be made with regard to the submission by the Browns with, regarding the connection if any and their submission which touches on concerns and ask that a similar order be made, Madam Chair.

JUSTICE NORMA WADE-MILLER 10:16: So ordered Counsel. Thank you. And thank you for coming, Sir John Swan and young Nicholas.

MR. KIM WHITE 10:27: Thank you.

JUSTICE NORMA WADE-MILLER 10:45 Counsel, I do not believe we need to rise.

COUNSEL DIRK HARRISON 10:52: No, Madam Chair.

JUSTICE NORMA WADE-MILLER 10:54: If we could just move into the other matter.

COUNSEL DIRK HARRISON 10:55: I'll just ask for two minutes. I just need to have a short word with Mr. Adams, but I'd just ask that we could remain....

JUSTICE NORMA WADE-MILLER 11:04. He could just sit right there.

COUNSEL DIRK HARRISON 13:39: Madam Chair I'd ask in respect of the matter of an Application No. COIHLL 2019 00, an Application by, signed by one Mr. James Parris, I would like to ask that witness Mr. Adams is sworn or affirmed to give evidence in regard to this claim.

MR. CARLTON ADAMS 14:33: I, Carlton Adams, do solemnly swear that I will tell the truth, the whole truth and nothing but the truth.

COUNSEL DIRK HARRISON 14:53: Could you please state your name, sir?

MR. CARLTON ADAMS 14:55: My name is Carlton Adams

COUNSEL DIRK HARRISON 14:59: You are a retired Assistant Commissioner of Police?.

MR. CARLTON ADAMS 15:04: Yes, my Lord.

COUNSEL DIRK HARRISON 15:05: You are retired from what organization?

MR. CARLTON ADAMS 15:10: The Bermuda Police Service.

COUNSEL DIRK HARRISON 15:12: Thank you. You are presently providing some guidance to the Commission of Inquiry into Historic Loss of Land in Bermuda?

MR. CARLTON ADAMS 15:41: Yes, my Lord.

COUNSEL DIRK HARRISON 15:42: And the guidance you provide is in what respect?

MR. CARLTON ADAMS 15:46: The investigative services into various submissions made to the Commission.

COUNSEL DIRK HARRISON 15:56: Thank you. Now, are you familiar with a claim which had been submitted regarding

Application No. COIHLL20 1900, submitted on the 20th May, 2020?

MR. CARLTON ADAMS 16:19: Yes, My Lord.

COUNSEL DIRK HARRISON 16:20: And you became aware of this submission. How did you become aware of this?

MR. CARLTON ADAMS 16:28: During my attachment to the Commission as the Investigator.

COUNSEL DIRK HARRISON 16:35: Thank you. In respect of this Application, the Application in addition to the supporting documents, are you in possession of those documents, sir?

MR. CARLTON ADAMS 16:55: Yes, my Lord?

COUNSEL DIRK HARRISON 16:58: And in respect of these documents, how did you obtain them?

MR. CARLTON ADAMS 17:05: These were handed to me by yourself, sir.

COUNSEL DIRK HARRISON 17:11: Thank you. And have you perused the documents?

MR. CARLTON ADAMS 17:18: I have, my Lord.

COUNSEL DIRK HARRISON 17:19: In respect of the documents, were the documents prepared by one of the Investigators under your charge?

MR. CARLTON ADAMS 17:28: Yes ,my Lord.

COUNSEL DIRK HARRISON 17:29: Who was that investigator?

MR. CARLTON ADAMS 17:31: Ms. Judith Chambers.

COUNSEL DIRK HARRISON 17:36: Is it reasonably practical for her to be here today?

MR. CARLTON ADAMS 17:38: It is not, my Lord.

COUNSEL DIRK HARRISON 17:40: And you are here to provide the evidence in that regard?

MR. CARLTON ADAMS 17:43: Yes, my Lord.

COUNSEL DIRK HARRISON 17:40: Now the claim based on what has been submitted, what has been given to you, and what is in your possession now, the claim is from whom?

MR. CARLTON ADAMS 18:09: Mr. James Parris.

COUNSEL DIRK HARRISON 18:13: Do you have a statement that was submitted in

respect of a report just taken from him?

- MR. CARLTON ADAMS** 18:22: Yes, my Lord.
- COUNSEL DIRK HARRISON** 18:29: And that claim is dated the 25th May, 2020?
- MR. CARLTON ADAMS** 18:35: Yes, my Lord.
- COUNSEL DIRK HARRISON** 18:50: I'd ask that the document which comprises a submission of a claim to the Commission of Inquiry, signed by Mr. James Paris and which is in the possession of Chief Investigator Mr. Carlton Adams, I'd ask that it be tendered and admitted as Exhibit CA1, Madam Chair.
- JUSTICE NORMA WADE-MILLER** 19:31: Thank you Counsel. The document, which comprises a claim signed by Mr. James Parris is hereby tendered and entered as Exhibit CA1. Does that document have a date, Counsel or Mr. Adams?
- COUNSEL DIRK HARRISON** 19:55: It is dated the 20th May, 2020.
- JUSTICE NORMA WADE-MILLER** 20:04: Very well, thank you.
- COUNSEL DIRK HARRISON** 20:06: Could I ask you kindly to read that document for us?
- MR. CARLTON ADAMS** 20:10: Yes. It begins with what's described as a Synopsis. Yearly Mr. Parris, a fisherman has paid for moorings at the Devonshire Dock that is adjacent to a property named Salt Haven. Mr. Parris pays \$181.00 a year per mooring, totalling \$362 to the Ministry of Public Works for two (2) moorings. The owner of Salt Haven has claimed that the dock in question belongs to her and has prevented the use of the Government owned dock to the general public, whilst also posting private dock signage. This action has prevented Mr. Parris and others from gaining access to the moorings. She has prevented access to his moorings by securing a boat to the dock, which remained attached to the dock continuously - 24 hours per day. Mr. Parris indicated that the moorings in question have not been assessed for many years. Moreover, the owner of the Salt Haven property has left no room for emergency access to the dock as required by the Police Service many years ago. Mr. Parris indicated that there are several others who have not had access to their moorings as well. Mr. Parris had reached out to the former owners of the property

who confirmed the dock in question was not a part of the sale of the Salt Haven property. Mr. Parris states that the Government placed a life-saving ring on the dock many years ago, which would not have been the case if the dock were privately owned. Mr. Parris has asked that the Commission look into the matter as it affects his moorings at the western end of the dock. Furthermore, he asserts that the actions of the owner of the Salt Haven property affects the dock by other fishermen and members of the community. Signed James Parris.

- COUNSEL DIRK HARRISON** 22:04: Thank you, sir. Now in support of the submission made by the applicant, are there any documents attached to the file, specifically any plans or maps?
- MR. CARLTON ADAMS** 22:22: There are, my Lord.
- COUNSEL DIRK HARRISON** 24:01: Now what is that, sir? What are the documents just handed to you?
- MR. CARLTON ADAMS** 24:09: This appears to be a plot plan of Salt Haven and the adjacent properties.
- COUNSEL DIRK HARRISON** 24:18: And is that one of the documents which were just handed to you?
- MR. CARLTON ADAMS** 24:21: Yes, my Lord.
- COUNSEL DIRK HARRISON** 24:23: I would ask that that plan be tendered and admitted as Exhibit CA2, Madam Chair.
- JUSTICE NORMA WADE-MILLER** 24:40: Is there any particular identifier mark on the plan, just for the record?
- MR. CARLTON ADAMS** 24:45: Yes, my Lord. There is. The premises labelled 'Salt Haven' is in fact the premises in question and the public wharf and the access road can be seen on the right hand side, as you look at your map, and it's labelled 'Public Wharf'. The premises Salt Haven is likewise labelled which is immediately next to it.
- JUSTICE NORMA WADE-MILLER** 25:27: So shall we put it as plan tendered and admitted shows Salt Haven and Public Dock and access road tendered and entered as Exhibit CA2.

COUNSEL DIRK HARRISON 25:50: The document is now being projected on the screen now, sir, So what do you have there?

MR. CARLTON ADAMS 25:19: This is referred to as a Schedule at the top of Lot B and this is....

COUNSEL DIRK HARRISON 27:18: Now what do you have there, sir?

MR. CARLTON ADAMS 27:20: This is a document described as a Schedule. There are two entries here, one is called Lot B and the other Lot A.

COUNSEL DIRK HARRISON 27:30: How many pages does that document comprise of?

MR. CARLTON ADAMS 27:33: One page.

COUNSEL DIRK HARRISON 27:37: I would ask that that document be tendered as Exhibit CA3, Madam Chair.

JUSTICE NORMA WADE-MILLER 27:48: Thank you.

COUNSEL DIRK HARRISON 27:59: What next do you have there, sir?

MR. CARLTON ADAMS 28:01: This appears to be a receipt from the Department of Public Lands and Buildings and the receipt is for \$18.00.

COUNSEL DIRK HARRISON 28:24: Could you just repeat for Madam Chair the receipt, who the receipt is from or where it was generated?

MR. CARLTON ADAMS 28:31: The Department of Public Lands and Buildings from the Ministry of Government Estates and Information Services.

COUNSEL DIRK HARRISON 28:42: I would ask that that document be tendered and admitted as Exhibit CA4.

JUSTICE NORMA WADE-MILLER 28:51: It is entered as Exhibit CA4.

COUNSEL DIRK HARRISON 29:00: What next do you have there, sir?

MR. CARLTON ADAMS 29:03: A document here with what appears to be a sign and the name Salt Haven, underneath of which is the word 'Private Dock', underneath of which is the words "No Trespassing".

COUNSEL DIRK HARRISON 29:26: And your understanding is, what does that represent?

MR. CARLTON ADAMS 29:30: This represents the signage that is affixed to the side of the house called Salt Haven at Devonshire Dock.

COUNSEL DIRK HARRISON 29:41: And that is a photograph taken of the said signage?

MR. CARLTON ADAMS 29:47: It is, my Lord.

COUNSEL DIRK HARRISON 29:48: I would ask that that be tendered and admitted as Exhibit CA5. The document which I'm proposing to ask Madam Chair to enter as an Exhibit CA5. It says Report and Summary of the Evidence. How many pages does the report comprise of?

JUSTICE NORMA WADE-MILLER 30:11: Report and Summary?

COUNSEL DIRK HARRISON 30:14: As projected on the screen, Madam Chair.

JUSTICE NORMA WADE-MILLER 30:19: So that is our CA5.

COUNSEL DIRK HARRISON 30:21: Yes Madam.

JUSTICE NORMA WADE-MILLER 30:22: Thank you. I have Salt Haven Private Dock – No Trespassing Sign, which represents no trespassing, a signage on the side of the house called Salt Haven. Thank you. I have entered it as Exhibit CA5.

COUNSEL DIRK HARRISON 31:30: Thank you. Now what do you have there, sir?

MR. CARLTON ADAMS 31:34: This is described as an Introduction and Summary of Claim.

COUNSEL DIRK HARRISON 31:42: Thank you. And your understanding is that all of these documents formed a part of the file which has been prepared by the Investigator, Ms. Chambers.

MR. CARLTON ADAMS 31:56: Yes, my Lord.

COUNSEL DIRK HARRISON 32:01: Now, in respect of that document which you refer to as a Summary, could we kindly ask that it be tendered and entered as Exhibit CA6. If the application is so given, I would ask that that document be read into evidence.

JUSTICE NORMA WADE-MILLER 32:24: Document Introduction Summary entered as Exhibit CA6

COUNSEL DIRK HARRISON 32:51: You can just read that document for us please.

MR. CARLTON ADAMS 32:54: This begins, it's called Introduction and Summary of Claim by an Application dated May 20, 2020. (Application No COIHL201900) Messrs. James Parris, Roger Parris and Noel Parris submitted an Application to the Commission of Inquiry. The synopsis of the Application which was signed by Mr. James Parris solely reads as follows: Mr. Parris, a fisherman, has paid for moorings at Devonshire Dock that is adjacent to a property named Salt Haven. Mr. Parris pays \$181.00 a year per mooring; totaling \$362 to the Ministry of Public Works for two (2) moorings. The owner of Salt Haven has claimed that the dock in question belongs to her and has prevented the use of the Government-owned dock to the general public while also posting private dock signage. These actions have prevented Mr. Parris and others from gaining access to their moorings. She has prevented access to his moorings by securing a boat to the dock which remains attached to the dock continuously 24 hours per day, Mr. Parris indicated the moorings in question have not been assessed for many years. Moreover, the owner of the Salt Haven property has left no room for emergency access to the dock as required by the Police Service many years ago. Mr. Parris indicated that there are several others who have not had access to their moorings as well. Mr. Parris has reached out to the former owners of the property who confirmed the dock in question was not a part of the sale of the Salt Haven property. Mr. Parris states that the Government placed a life-saving ring on the dock many years ago which would not have been the case if the dock were privately owned. Mr. Parris has asked the Commission to look into this as it affects his moorings at the western end of the dock. Furthermore, he asserts that the actions of the owner of the Salt Haven property affects the Dock by other fishermen and members of the community. The documents submitted consist of

- (1)** A copy of the Schedule, i.e. legal description of the property Salt Haven and an adjoining parcel of land marked COIHILL2019001 JP002.
- (2)** Plot plan of Salt Haven and surrounding

properties based on a survey of T. Godet dated 31st December 1976, marked COIHLL2019001 JP 003 and

(3) A Ministry of Public Works receipt in the amount of \$18.00 for photocopies marked COIHLL2019001 JP004. Although the Application was submitted in the names of three (3) Messrs. Parris, all contact has been with Mr. James Parris, by telephone only. Mr. Parris, a fisherman of many years, declined invitation to meet on the site of Devonshire Dock or in office in order to give a formal statement. He has indicated that while several people, including other fishermen, those who frequent Devonshire Dock are aware of his inquiries into ownership of the dock due to safety concerns, he would prefer to stay in the background as far as possible. The objective expressed by Mr. Parris is to once again feel free to use the dock. For ease of reference, henceforth, the dock in question will be referred to as the western dock in order to distinguish it from the greater area of Devonshire Dock, which includes a larger eastern dock.

- COUNSEL DIRK HARRISON** 36:59: Thank you. Now what other documents do you have there, sir?
- MR. CARLTON ADAMS** 37:07: I have have a further document. It's entitled 'Further information' received from Mr. Parris'.
- COUNSEL DIRK HARRISON** 37:19: And that document is how many pages, sir?
- MR. CARLTON ADAMS** 37:24: Two (2) pages.
- COUNSEL DIRK HARRISON** 37:26: And just to be clear, none of these documents are what? This CA1 was signed but the other documents are unsigned. Is that correct?
- MR. CARLTON ADAMS** 37:36: That's correct.
- COUNSEL DIRK HARRISON** 37:37: With respect to the further information received from Mr. Parris, how many pages does that comprise of?
- MR. CARLTON ADAMS** 37:45: Two (2) pages.
- COUNSEL DIRK HARRISON** 37:47: And I ask that those two pages, Madam Chair, be tendered and entered as CA7.

JUSTICE NORMA WADE-MILLER 38:04: Very well. Additional two (2) pages entered as Exhibit CA7.

COUNSEL DIRK HARRISON 38:09: Thank you. Please go ahead Mr. Adams, please read.

MR. CARLTON ADAMS 38:12: 'Further information received from Mr. Parris'. During various conversations held with Mr. Parris, the following was stated by him. In years past, he along with other fishermen had free use of the entire Devonshire Dock. He further stated that evidence of his use was contained in the book *Shark Bait* authored by Mr. Sean O'Connell whom he described as a math teacher at the Bermuda College, which contains several photographs of him bringing in sharks. It is only during the ownership of the current owner, whose name he did not know, that a sign had been erected claiming the western dock as private property; although he could not recall the precise wording on the sign. The boat formerly tied up at the western dock which prevented access by other boats burned at about 3am on the morning of the 2nd August, 2020. He advised the Police had attended the scene but he had no additional details to provide and one expressed reason for his reluctance to visit the western dock was his concern that he might be falsely accused of involvement in the burning of this boat. In an attempt to resolve the issue, he has visited the Land Title Registry Office and also spoken with Mr. Conway of the Department of Public Lands and Buildings who advised him that the western dock is a public one. He has also been told that the owner has indicated that she has paperwork to prove that she owns the western dock, although he is not aware that any such paperwork has ever been provided. During his most recent telephone call in October Mr. Parris suggested that this be followed up with Mr. Conway. During the conversation with Minister Roban at a fisheries meeting, date unknown, Mr. Parris says he was told that the western dock was ceded to the Government years ago. During an October 2020 telephone conversation, Mr. Parris stated that there had been some activity at the western dock in recent weeks and he therefore wondered if the position taken by the owners of Salt Haven may have altered.

This continues research conducted and evidence gathered. The first step was to establish the identity of the current owners of Salt Haven. Initial research identified a Ms. Debbie DeSilva as being associated with the property and the current Parliamentary Register confirms Ms. DeSilva's address is being Salt Haven, 21 North Shore Road, Devonshire DV05.

- COUNSEL DIRK HARRISON** 40:50: I just pause there, Madam Chair, I'd just ask that at this stage, I'd ask that through Junior Counsel, that formal Adverse Notice is given to Ms. Debbie DeSilva. And if required, and as the evidence unfolds, we hear of any other person who was jointly, that those persons would indicate if they wish to have standing and if they wish to be heard in respect of this matter.
- JUSTICE NORMA WADE-MILLER** 41:28: And the name of the lady?
- COUNSEL DIRK HARRISON** 41:30: I have it as Ms. Debbie DeSilva as it appears on the screen right now. Yes, that's correct, Madam Chair.
- JUSTICE NORMA WADE-MILLER** 41:41: I've made an Order in terms of the request that the Adverse Notice be sent to Ms. Debbie DeSilva
- COUNSEL DIRK HARRISON** 41:50: And the address appears on your screen, Madam Chair.
- JUSTICE NORMA WADE-MILLER** 42:26: Very well. I'll just read through the address so that it can be on the record. So it's being sent to Ms. Debbie DeSilva at Salt Haven, 21 North Shore Road, Devonshire DV 05. Thank you.
- COUNSEL DIRK HARRISON** 42:32: Thank you, Madam Chair. Please continue, Mr. Adams
- MR. CARLTON ADAMS** 42:51: 2. A copy of a Transfer Notice dated 15th October, 2009 was obtained from the Land Title Registry Office. The Transfer Notice records this sale by Conveyance of Salt Haven together with an adjoining property on September 30, 2009. The *Transferor/Vendor* listed as Ruth Ann Winnifred Dill Outerbridge and the *Transferees/Purchasers* listed are Jairzinho Jerome Romero Robinson and Deborah Naomi DeSilva.

COUNSEL DIRK HARRISON 43:26: I'll just pause there. Could I just ask that, I think I was using the proper Christian name, maybe Deborah, I think the name that appears above as Debbie may just have been a shortened version of the Christian name. Could I kindly ask that we use the names of the purchasers, Madam Chair, I ask for that amendment. Properly speaking, it ought to be served on the transferees/ purchasers as appears in this report, Madam.

JUSTICE NORMA WADE-MILLER 44:04: And it's Deborah?

COUNSEL DIRK HARRISON 44:05: That is so, Madam Chair.

JUSTICE NORMA WADE-MILLER 44:06: Thank you. So, Mr. Junior Counsel, you can make that note accordingly, please.

MR. BRUCE SWAN 44:19: Yes Madam Chair, For the avoidance of doubt, should it be sent to them jointly or should it be sent individually?

JUSTICE NORMA WADE-MILLER 44:39: Sorry? Sorry?

MR. BRUCE SWAN 44:35: Should the Adverse Notice be sent to them jointly or individually?

COUNSEL DIRK HARRISON 44:41: Jointly is sufficient, Madam Chair. But it will be sent to, at the listed address that is stated in paragraph 1.

JUSTICE NORMA WADE-MILLER 44:54: But usually we try to serve it personally. Is that correct?

MR. BRUCE SWAN 45:03: That's correct, yes, Madam Chair.

JUSTICE NORMA WADE-MILLER 45:06: And so we will try that. If in fact that doesn't yield success, we will endeavor to locate them.

COUNSEL DIRK HARRISON 45:25: May the witness continue reading the document, Madam Chair? Continue at the third paragraph.

MR. CARLTON ADAMS 45:31: Inquiries remain at the Land Title Registry Office as to whether Devonshire Dock was registered as Government property, or at all, and the reply was that it was not registered. The Land Title Registry has advised that any further queries if needed as to the deeds possibly held by Government ought to be directed to the Department of Lands and Buildings. A copy of the Transfer Notice together with its attachments, scheduled deed plan is

attached to Appendix 1. The Schedule describes Salt Haven as being Lot B on the plan and of particular relevance is that it describes the property as being bounded easterly by a right-of-way or roadway, leading in a northerly direction from the North Shore public road to the Public Wharf at Devonshire Dock. The Schedule therefore clearly demonstrates that the right-of-way or roadway leading to the public walk is outside of the bounds of the Salt Haven property and was not included in the property conveyed. The deed plan shows Salt Haven delineated and outlined in red and it is evident that the property does not include either the roadway leading to the western dock or the western dock itself, which is identified on the plan as public wharf. The plan therefore also clearly demonstrates that the right-of-way or roadway leading to the public wharf is outside the bounds of the Salt Haven property and was not included in the property conveyed. The 'Bermuda National Trust' book, *Bermuda Architectural Heritage series, Devonshire* was searched and references to Salt Haven and Devonshire Dock found on the same pages. Although the text does not provide evidence as to whether or not the western dock is public, it could be said that photos are suggestive of the dock being a public one. Copies of relevant pages are found at Appendix 2. As research found that Salt Haven was a listed building, inquiries were made with the Department of Planning in order to ascertain how the property was described when listed. Copies of relevant pages obtained from the said Department are found at Appendix 3 and it is evident that there is no mention of the western dock as forming part of the property.

On 4th October, 2020, the Investigator, accompanied by fellow Investigator Leyoni Junos, paid a site visit to Devonshire Dock primarily to view and photograph the sign affixed to Salt Haven. Conversation was had with the men congregated at Devonshire Dock in the area leading to the eastern dock. A particular note is that one who said that he was 60 years old recalled using the western dock when he was a boy and indicated that it was widely and publicly used at that time. Another man was emphatic that even if the western dock had been public at one time, it was now private, and formed a part of Salt Haven, although he had no knowledge as to how or when such privatization would have occurred.

Although all evidence pointed to the western dock being public, it was decided prudent to make contact with Mrs. Ruth Ann Outerbridge, the previous owner of Salt Haven. On 9th October, 2020 the Investigator met with Mrs. Outerbridge and a witness statement taken. A copy of the final statement, signed and dated 28th October 2020, is attached to as Appendix 4 as can be seen. Mrs. Outerbridge's statement confirms that the western dock is public and was not included in 2009 sale of Salt Haven. Based on Mrs. Outerbridge's statement that she had acquired Salt Haven by gift, search was carried out for details of this transfer and records at the Land Title Registry Office show that this transfer of property took place on 27th March, 1978. The First Schedule to the deed of Voluntary Conveyance describes the eastern boundary of Salt Haven in the same manner as in the 2009 Conveyance to the prime owners and therefore clearly shows that the right-of-way or roadway leading to the public wharf is outside of the bounds of the Salt Haven property and not included in the property conveyed to Mrs. Outerbridge.

- COUNSEL DIRK HARRISON** 49:49: Please proceed. The conclusion.
- MR. CARLTON ADAMS** 50:02: I beg your pardon. Conclusion. Where are we, sir?
- COUNSEL DIRK HARRISON** 50:04: Maybe on the third page. You're not seeing that page?
- MR. CARLTON ADAMS** 50:33 No sir, I don't.
- COUNSEL DIRK HARRISON** 50:35. Well let's move onto the other documents. Firstly, reference was made in the Exhibit CA7 to a Devonshire Magazine. Do you have that there sir?
- MR. CARLTON ADAMS** 50:52: I do, sir.
- COUNSEL DIRK HARRISON** 50:53: How many pages does it comprise of?
- MR. CARLTON ADAMS** 51:02: Appears to be two (2) pages.
- COUNSEL DIRK HARRISON** 51:06: I just ask that that document which is projected on the screen which is referred to as Devonshire Dock reference was made to it in CA7 as being found in Appendix 2, I am just asking that that document be tendered and entered as Exhibit CA8.

JUSTICE NORMA WADE-MILLER 51:30: It is entered and admitted, entitled *Bermuda Architectural Heritage Series*.

COUNSEL DIRK HARRISON 51:42: Thank you. Now, Mr. Adams you also mention that there is a signed statement of Mrs. Outerbridge. Do you have that there with you?

MR. CARLTON ADAMS 52:05: I do, sir.

COUNSEL DIRK HARRISON 52:06: How many pages does it comprise of?

MR. CARLTON ADAMS 52:07: Two (2). It is dated the 28th day of October, 2020.

COUNSEL DIRK HARRISON 52:20: And it is signed, sir?

MR. CARLTON ADAMS 52:21: It is, sir.

COUNSEL DIRK HARRISON 52:23: I ask that that document respectfully, Madam Chair, be tendered and admitted as Exhibit CA9 and I ask the witness to read it if the Application is granted.

JUSTICE NORMA WADE-MILLER 52:33: And it is called, assist me please Counsel, it is a signed statement of?

COUNSEL DIRK HARRISON 52:36: It is from Ruth Ann Winifred Dill Outerbridge. It is presently projected on the screen for ease of reference Madam, Chair..

JUSTICE NORMA WADE-MILLER 52:51: Okay. Winifred Dill Outerbridge...

COUNSEL DIRK HARRISON 53:09: Could I just ask you just to scroll to the top of the document where the cell phone is listed?

JUSTICE NORMA WADE-MILLER 53:15: What I am writing for the ? is 'This is a Signed Statement from Ruth Ann Winifred Dill Outerbridge of 65 Middle Road entered and admitted as Exhibit CA9'.

COUNSEL DIRK HARRISON 53:11: May I ask you to read that statement for me, sir?

MR. CARLTON ADAMS 53:38: This is the statement of Ruth Ann Winifred Dill Outerbridge. My name is Ruth Ann Winifred Dill Outerbridge I am the former owner of the property known as Salt Haven in Devonshire. I believe it was in 1977 that I acquired the property. It was gifted to me by my great aunt Ruth Dill Crockett and I owned it from then until it was sold to Deborah DeSilva and her son Jairzinho Robinson. I lived at the property from 1979 to 1985 and from then it was rented out

until we sold it. During his lifetime, my great grandfather, Colonel Thomas Dill, owned Salt Haven, Newbold Place, Sunlit Port and Seabright all located on North Shore Road surrounding the Devonshire Dock Bay and Docks which he also owned. At some point during his lifetime, it is believed in 1918 or so, a wall was built to separate the dock and Newbold Place and I believe it was around that time he gave the dock now known as Devonshire Dock to the Government for public use. He had noticed that there was nowhere along the North Shore for fishermen to keep their boats and sell their fish, etc.

During the years I lived at Salt Haven, both the little dock next to the Salt Haven and the large dock were very well used and both fishermen and people waiting for the boats to come in would use it, among others, sightseers, swimmers, etc. Our kitchen window opened onto the dock and we would chat through the window with the fishermen. My husband remembers that on more than one occasion, we would have an extension cord passed through the window to plug in so that fishermen could have light when they came in after dark with their catch. There was also a public dock to the west of Salt Haven and I remember that we would have children run across the rocks in front of our house to reach the small dock. This eventually got a bit much and we put something up to discourage it, but never blocked access to the little dock itself which could be accessed from the road. It was a wonderful community of although from time to time there were incidents, but I never had a problem with anybody in the area. Never had any break-ins. I remember even coming home to find shark hash on my doorstep. At one point years ago, I received the data saying that my land tax had been increased in order to include the small dock. Once I was able to prove that the dock was not part of our property, but was in fact owned by the Government, the matter was dropped.

When Salt Haven was sold there was an agent involved Caldwell Banker, I have never met the purchasers myself, although my husband has. It is very clear from the deeds that the property sold did not include the little dock. Last October

2019, I was driving past the dock and saw the sign saying that the small dock was private and owned by Salt Haven. I was puzzled, surprised and dismayed. I later discussed it with my friend Roger Parris and his uncle, Mr. Jimmy Parris, who is one of the fishermen I knew when I was living in Salt Haven. Mr. Jimmy Parris used the dock and he kept his boat in the bay for decades. None of us could understand how the current owner could come to the conclusion that the dock was part of the house. The drawing attached to the deeds clearly shows it as public property.

- COUNSEL DIRK HARRISON** 57:24: And the statement is signed?
- MR. CARLTON ADAMS** 57:28: It is, my Lord.
- COUNSEL DIRK HARRISON** 57:30: Thank you. Do you have anything else there that was provided to you with the file?
- MR. CARLTON ADAMS** 57:40: This appears to be a document described as "Listed Building Record Sheet".
- COUNSEL DIRK HARRISON** 57:52: And how many pages is it?
- MR. CARLTON ADAMS** 57:54: One (1) page, my Lord.
- COUNSEL DIRK HARRISON** 58:03: And I ask that document be tendered and admitted, I crave indulgence, I believe early evidence.
- JUSTICE NORMA WADE-MILLER** 58:13: Do we call it Listed Building Record Sheet?
- COUNSEL DIRK HARRISON** 58:17: We would, Madam Chair.

