

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

**CHAIRMAN
JUSTICE NORMA WADE-MILLER**

**COUNSEL
MR. DIRK HARRISON**

**COMMISSIONERS
MR. WAYNE PERINCHIEF
MS. MAXINE BINNS
MR. QUINTON STOVELL
MS. LYNDA MILLIGAN-WHYTE
MS. FREDERICA FORTH
MR. JONATHAN STARLING**

TRANSCRIPT OF PROCEEDINGS

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

COUNSEL DIRK HARRISON 0:00: I crave indulgence. Earlier the witness had read from another document and evidence had been given that this document was one of a number of documents which had been received which was being produced and it was listed as Appendix 3. It was in the report from the Investigator and I'd ask that it is made Exhibit CA10, Madam Chair, listed Building Record Sheet.

JUSTICE NORMA WADE-MILLER 0:46: Did you say also it was also referred to in the report?

COUNSEL DIRK HARRISON 0:50: It was, Madam Chair. It was entered as Exhibit CA5, Madam Chair. Could I just ask you to read into the record, Mr. Adams, the CA10 for us please?

JUSTICE NORMA WADE-MILLER 1:12: Right. I just have it here as Listed Building

Record Sheet Exhibit CA10, but previously produced in the report CA5.

COUNSEL DIRK HARRISON 1:24: Thank you very much, Madam Chair. Could you, Mr. Adams, read the document listed Building Record Sheet.

MR. CARLTON ADAMS 1:31: Which one is that sir?

COUNSEL DIRK HARRISON 1:32: The Listed Building Record Sheet, the one you just referred to.

MR. CARLTON ADAMS 1:43: The Listed Building Record Sheet, the Reference Number is DV045. **Proposed Grade is 3: The OF Sheet is 3-11.** What seems to be the Assessment No. 040826015. The **Address** is Salt Haven, 21 North Shore Road DV05. The owner listed here is Ruth Anne Outerbridge. Besides the word 'Probable Period' there is the following: L180-E19C & 20C. Description & Historic Associations: The western section of Salt Haven is a simple two storey nearly symmetrical building with a massive chimney, decorated with string coarse molding. One storey hipped roof cottage the chimney on the east side also appears in a Nelson sketch circa1833. The heavy stone two-storey additions north and south and the square two-storey addition, with stone railing on the top west side were all put in during the 20th Century. It seems that Salt Haven was originally two (2) fishermen's cottages which were subsequently joined together. The verandas to the north and south have been added since the First World War. It is understood that under the floor of the smaller of the two (2) cottages, there is a fish tank now covered by tiles. The roof over the western part of the house was replaced with an SKB roof following extensive damage caused by Hurricane Emily in 1987.

COUNSEL DIRK HARRISON 3:43: Thank you very much. Those are the questions that I have. Sorry, go ahead.

MR. CARLTON ADAMS 3:53: Sir. I did find that page entitled *Conclusion* which I had misplaced.

COUNSEL DIRK HARRISON 4:00: That page properly it... crave indulgence. Madam Chair, the document which has as its heading *Conclusion*, I'd ask that it be tendered and admitted as CA6A. The witness had been reading from CA6, but the third page which ought properly to be with it had been misplaced and I'd ask that the document, the heading CA6A, *Conclusion*. be tendered and admitted as CA6A.

JUSTICE NORMA WADE-MILLER 5:20: So should I call it CA6A is an introduction and summary claim. I'll just say in conclusion, CA6A read. it is an addendum, I could call it, to CA6

COUNSEL DIRK HARRISON 5:50: Thank you, I just ask for it be read into the record, Madam Chair.

MR. CARLTON ADAMS 5:56: Conclusion: Facts, including oral and documentary evidence, have established that the western dock was not included in the 2009 sale of Salt Haven and the adjoining property; and the deed could not have been as Mrs. Outerbridge would have had no power to convey. Without a deed in her name, the current owners would have no ability to properly say that they own the western dock, as they have not occupied the property long enough to have acquired it through adverse possession. Following the suggestion of Mr. Parris to contact the Department of Public Works and Buildings and that of the Land Title Registry Office to contact that Department for any additional queries on deeds held, a visit was made. A brief discussion was held with estate surveyor, Ms. Caroline Blackburn, who confirmed that the status of the dock as public and indicated that her Department was aware of the side affixed to Salt Haven, although understandably, Miss Blackburn was reluctant to say more, perhaps, concerned about

confidentiality. The distinct impression given was that they were handling things. The Commission may therefore wish to consider liaising with that Department before serving Adverse Notice on the owners of Salt Haven. Ms. DeSilva has not been contacted by the Investigator, thus the basis for her belief is unknown. The view taken is that if the Commission still considers appropriate to serve an Adverse Notice on Ms. DeSilva, Ms. DeSilva would have the opportunity to provide her evidence, if any, at that time. It is reputed that public rights and access to various land in Bermuda has been lost over the years, for example, access to tribe roads and water frontage, although the veracity of such claims is outside the scope of this report. The assertion that the western dock is private and the ready acceptance of this assertion without complaint by some users of the Devonshire Dock, in the opinion of the Investigator, demonstrates how public rights could have quite easily been lost in the past and perhaps ought to be examined in future. One suggestion that the Commission may wish to make to help prevent such claims in future is for appropriate signage to be installed at all properties under Government ownership. This Report and Summary of Evidence submitted by Investigator Judith Chambers on the 5th November, 2020.

COUNSEL DIRK HARRISON	8:16:	Thank you, sir. Crave indulgence. The document appearing on the screen, do you have a copy of that in your plan?
MR. CARLTON ADAMS	9:01:	No sir, I do not.
COUNSEL DIRK HARRISON	9:03:	But I have no further questions at this time. I just have to...
MR. CARLTON ADAMS	9:09:	Sir, I do have it here in the report.
COUNSEL DIRK HARRISON	9:13:	And how many pages does it comprise of, sir?
MR. CARLTON ADAMS	9:21:	One page.

COUNSEL DIRK HARRISON 9:23: I'd ask that the document which is headed Transfer Notice Appendix, I'd ask that it be tendered and admitted as CA11.

JUSTICE NORMA WADE-MILLER 9:51: Go ahead Counsel, I have marked as Exhibit CA11 the Transfer Notice, Appendix 1.

COUNSEL DIRK HARRISON 10:01: Thank you. Please could you read that document into the record, Mr. Adams. Thank you.

MR. CARLTON ADAMS 10:06: This is entitled Transfer Notice. It says: **To:** The Registry General. In accordance with the requirements of the Registry General Recording of Documents Act 1955 and as the attorneys for the parties concerned, we hereby give you notice that the persons hereinafter mentioned became entitled to an interest in the parcel of land hereinafter described.
Date: September 30, 2009.
Date Sanctioned: Not Applicable
Name of Transferees: Jairzinho Jerome Romero Robinson and Deborah Naomi DeSilva;
Address of Transferees: 21 North Road, Devonshire DV05
Nationality: Bermudian
Date of Birth: Over 21
Occupation: Unknown
Nature of Interest Acquired: Joint tenants in fee simple; Mode of Acquisition: Conveyance
Full Name of Person from Whom Acquired: Ruth Ann Winifred Dill Outerbridge
Description of Land: Per Schedule hereto annexed.
Assessment No: 040826015.
Purchase Price: \$750,000.
Dated this 15th day of October, 2009
Cox Hallett Wilkinson Limited, Hamilton, Bermuda.

COUNSEL DIRK HARRISON 11:30: Thank you very much. I have nothing further at this time, Madam Chair.

JUSTICE NORMA WADE-MILLER: 11:37: Very well. I will ask Commissioners if they have

any questions? No nothing. Go ahead, please.

COUNSEL DIRK HARRISON 11:53: I'd just ask that I could offer the caveat that Chief Investigator was not the Investigator. He is merely here because it has not been reasonable or practicable for the Investigator to be here. I just ask that if questions are posted to us.

MR. QUINTON STOVELL 12:15: Thank you Counsel. Good morning Mr. Adams. I'm just yielding to Counsel's last comment. Is there any evidence that the current owner has engaged in a matter of resolution to this situation at all?

MR. CARLTON ADAMS 12:41: I am not aware of it.

MR. QUINTON STOVELL 12:43: Thank you, that's it. Thank you, Madam Chair.

MR. JONATHAN STARLING 12:51: Good morning. I have two questions. The first one, I think, is probably properly addressed to the Chair via Counsel. There is reference to a few civil servants in the report. It seems prudent to me that we have a representative from Government, either the civil servants named or a learned friend from the Attorney General's Chambers. Is that something that can be done?

COUNSEL DIRK HARRISON 13:21: It certainly can be done. I did not get the impression, I formed the opinion from my reading that if there is any objection and or legal issues that will arise with any Government entity, and especially based on the claim, that certainly has not been the position of the claimant. He has spoken to a legal right which he previously had which no longer exists by virtue of purchase of property by someone. But if it is something that is required and the persons are required to come here to speak to the very thing that they have done, which documents speak to, then if it is so requested then it shall be done.

MR. JONATHAN STARLING 14:18: Thank you, I have one more question. Inspector

Adams, I know you weren't the inspector, the researcher on this case, but are you aware, and I didn't see it in the report, did the fishermen, have they been, have the Police called on them for trespass or have they just seen the sign and not been over there?

MR. CARLTON ADAMS

14:41: I am not aware that they were challenged by the Police. My impression from reading through the reports is that they ceased to make use of that area because of the sun.

MR. JONATHAN STARLING

14:53: Thank you for that clarity.

JUSTICE NORMA WADE-MILLER

14:57: Counsel, I am thinking aloud. Once notice is served on Ms. Deborah DeSilva, based on her response, if there is any issue we could serve Notice on the AG at that time.

COUNSEL DIRK HARRISON

15:14: Very well, that can be done, Madam Chair.

JUSTICE NORMA WADE-MILLER

15:19: Sure, I'm just thinking aloud. It may or may not arise. If there are no further questions, then is that the end of this matter, Counsel? Anything else for now?

COUNSEL DIRK HARRISON

15:27: The end of this matter for now, Madam. Those are the matters we have for today, Madam Chair.

JUSTICE NORMA WADE-MILLER

15:40: Thank you, Officer Adams for coming in and assisting us.

MR. CARLTON ADAMS

15:45: Thank you.

JUSTICE NORMA WADE-MILLER

15:47: Well if that's the position then. You do not have your mic, so I cannot hear you. Perhaps you could just ask Counsel to articulate what it is you're trying to say. We could deal with it after,

you know, administratively, certainly.

COUNSEL DIRK HARRISON 16:16: Thank you.

JUSTICE NORMA WADE-MILLER 16:19: So, given the fact that we do not have any other matters listed today and based on our assessment of the outstanding files that we have, but they're not ready to be heard, I take the position that we should adjourn now, to the next tranche of hearings which will be in January. I do not know if Commissioners or Counsel has anything to say.

COUNSEL DIRK HARRISON 16:54: Nothing to add, Madam Chair. Nothing to add.

JUSTICE NORMA WADE-MILLER 16:59: Very well. Therefore, this Inquiry stands adjourned to January 2021 and the date and the place for continuation will be advised in due course.

COUNSEL DIRK HARRISON 17:12: Very well, Madam Chair. Thank you.

END OF TRANSCRIPTION DECEMBER 4, 2020 (MORNING b) AT 17:17