**A COMMISSION OF INQUIRY**

**INTO HISTORIC LAND LOSS**

**IN BERMUDA**

**CHAIRMAN**

**HON. WAYNE PERINCHIEF, J.P.**

**COUNSEL**

**MR. DIRK HARRISON**

**COMMISSIONERS**

**MR. QUINTON STOVELL**

**MS. LYNDA MILLIGAN-WHYTE (via Zoom)**

**MS. FREDERICA FORTH (via Zoom)**

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

**MR. JONATHAN STARLING**

**TRANSCRIPT OF PROCEEDINGS**

**LOCATION: UNKNOWN**

**WEDNESDAY, MARCH 17, 2021**

**AFTERNOON SESSION (b)**

Continuation of morning session (a)

**HON. WAYNE PERINCHIEF** 0:00: We are resuming the hearing after having a short adjournment at the request of Counsel. Counsel, are you back with us and we may resume now.

**COUNSEL DIRK HARRISON** 0:18: I am Chairman and Commissioners thank you. Just for completeness. Either witness the name Shaw Wood appears is it Shaw Park or Shaw? What is the actual name?

**MS. VELDA FRANCO** 0:37: Shaw Wood Park

**COUNSEL DIRK HARRISON** 0:40: Shaw Wood Park Thank you.

**MS. VELDA FRANCO** 0:45: Now known as Shaw Wood Estate.

**C OUNSEL DIRK HARRISON** 0:54: Now known as Shaw Wood Estate. Thank you the next slide if you wish to proceed to madam.

**MS. VELDA FRANCO** 1:03: Slide #38

**COUNSEL DIRK HARRISON** 1:15: What does this represent?

**MS. VELDA FRANCO** 1:18: This is a property of number #11 Boss's Cove Road, Pembroke. It consists of two (2) dwellings a north and a South apartment.

**COUNSEL DIRK HARRISON** 1:39: And you show us that to indicate what madam?

**MS. VELDA FRANCO** 1:45: The area outlined in red number 11 is the next part of my presentation. I would like for you to look at #15 and #13 at the said diagram.

**COUNSEL DIRK HARRISON** 2:04: Yes madam

**MS. VELDA FRANCO** 2:06: #13 is the residents was the residents of my great aunt, Grace Charlotte Philip Oates and her husband John Oates, which they built when they got married. #15 is the laundry which she and her husband had their business which I mentioned earlier in the presentation.

**COUNSEL DIRK HARRISON** 2:36: Just remind us irrespective 13 and 15 as displayed on the screen who occupies those premises now madam?

**MS. ELAINE FOX** 2:46: #13 is occupied by a family member and partial owner of the residence. #15 was subdivided few years ago and is now owned by a trust. Thank you.

**HON. WAYNE PERINCHIEF** 3:08: By A. Trott?

**MS. VELDA FRANCO** 3:10: By a trust T R U S T.

**HON. WAYNE PERINCHIEF** 3:14: Oh by a trust.

**COUNSEL DIRK HARRISON** 3:20: In regards to presentation. You are you making a claim to #15?

**MS. VELDA FRANCO** 3:28: No Counsel just for reference. That 15 and 13 are originally owned by Grace Charlotte Philip Oates

**MS. VELDA FRANCO** 3:44: #11 was owned by her mother Ann Amelia Wood. It is also the property in which Grace Charlotte Philip Oates was born in. It is also the property claimed by Joseph Soares Figueiredo that he owned the property an actual fact he was only a tenant.

**COUNSEL DIRK HARRISON** 4:20: Thank you Madam you know what period in time he was a tenant based on your claim.

**MS. VELDA FRANCO** 4:38 He was a tenant can I answered that question further in the presentation because I will have to look at the slide?

**COUNSEL DIRK HARRISON** 4:48: Okay, but do you have the information further?

**MS. VELDA FRANCO** 4:51: Yes Counsel.

**COUNSEL DIRK HARRISON** 4:52: Okay, I'll just make a note of it. You may proceed with your submission.

**MS. VELDA FRANCO** 5:06: Slide 39. #11 Boss's Cove, Pembroke. The Estate of Ann Amelia Wood. Willed to her daughter, Grace Charlotte Philip Oates (nee Wood). Property was will to Grace Charlotte Philip Oates. On her death in her Last Will and Testament dated 10th February 1956, left the property to her niece, Charlotte Alice Wood Wellman. Charlotte Ellis Wood Wellman, on her death in her Last Will and Testament dated 7th February 1967 George Stanford Llewellyn Hollis, fee simple, her grandson.

**COUNSEL DIRK HARRISON** 6:08: Thank you.

**MS. VELDA FRANCO** 6:12: **Slide 40** reference to the north apartment. The North Apartment at the time of my research, I found two memorandums of further charge mentioned below for Kevin Manuel Cabral which is on slide 41.

 **Notice 96/19** with attached Schedule and Plan of Land dated the 12th of March 1996 for the above-mentioned property is currently owned by Kevin Manuel Cabral. The above-mentioned person named on this Notice purchased the property from James Appleby Pearman. As I mentioned in a previous presentation, it was brought to my attention that #11 Boss's Cove was under purchase, if not has already been purchased.

**COUNSEL DIRK HARRISON** 7:44: The document on slide 41, which appears what is that?

**MS. VELDA FRANCO** 7:53: This is a copy of the document of the Acquisition from by Kevin Cabral from James Appleby Pearman dated the 12th of March 1996. This is the conveyance.

**COUNSEL DIRK HARRISON** 8:21: Thank you. Could I just ask that the document is enlarged? Can you just read the document please as projected on the screen and on which you wish to the commissioner has to place reliance as part of your submission of your claim?

**MS. VELDA FRANCO** 9:06: Notice 96/19 To: The Registrar General: In accordance with the requirements of the Registrar General (Recording of Document) 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 in Pembroke Parish hereinafter described:

 **DATE OF ACQUISITION:** 1st March, 1996. **NAME IN FULL:** Kevin Cabral **ADDRESS IN FULL:**  11 Boss's Cove Road, Pembroke HM01 **NATIONALITY:** British/Bermudian **OCCUPATION:** Unknown **DATE OF BIRTH**: Over 21 years old **NATURE OF INTEREST ACQUIRED:** Fee simple **MODE OF ACQUISITION:** Conveyance **DATE OF SANCTION:** N/A **FULL NAME OF PERSON FROM WHOM ACQUIRED:** James Appleby Pearman **DESCRIPTION OF LAND:** See attached Sch **ASSESSMENT NUMBER:** 123726018. **Dated** the 12th day of March 1996. **NAME OF FIRM:** Conyers Dill & Pearman **SIGNED:** Michael J. McCabe **PURCHASE PRICE:** $175,000.

**COUNSEL DIRK HARRISON** 11:02: Is there a comment that you'd like to make in respect of #11 Boss's Cove Road and the Acquisition by Kevin M. Cabral from James Appleby Pearman madam?

**MS. VELDA FRANCO** 11:23: Yes, counsel. As I mentioned in a previous presentation, I currently hold the original deed to this property and at no time was this property sold and or gifted to anyone. This property was also willed from my great-great grandmother to her daughter, Grace Charlotte Philip Oates who then willed it to my great grandmother, Charlotte Ellis Wellman then willed it to her grandson, George Llewellyn Stamford Hollis, my late father.

**COUNSEL DIRK HARRISON**  12:17: Thank you madam, could you take us to the next slide? If you have nothing further to comment on this page?

**MS. VELDA FRANCO** 12:26: **Slide 42** this schedule of the property that went along with this Conveyance.

 **Slide 43** this is a plan of the property at #11 Boss's Cove.

**COUNSEL DIRK HARRISON** 13:15: Thank you. The next slide.

**MS. VELDA FRANCO** 13:23: Now refer to the south apartment of #11 Boss's Cove Road Pembroke Parish. At the time of my research, I was unable to find any records registered at the Land Title Registry Office.

**COUNSEL DIRK HARRISON** 13:50: The document to the right of the screen what does document that you wish aid this presentation?

**MS. VELDA FRANCO** 14:02: This is in reference Schedule to the entire property at #11 Boss's Cove Road. Schedule on page 42.

**COUNSEL DIRK HARRISON** 14:23: Thank you. Go ahead,

**MS. VELDA FRANCO** 14:36: The diagram sorry, the picture on the right side of the screen shows the property in question. But reference to the South Apartment that James Appleby Pearman purchased from Barbara Patricia Cabral and Patricia Pimentel. Now in the estate of Bertha May Burgess, Global Trust Company Limited.

**COUNSEL DIRK HARRISON** 15:34: That you had mentioned before on a previous occasion?

**MS. VELDA FRANCO** 15:39: Yes Counsel.

**COUNSEL DIRK HARRISON** 15:51: You may proceed madam

**MS. VELDA FRANCO** 15:53: Refer to slide 45.

**COUNSEL DIRK HARRISON**  15:59: Slide 45.

**MS. VELDA FRANCO** 16:04: I present again the letter received by Appleby Spurling and Kempe, from my grandmother, Margaret Genevieve Hollis. And it has a list of conveyance of properties in reference to #11 Boss's Cove. As I mentioned before, my great-great grandmother, Ann Amelia Wood conveyed this property to John Oates. And when John Oates passed, the property was all his possessions and this property was conveyed to his wife, Grace Charlotte Philip Oates.

**COUNSEL DIRK HARRISON** 16:54: Thank you.

**MS. VELDA FRANCO** 16:55: Next slide. And I'm presenting again, my grandmother receiving from Appleby Spurling & Kempe, the conveyance of the property from Ann Amelia Wood to John Oates an Ann to dry boats. And this was dated in 20th September, 1976.

**COUNSEL DIRK HARRISON** 17:28: Thank you.

**MS. VELDA FRANCO** 17:30: Slide 47. Here is a letter dated 23rd of September 1975. Written by my grandmother Margaret Genevieve Hollis to the Records Department, Somerset House, The Strand, London, England and it reads as is Dear Sir Madam. I am doing some research into this state of Ann Amelia Wood, who was my great grandmother. I understand that many of the land conveyance and release contracted in Bermuda in the 1800s and registered at either the Colonial Secretary or the Registry General had copies sent to Somerset House, England. I would like a copy of a release dated November 6, 1878 from Robert Alexander Tucker, to Ann Amelia Wood, wife of Richard Wood. It pertained to land at Boss's Cove Pembroke, Bermuda. I have reason to believe that Robert Alexander Tucker was a trustee to the Estate of Alexander Ewing, thus acting on behalf of the estate. I have in my possession, a conveyance dated March 9 1882. From N A Butterfield and others to Ann Amelia Wood, I would also like a copy of a document from the said year or the year after mentioned the said names and/or Reginal Gray Trustee. I have been told but I'm confirmed that Reginald Gray Trustee was also the lawyer for Gray and Smith Company who was also the lawyer for my great aunt, Grace Charlotte Philip Oates. I would appreciate your affording any other copies of documents that you may find as a result of the above research that is in connection with the said persons/ I am enclosing for two shillings, I guess to cover the cost of research if this amount should be insufficient work upon request, I will promptly forward a further remittance. Please send and reply by Air Mail, as boat mail takes so long to reach Bermuda. Thank you very much. You're sincerely Genevieve Hollis.

**COUNSEL DIRK HARRISON** 20:21: Thank you and you indicated earlier that your relatives who preceded you had made numerous attempts to have attorneys represent them. And they had made numerous representations to various institutions, you printed this letter in furtherance of that submission.

**MS. VELDA FRANCO** 20:53: Yes, Counsel

**COUNSEL DIRK HARRISON** 20:55: This letter to the Records Department, madam

**MS. VELDA FRANCO** 21:07: PAGE 48. This is a certified copy dated 28th July 1967 from the Registrar general's office or head of mortgage between William Lewis Lightbourne Mortgagor and Thomas Fowle Ewing and Alexander Ewing with Schedule A for Boss's Cove.

**COUNSEL DIRK HARRISON** 21:44: Thank you, you may proceed madam.

**MS. VELDA FRANCO** 21:52: I will read this document This is to certify that the document here to annexed, marked "A" and initialed by me is a true and correct copy of the Head of Mortgage made between William Lewis Lightbourne, Mortgagor and Thomas Fowle Ewing and Alexander Ewing, Mortgagees, which said Head of Mortgage is registered in the Book of Mortgages No. 5 at page 14 in the Registrar General's Office pursuant to the laws of these Islands. In Witness Whereof I have hereunto set my hand this 28th day of July, 1967. Registrar General.

**COUNSEL DIRK HARRISON** 22:35: You rely on this document for reasonable

**MS. VELDA FRANCO** 22:40: Yes counsel, I rely on this document because this is property at Boss's Cove that was owned by Ann Amelia Wood Estate, and it reads all that certain dwelling house with a lot of land we're on the same as erected, measuring 50 feet square situated and being near Boss's Cove in Pembroke Parish aforesaid and bounded easterly by the waters of Boss's Cove southerly and west

**COUNSEL DIRK HARRISON** 23:26: Madam, where you're reading from?

**MS. VELDA FRANCO** 23:28: Sorry, the next page 49.

**COUNSEL DIRK HARRISON** 23:46: Your reading from the Heads of Mortgage. Could we magnifies the document Secretary from the Heads of Mortgage?

**MS. VELDA FRANCO** 23:53: Yes Counsel.

**COUNSEL DIRK HARRISON** 23:55: Could the document be enlarged please. Thank you magnify. Could I ask you to start again Miss Franco please?

**MS. VELDA FRANCO** 24:04: Yes counsel.

 **HEADS OF MORTGAGE:** In fee by Indentures of Losses and Releases, bearing date respectively, the 6th and 7th days of June 1834 between WILLIAM LEWIS LIGHTBOURNE of Pembroke Parish in the Islands of Bermuda, Mariner, and THOMAS FOWLE EWING AND ALEXANDER EWING, of the Town of Hamilton in the said Islands, Merchants; On "All that certain dwelling House with the lot of land whereupon the same is erected measuring fifty feet square, situate and being near Boss's Cove in Pembroke Parish aforesaid and bounded Easterly by the Waters of Boss's Cove; Southerly and Westerly by lands formerly possessed by Mrs. Elizabeth Robinson; and Northerly by the lot of land hereinafter described -------- AND ALSO ALL THAT CERTAIN other lot of land adjoining the above-mentioned lot, containing one hundred feet square -- and bounded Easterly by the Waters of Boss's Cove; southerly partly by the aforesaid lot, and particularly by lands formerly possessed by Ms. Elizabeth Robinson and Westerly and northerly by lands formerly held by Samuel Stovell -- or however otherwise the said two Lots, or either of them may be bounded or ought to be described, together with all and singular the Rights, members and appurtenances thereof : --- to secure payment of the bound of the said William Lewis Lightbourne to the said Thomas Fowle Ewin and Alexandra Ewing, dated 7th June 1834, in the penal sum of pounds 371.13.4 pence conditioned to be void upon payment of pounds 185.16.8 pence, of current money of Bermuda within 12 months from the date thereof, without interest up to that time, but with interest afterwards, if not than paid witnessed by Daniel Robert Tucker, Alexander E. Outerbridge (REGISTERED THIS 13th June 1834 - C. Fosard D.C.L.)

**COUNSEL DIRK HARRISON** 24:31: I'm sorry Ms. Franco you said James. There's no James.

**MS. VELDA FRANCO** 24:37: My apologies

**COUNSEL DIRK HARRISON** 27:00: You rely on this document for what purpose.

**MS. VELDA FRANCO** 27:04: I rely on this document Counsel that this property was purchased and owned by Ann Amelia Wood.

**COUNSEL DIRK HARRISON** 27:15: Thank you, you may proceed to the next slide if you have nothing further with this slide.

**MS. VELDA FRANCO** 27:27: Next slide. PAGE 50. Is dated November 12 1963. Letter from Shaw Wood Gardens Ltd to my great-grandmother Charlotte Wellman. Changed ownership of the principal roads through Shaw Wood Estate has been transferred from Messrs. W.H. Freisenbruch and C.H. Master to Shaw-Wood Gardens Ltd. A company formed by the residents and landowners of the original Shaw-Wood Estate. Counsel back in previous presentation slides I mentioned that Joseph Burch Shaw Wood in in about 1935 sold this property to businessmen and that they formed or part of the residence in the estate formed Shaw Wood Gardens Estate.

**COUNSEL DIRK HARRISON** 28:43: Okay, thank you. The letter itself could you read that please?

**MS. VELDA FRANCO** 29:05: Letter headed by Sherwood Gardens Limited Reid House Reid Street Hamilton, Dated November 12, 1963. Addressed to Mrs. Wellman. Charlotte Wellman, my great grandmother, Boss's Cove Spanish Point. Dear Madam: The ownership of the principal roads through Shaw Wood Gardens Estates has been transferred from Messrs. W.H. Freisenbruch and C.H. Master to Shaw-Wood Gardens Ltd. Shaw Wood Gardens Ltd., is a company formed by the residents and land owners of the original Shaw-Wood Estate, who arranged and paid for the paving of the main roads through the Estate. We write to advise you of this change in ownership as you are one of four property owners who live outside Shaw Wood Estate and who have a right-of-way over the main road through the estate. The enclosed plan shows the extent of the road over which you have a right-of-way your present privileges will continue until the new ownership. The company has for some time been perturbed by the extent of unauthorized parking by outsiders on the company's property, both on the main estate Road and on the access way to Boss's Cove. The company has in consequences, decided to prohibit parking in both areas. The Transport Control Board will shortly erect "No Parking" signs on either side of the access way to Boss's Cove, and at other points along the main road of the estate. In order to avoid any inconvenience to your friend, we should be glad if you would advise them on the company's policy and aims. The elimination of unauthorized parking and traffic on an over the roads of the estate is intended to benefit all residents in the neighborhood and restore quietness to the area. (Next slide) the letter continues page 2 this policy will meet with your approval and support.

**COUNSEL DIRK HARRISON** 31:53: Thank you. In respect of the Chairman the Shaw Wood Gardens Limited I'm not sure if this limited liability company still exists but out of an abundance of caution ask that they the necessary adverse notices sent to them chairman.

**HON. WAYNE PERINCHIEF** 32:15: Yes Counsel I hear your request that Shaw Wood Gardens Limited has an address Reid House, Reid Street be sent address notice as per your request.

**COUNSEL DIRK HARRISON** 32:37: Thank you Chairman.

**MR. QUINTON STOVELL** 32:45: Counsel I do not know if we are looking for a man or a woman at Shaw Wood Gardens Limited it is duly signed.

**COUNSEL DIRK HARRISON** 32:54: That's a very important point that is made.

**MS. VELDA FRANCO** 33:02: Counsel Shaw Wood Gardens Limited still exists.

**COUNSEL DIRK HARRISON**  33:06: Thank you very much. But I think the very important point that Commissioner Stovell has made I have taken note of it is very interesting

**HON. WAYNE PERINCHIEF** 33:22: Very interesting - personal.

**COUNSEL DIRK HARRISON** 33:36: You take us to the next slide.

**MS. VELDA FRANCO** 33:41: PAGE 52.

**COUNSEL DIRK HARRISON** 33:44: Slides 52

**MS. VELDA FRANCO** 33:47: Dated Sealed and Sworn the 31st December 1957.

 **INDENTURE:** Abandonment and Grant of Right-of-Way .

Signed between Clarendon Hugh Masters and others and my great grandmother Charlotte Wellman (nee Saunders) Paid Charlotte Wellman ONLY 500 pounds for the land but the right-of-way which was an illegal transfer based on stolen land. Lawyer Gray and Smith. Gray and Smith was also the lawyer for my great aunt Grace Charlotte Philipps Oates. Ann Amelia Wood died about 17th of September 1898 intestate and leaving her husband Richard Wood, who died January 11 1904 at the age of 81 yrs. This property was conveyed to Grace Charlotte Philips Oates.

**COUNSEL DIRK HARRISON** 35:00: Before we go any further, Madame, you have earlier indicated based on your notes. You said paid Charlotte Wellman only 500 pounds for the land for the right-of-way, which was an illegal transfer based on stolen land. Why do you say it was an illegal transfer based on the stolen land madam? And what is your proof of that, madam?

**MS. VELDA FRANCO** 35:31: Counsel, as I mentioned earlier, Joseph Burch Shaw Wood in 1935. And I produced a document stating that it was an illegal sale from himself cannot remember the gentleman’s name that I had mentioned. But my great, great great grandmother Ann Amelia Wood had documents to say that she owned the property in Shaw Wood Park.

**COUNSEL DIRK HARRISON** 36:11: And I'm directing your attention if the secretary could just take us to the left side of the screen.

 I know I've repeated myself what you said, which an illegal transfer was based on the stolen land. You earlier indicated that documentation, I'm just going to ask you, just for abundance of caution. To take us back to this point, I'm just going to make a note of it. And at a convenient time, after the lunch and break, I was going to ask you to take us back to this point and show us the documentation because as you can appreciate, this is a serious allegation you make. So we just asked you to take us back and point us to the documents that you pray in support of this submission that you make madam.

**MS. VELDA FRANCO** 37:12: Yes.

**COUNSEL DIRK HARRISON** 37:13: So I just make a note of slide 52. To take us back to the documentation that you're relying on in support of this submission.

**HON. WAYNE PERINCHIEF** 37:25: Counsel, I noted that you mentioned a magic word lunch break

**COUNSEL DIRK HARRISON** 37:33: Now is that convenient time Chairman,

**HON. WAYNE PERINCHIEF** 37:36: You feel there's a convenient time to break.

**COUNSEL DIRK HARRISON** 37:39: It is chairman.

**HON. WAYNE PERINCHIEF** 37:45: Keep it in mind that witnesses will have to do some slight research to answer the last question made by Counsel And the fact that we normally take a lunch break 1230 I would recommend and suggest that we adjourn at this point and return in one hours’ time. That would be at 1:30 pm. At which time we will resume with this evidence from the witnesses.

**COUNSEL DIRK HARRISON** 38:22: Very well Chairman. Just remind the witnesses Chairman that they're still under the oath. All three of them are affirmation it took earlier.

**HON. WAYNE PERINCHIEF** 38:38: Yes, witnesses are reminded that you remain under oath and not discuss any of the medicine we've achieved related today with any other persons than yourselves.

**END OF TRANSCRIPTION MARCH 17, 2021 (AFTERNOON SESSION B) AT 39:02**