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Our Ref: LFH17/LIT

30th August, 2022

Bynoe, Martinez & Co.
Attorneys-at-Law
Morgan House
Haymans
St. Peter

BY EMAIL AND BY POST

Attention – Ms. Juan Martinez

Dear Mmes,

Re: In the matter of Apes Hill Development: Apes Hill Homeowners Association Inc. (HOA), Apes Hill Club, Apes Hill Golf & Beach Club and Plantation Sanctuary Inc. (PSI) and in the matter of Mandatory Membership and other issues

We acknowledge receipt of your email dated 23 August, 2022, in which you, as the new counsel for Apes Hill Home Owners Association (HOA), indicated that (i) you are yet to receive “a full handover of all necessary documents from Dentons Delany and (ii) you were amenable to meeting with me “to ascertain the issues which exist between Mr. Lamb and the HOA.

Parties:

Before proceeding to identify these issues, let me categorically state that the issues do not exist solely between Mr. Lamb and the HOA. A number of Unit owners share Mr. Lamb’s concerns, and like him, are committed to resolution, if not by discussion, certainly by way of proceedings instituted in the High Court of Barbados.

Background:

Although my initial letter of 24 September 2021, jointly addressed to the Chairmen of the Board of Directors of HOA and Plantation Sanctuary Inc. (PSI) and others was replied to by previous counsel for the HOA, by way of letter of Dentons Delany dated 4 October 2021, the issues raised in my said letter were not addressed.

On 17 January 2022, I again wrote to previous counsel for the HOA and PSI, Dentons Delany, to which they replied on 27 January 2022, again not substantively addressing the issues.

On the 9 March 2022, I again wrote to previous counsel for the HOA and PSI, Dentons Delany to which they replied on 11 April 2022, once more not addressing the issues raised. Neither did their 10 May 2022 letter following our Zoom meeting of 22 April 2022 address the substantive issues raised.

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I subsequently wrote again to previous counsel for the HOA and PSI, Dentons Delany on 30 May 2022, to which they replied by letter dated 8 July 2022. Whilst informing me of your engagement as counsel for the HOA, once again their response failed to address substantively any issues relating to PSI.

In addition, prior to my initial letter, Mr Lamb as beneficial owner of lots in the Development, reached out most recently by email on 19 April 2022 to Mr Chamandy and Mr Chatrani, Chairman of PSI and of the "Apes Hill Beach & Golf Club" respectively, requesting answers from them regarding the appointment of the new directors to the HOA, financial information of the HOA, Apes Hill Club, Garden Wall HOA and re-subdivision of the Development. These questions were posed in anticipation of responses being provided prior to the Annual Informational Meeting of the HOA in April 2022.

Some four (4) months later, neither the Chairmen nor anyone from the HOA or PSI has answered any of these sixty-five (65) questions posed by Mr Lamb.

Regrettably, I am forced, after over a year since the queries were raised to the HOA and PSI, to come to the conclusion with a lack of any substantive response from either, that either, at worst, previous counsel did not grasp the substantive issues and therefore could not engage in meaningful discussion or at best and more likely, that your clients' actions and that of their counsel, demonstrates a desire only for delay by their refusal to engage on the substantive issues raised. Either conclusion is unfortunate and only forces my client to seek the redress of the Courts.

Key Issues

The issues are stated in the correspondence herein referred to and with which you should be well acquainted. Nevertheless, for your convenience I set out below the key issues as I understand them to be:

- (1) Under the Bylaws of the HOA, only the First Directors can appoint successor First Directors.
- (2) All of the First Directors resigned or died in office without appointing successor First Directors.
- (3) All current Directors of the HOA were appointed by PSI, not the First Directors, and all of them have fiduciary duties, whether validly elected or not, when they act on behalf of the HOA, to the HOA and to all its members.
- (4) Further, if these de facto directors of the HOA act for the benefit of PSI, they do so with a conflict of interest that cannot be waived and voids ab initio their approval of sections of the 2021 Rules of the HOA (the 2021 Rules) that purport (a) to require all members of the HOA to also be members of a golf club, which happens to be owned and operated by PSI (Section 3.4 of the 2021 Rules -- Mandatory Membership in the Apes Hill Club) and (b) make PSI the Developer of the Apes Hill Development without PSI assuming the obligations of the Developer to the HOA, (c) give the Developer the right to appoint the Directors of the HOA, and limit the

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fiduciary duties of the Board of Directors of the HOA to PSI (Section. 3.7 of the 2021 Rules -- Membership of the Board of Directors).

- (5) Under the constating documents, the HOA has no authority to require its members to be members of a golf club under Section 3.4 of the 2021 Rules and the Developer (or PSI pursuant to any valid assignment) has no power to appoint HOA Directors under Section 3.7 of the 2021 Rules, enacted by the PSI appointed Board, which purports to confer such power on PSI, and to confine the fiduciary duty of the HOA Directors to PSI alone and not the members, and is unlawful.

As a result of the above, a new Board of the Directors for the HOA must now be elected by the membership of the HOA at a meeting duly called for that purpose and that the offending sections of the 2021 HOA Rules must be rescinded by the Board of the HOA.

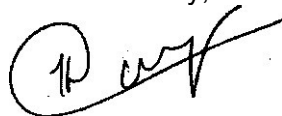
Should the state of affairs relating to the handover of documents continue and should you wish copies of all letters passing between Dentons Delaney and myself, or any other documents referred to above which have not been provided by Dentons Delaney, you may contact my office and we will provide same to you in short order.

In light of the response of Mr. Audain Q.C. to Mr. Lamb of 4 August 2022, I look forward to receiving your responses to Mr. Lamb's questions and a response to my letter of 30 May, 2022.

If you are unable or unwilling to provide a response on or before 10 September 2022, my clients and I are prepared to meet via ZOOM or Teams with you, Dentons Delany and your respective clients at a convenient time to be agreed, no later than 23 September 2022, to determine if any of the legal issues raised can be resolved and the pertinent questions answered without the need for litigation.

I look forward to your response.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'L. Haynes', written over a circular scribble.

Leslie F. Haynes Q.C.