

Dear Fellow Members of the Apes Hill Club Homeowners Association Inc (“HOA”),

In the beginning of 2021, without having any authority to do so, Plantation Sanctuary Inc, now known as Apes Hill (Barbados) Inc (“PSI”) appointed Sunil Chatrani, C. Anthony Audain and Roddy Carr as directors of the HOA (“PSI Appointed Directors”).

Thereafter the PSI Appointed Directors enacted on behalf of the HOA, the 2021 Rules of the HOA that attempted, amongst other things, to make all Members of the HOA, members of the Apes Hill Club (“Club”), and to limit the fiduciary obligations of the PSI Appointed Directors only to PSI, thereby enabling PSI Appointed Directors to take actions on behalf of PSI that are in clear conflict of interest with their fiduciary obligations to the HOA and all of its Members.

We have been advised by counsel that the 2021 HOA Rules are seriously flawed in at least two respects:

(1) 2021 HOA Rules cannot legally mandate that all Members of HOA are now members of an independently owned golf club or require HOA Members to pay initiation fees and dues of the golf club for the privilege of using its facilities on terms and conditions that are not applicable to all Members of the HOA.

(2) The PSI Appointed Directors, then and now, are either employees of PSI or directors of PSI with apparent authority to act on its behalf, thereby creating a clear conflict of interest with the HOA that cannot be waived or remedied, thus making their approval of the 2021 HOA Rules in favor of PSI null and void and of no force and effect.

Mr. Chatrani, on behalf of PSI, [in a letter dated 9 December 2022 that is set forth below](#) this email with the attached [Membership Plan](#) and the Rules and [Regulations of the Club](#) all dated 7 December 2022 (collectively the “Membership Documents”) does not address the inconsistencies between the 2021 Rules of the HOA and the Membership Documents. For the first time, however, he reveals that Membership in the Club does not constitute an ownership interest in the Club but is simply a nonexclusive license, without obligation to Club members (sometimes individually the “Licensee”), to use Club Facilities owned by PSI in the Apes Hill Development when and if developed and made available by PSI, provided all initiation fees, dues, expenses and charges (collectively “Charges”) as determined from time to time by the Manager of the Club, in its discretion, are paid to the Manager by the Licensee and provided the Licensee complies with all terms, conditions and restrictions of the Membership Documents also as determined from time to time by the Manager in its discretion. He also discloses that the Manager of the Club is Apes Hill Resort Inc.

CAUTION: A search of the public records conducted this morning reveals that Apes Hill Resort Inc is not in existence in Barbados and that the name Apes Hill Resort has not been reserved!

Mr. Chatrani also states that if you purchased a lot in the Apes Hill Development, which PSI has now attempted to rename as the Apes Hill Golf Resort and Community, prior to 1 July 2021 and have applied for membership in the Club prior to that date your initiation fee of US\$125,000 is waived and your lot shall be “indefinitely entitled” to Club membership. He then goes on to state: “In the same circumstances, persons who decide not to apply for Club membership, shall have no access to the above-mentioned facilities and their lot shall no longer be entitled to Club membership, currently or in the future.” Finally, he seems to state that if you didn’t apply for membership in the Club prior to 1 July 2021 you may still do so if you apply for membership by 23 December 2022. He does not explain how

one applies for membership in a club that does not exist or have any management in place to accept or approve a membership application!

PSI is still apparently of the view that it can:

- (1) Continue to refuse to transfer ownership of the Common Property to the HOA even though all properties of Apes Hill Development SRL in the Apes Hill Development were conveyed to PSI in the beginning of 2020;
- (2) Continue to appoint the directors for the HOA even though none of the PSI Directors is a First Director as defined in the Bylaws of the HOA and PSI is simply a Member of the HOA;
- (3) Continue to determine through the PSI Appointed Directors the fees, if any, that PSI pays to the HOA;
- (4) Continue to determine through the PSI Appointed Directors the fees that the HOA charges its Members;
- (5) Continue to cause its PSI Appointed Directors to violate their fiduciary obligations to the HOA and all its Members; and
- (6) Eliminate the property rights of the Members of the HOA, including the right to join the Club on the same terms and conditions that apply to all Members of the HOA including PSI.

The Membership Documents provide four Membership Categories:

Primary Membership is apparently limited to HOA Members who receive a license from PSI to use the reduced Club Facilities provided the Members of the HOA exercise that right prior to 23 December 2022 and pay all required Charges to the Manager of the Club until the license is revoked by the Manager in its discretion. Upon the sale of a lot owned by a Licensee, the license must be transferred to the purchaser by the Licensee with the continuing obligation to pay Charges determined by the Manager of the Club.

The other three forms of Membership are issued in the sole discretion of the Manager to apparently deal with multiple ownerships of a lot and the leasing of a lot for 12 or more consecutive months (Secondary Membership), complementary memberships with financial obligations for friends of PSI (Invitational Membership) and memberships for very important friends of PSI, individuals deemed appropriate by the Manager (Honorary Memberships). It is claimed that membership in the Club must be obtained through ownership of a property in the Apes Hill Development, but those requirements do not seem to apply to Invitational and Honorary Memberships who unlike Primary Members are free to resign without penalty if they give notice to the Manager no later than the 1st of January in any given membership year. Primary Members, however, are only permitted to resign upon the sale or other disposal of their property in the Apes Hill Development provided the purchaser becomes a member of the Club and pays the Manager initiation fees and dues and all Charges due from the Licensee are paid in full.

The Membership Documents of Club are a hodgepodge of conflicting information, calculated to create confusion prejudicial to a clear understanding of what it means to be a member of the Club, the potential costs thereof and the continuing liabilities that are being assumed by a Licensee.

Here are some key points that you may wish to consider before applying for or not applying for membership in the Club:

(1) No one knows if there is a Manager of the Club and if there is one, if it has the track record, integrity, capitalization, skills, and competence to successfully operate a world class golf resort in the Apes Hill Development that is owned by PSI. The operating agreement, assuming there is one, between PSI and the Manager has not been disclosed or discussed in the Membership Documents.

(2) It is also unknown if PSI as an owner of 50 or more lots in the Apes Hill Development has caused each of its lots to take a membership in the Club and paid all necessary Charges in connection with such memberships to the Manager of the Club thus becoming in the words of Mr. Chatrani “indefinitely entitled” to membership in the Club or if it’s lots will have no access to Club Facilities and no longer be entitled to Club membership, “currently or in the future” because PSI has failed to entitle its lots on or before 23 December 2022 with Club membership approved by the Club Manager, that may not be in existence.

(3) The Manager of the Club has complete discretion to determine who is a member of the Club and has no obligation to explain why admission to the Club has been denied even if it is based on race, religion, or sexuality.

(4) The Manager also has complete discretion to determine the continuing costs of membership in the Club, the terms, conditions, and restrictions in the Membership Documents, as amended from time to time and whether a particular membership in the Club will be maintained or if the member whose membership is terminated will forfeit Charges paid in advance of loss of membership.

(5) Membership in the Club means that the Manager has granted the HOA Member (and approved friends) a nonexclusive license to use Club Facilities when and if Club Facilities are made available, on terms and conditions determined by the Manager, from time to time, in the discretion of the Manager. Members of the Club have no ownership interest or rights in the Club or control over its operations and management.

(6) Membership in the Club if granted is continuing for HOA Members until their property in the Apes Hill Development is conveyed to a purchaser who becomes a member of the Club. Once an HOA Member joins the Club, that membership cannot be terminated, except for bad behavior (use of your own golf cart on the golf course?) as determined by the Manager in its discretion.

(7) Section 4.3 of the Membership Plan provides that there are no operating or capital assessments on members of the Club and that the Manager will pay all operating deficits and retain all operating revenues. The Membership Plan does not mention what happens when the Manager is unable to cover its deficits and fails to pay its obligations to PSI, its employees, and its vendors and that in such event the Licensee has no recourse against the Manager or PSI.

(8) Members of the Club must pay unless waived by the Manager all Charges that are established from time to time in the discretion of the Manager. Charges that are not timely paid bear interest and late penalties and continue to accrue whether a member of the Club uses Club Facilities or not, until the property of the HOA Member is sold to a purchaser who pays the initiation fees and dues for joining the Club and any Charges due from the Licensee are paid in full to the Manager.

(9) Regrettably until addressed in the Courts of Barbados, Members of the HOA who do not join the Club because they receive no communications from the HOA or PSI, because they don't understand what membership in the Club means or because they do understand what it means and don't want any part of it or are denied admission to the Club or have their membership in the Club terminated by the Manager of the Club, are prohibited from using Club Facilities; their successors and assigns do not have the right to join the Club; and Members of the HOA are not allowed to elect the directors of the HOA and are required to pay HOA dues and assessments determined by PSI Appointed Directors which under the 2021 HOA Rules can include the losses of PSI as the owner and developer of properties in the Apes Hill Development.

As President of the Society, I must advise you that the Membership Documents are self-defeating, inconsistent, violative of the fundamental property rights of the Members of the HOA and are not in the best interests of Barbados and the Apes Hill Community. Accordingly, the Membership Documents along with the actions taken to date by PSI to hijack the HOA for its own benefit are not supported by the Board of Directors of the Society and will soon be challenged by the Directors of the Society in the Courts of Barbados.

Yours faithfully,

Paul Lamb
President