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 Attorneys-at-law for and on behalf of the Claimants



**SUPREME COURT OF BARBADOS  
 IN THE HIGH COURT OF JUSTICE**

**CLAIM NO.**

**CV 284 OF 2023**

**IN THE MATTER OF** Apes Hill Club  
 Homeowners Association Inc.

**AND IN THE MATTER OF** Section  
 228 of the Companies Act, Chapter  
 308 of the Laws of Barbados

**BETWEEN**

**LAMBCHOP PROPERTIES, LLC**

**FIRST CLAIMANT**

**RMJE PROPERTIES, LLC**

**SECOND CLAIMANT**

**AND**

**APES HILL CLUB HOMEOWNERS ASSOCIATION  
 INC.**

**FIRST DEFENDANT**

**CHRISTOPHER ANTHONY AUDAIN**

**SECOND DEFENDANT**

**SUNIL CHATRANI**

**THIRD DEFENDANT**

**RODDY JAMES CARR**

**FOURTH DEFENDANT**

**APES HILL (BARBADOS) INC.**

**FIFTH DEFENDANT**

**GARDEN WALL VILLA ASSOCIATION INC.**

**SIXTH DEFENDANT**

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**AMENDED NOTICE OF APPLICATION**

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The Claimants apply to this Honourable Court pursuant to *Rules 28.5(1)(a),(b)&(c)* and 28.16 of the *Supreme Court (Civil Procedure) Rules, 2008* ("CPR") for an Order that:

1. The **First**, Third and/or Fifth Defendants carry out a search for and disclose the following documents which are directly relevant to the proceedings, and which are, were or ought to have been in the possession of the First, Third and/or Fifth Defendants:
  - i. A copy of the Purchase and Sale Agreement between Republic Bank (Barbados) Limited ("**Republic Bank**"), and Plantation Sanctuary Inc. ("**PSI**"), ~~Apes Hill Development SRL ("the Developer")~~ dated February 3, 2020 (the "**Purchase and Sale Agreement**");
  - ~~ii. All due diligence documents provided to PSI in connection with its purchase, including:
 
    - ~~i. all requisitions on title;~~
    - ~~ii. surveyor's reports;~~
    - ~~iii. valuation reports; and~~
    - ~~iv. any other reports or documents obtained during due diligence.~~~~
  - iii. A copy of the Inventory Agreement between Republic Bank, PSI and Apes Hill Development SRL dated February 3, 2020 (the "**Inventory Agreement**");
  - iv. All requisitions on title and any answers or replies thereto;
  - v. Any correspondence or reports exchanged between Republic Bank, PSI and their agents relating to the said sale;
  - vi. All correspondence between PSI and the Second, Third and Fourth Defendants in relation to their appointment as directors of the First Defendant;
  - vii. Application No: 2347/10/90C made to the Chief Town Planner and recorded in the Land Registry of this Island on February 28, 2005 under the reference number 1665 (the "**Application for Permission**");
  - viii. Letter dated July 31, 2001 from the Minister of Finance and Economic Affairs granting permission (the "**Permission**") for the subdivision of a parcel of land comprising approximately 870 acres from other lands of Taitts Waterhall and Apes Hill Plantations in parish of Saint James and Gregg Farm Plantation in the parish of Saint Andrew for the development of a golf complex (the "**Apes Hill Development**") and for the further subdivision of the Apes Hill Development into lots for tourism and residential purposes subject to the conditions contained in the Permission and recorded in the Land Registry on February 28, 2005 under the reference 1666;
  - ix. Any subsequent applications for permission to further subdivide the Apes Hill Development and any permissions granted in relation to the said applications;
  - x. Plan of 1,902,000 square meters of land part of the Plantations (described in the Conveyance dated December 16<sup>th</sup>, 2005 between C. O. Williams Construction Ltd. and Apes Hill Development SRL) made and certified on the

11<sup>th</sup> day of October 2005 by Brian A. Hart Land Surveyor (the "**Plan**") and which Plan was submitted to and approved by the Chief Town Planner on November 17<sup>th</sup>, 2005 and recorded in the Land Registry of this Island on January 5, 2005 under the reference number 81;

- xi. Any other plans of the Apes Hill Development, particularly those depicting the common areas, roads and other shared facilities;
- xii. Certificate of compliance dated November 15, 2005 ("**Certificate of Compliance**") certifying that condition numbered 18 of the Permission had been complied with to the satisfaction of the Chief Town Planner and that there was no objection to the sale lease or other disposition of the lots in the Apes Hill Development, and recorded in the Land Registry of this Island on January 5, 2005 under the reference number 82;
- xiii. All other certificates of compliance under Application No: 2347/10/90C or otherwise relating to the Apes Hill Development;
- xiv. Notice of Directors filed on behalf of the First Defendant on July 12, 2024 dated July 11, 2024;
- xv. Notice of Directors filed on behalf of the First Defendant on June 1, 2021 dated May 17, 2021;
- xvi. Notice of Directors filed on behalf of the First Defendant on March 13, 2020 dated March 13, 2020;
- xvii. Notice of Directors filed on behalf of the First Defendant on June 12, 2015;
- xviii. Notice of Secretary filed on behalf of the First Defendant on November 09, 2007;
- xix. Notice of Secretary filed on behalf of the First Defendant on March 3, 2006;
- xx. All Board Resolutions of the First and Sixth Defendants;
- xxi. All minutes and/or contemporaneous notes of meetings of the boards of directors of the First and Sixth Defendants;
- xxii. Any books and records of the First and Sixth Defendants which were transferred to the Fifth Defendant in connection with the sale of the Development;
- xxiii. The Register of Members of the First and Sixth Defendants;
- xxiv. All Annual General Meeting notices, minutes and all attendant documents circulated to members of the First and Sixth Defendant from February 3, 2020 up to and including the Annual General Meetings held in August 2024 and September 2025; and

- xxv. Any Affidavits of mailing and/or service of notices of meetings of the members, including but not limited to Annual General Meetings and any extraordinary general meetings from February 3, 2020 to present;
  - xxvi. The audited financial statements of the First Defendant for the year 2024;
  - xxvii. Books and records of the First Defendant relating to the membership dues collected from February 3, 2020 to present, as contained in the audit financial statements of the First Defendant for the years 2021, 2022 and 2023;
  - xxviii. Books and records of the First Defendant relating to the repairs and maintenance from February 3, 2020, to present, as contained in the audit financial statements of the First Defendant for the years 2021, 2022 and 2023; and
  - xxix. Books and records of the First Defendant relating to property management from February 3, 2020, to present, as contained in the audit financial statements of the First Defendant for the years 2021, 2022 and 2023.
- 2. The Claimants be permitted to inspect the documents requested herein within forty-eight (48) hours of the date of this Order.
  - 3. Any other remedy that this Honourable Court deems fit.
  - 4. Costs be costs in the cause.

**A draft of the Order sought by the Claimants is attached.**

The grounds of the Application are:

- 1) *Rules 28.6(1) and (2) of the CPR* provide the Court with guidance on how to determine applications for Specific Disclosure. The Court ought to consider whether disclosure is necessary to dispose fairly of the litigation and whether it is likely to be burdensome in cost, time or otherwise to any party.
- 2) *Rule 28.12(1) of the CPR* dictates that the duty of disclosure in accordance with any order for disclosure continues until the proceedings are concluded.
- 3) The Fifth Defendant was incorporated on August 21, 2019 as PSI but changed its name on March 3, 2022 to Apes Hill (Barbados) Inc. On February 3, 2020, the Fifth Defendant purchased from Republic Bank, as mortgagee, the Apes Hill Club Development at Apes Hill, Saint James, which, at the material time, was vested in and owned by the Developer.
- 4) The Claimants have possession of and have exhibited a Deed of Assignment of Developer Rights, Title and Interests for Apes Hill Club Development dated February 3, 2020, between the Developer, Republic Bank and PSI ("**the Assignment**").
- 5) The Recitals of the Assignment provided therein that Republic Bank, as mortgagee and trustee, in exercise of its power of sale is selling and the PSI, as the Purchaser, is acquiring the property owned by the Developer pursuant to that certain Purchase and Sale Agreement made of even date herewith.

- 6) Further, the Witness Statement of Sunil Chatrani filed on behalf of the Third and Fifth Defendants on January 15, 2024, at paragraph 4, *inter alia*, referred to the said Purchase and Sale Agreement and alleged that, along with the Assignment, the intention of the parties was reflected in the said documents.
- 7) However, the Third and/or Fifth Defendants have failed to disclose the Purchase and Sale Agreement in which it was the Purchaser, to which it has referred in its Witness Statement, and which was referenced in the Assignment, of which it was also a party.
- 8) The Third and/or Fifth Defendants have, had or ought to have had possession of the Purchase and Sale Agreement, in which the Fifth Defendant was the Purchaser, and all ancillary documentation related to the said purchase, which the Claimants request herein. Thus, there is likely no financial strain and/or burden in time and/or cost to the Third and/or Fifth Defendants in complying with the order sought.
- 9) The Claimants contend that the requested documents ought to have been disclosed and produced for inspection by the Third and/or Fifth Defendants at the time of the Order for standard disclosure in this matter. Notwithstanding the Third and/or Fifth Defendants' failure to disclose at that stage, the duty of disclosure continues until the proceedings are concluded.
- 10) The Claimants assert that the requested documents are directly relevant to the issues relating to whether the Fifth Defendant had knowledge of the Developer's obligation to convey the Common Property. The documents will also aid the Court in determining whether, as alleged by the Fifth Defendant, there existed a common intention that the Common Property, as defined in the First Defendant's By-laws, should be vested in the Fifth Defendant.
- 11) These issues are directly relevant to the broader issue of whether the Fifth Defendant acquired the property subject to a constructive trust in favour of the First Defendant or its members.
- 12) Further, pursuant to *rule 28.16 of the CPR*, a party may inspect and copy a document mentioned in a witness statement, once the party which seeks inspection provides a written notice to the party or witness that mentioned the document.
- 13) As stated in paragraph 6 of this Application, the Witness Statement of Sunil Chatrani filed on behalf of the Third and Fifth Defendants mentioned the Sale Agreement at paragraph 4 and failed to annex it therein or disclose it in standard disclosure.
- 14) By letters dated October 11, 2025 and February 5, 2026, Counsel for the Claimants wrote to Counsel for the Defendants requesting that the Defendants produce the documents requested herein. At the time of preparing this Application, there has been no response from the Defendants.
- 15) The Claimants are cognizant of the timing of this Application. However, the delay in filing the application was due to an inadvertent omission regarding the sufficiency of disclosure, which was recognised during final trial preparations. Upon realising the potential relevance of the outstanding material, the application was made at the earliest opportunity.
- 16) The timing of the Application does not obviate the obligation of the Third and/or Fifth Defendants to comply with their duty of disclosure and the Claimants ought not to be penalised for raising the First, Third and/or Fifth Defendants' failure to disclose at this stage.

- 17) A perusal of the List of Documents filed Fifth Defendant pursuant to the order for standard disclosure reveals that it contains the following statement, which on its face is patently false and very misleading:

"Neither the Fifth Defendant nor its attorneys-at-law nor anyone else on their behalf has now, or ever has had in their physical possession nor has the Fifth Defendants now nor has the Fifth Defendant ever had the right to possession or the right to take copies of any documents which should be disclosed and inspected under the terms of the court's order other than those listed in this List of Documents"

- 18) The Claimants' were in fact misled into believing that there were no other documents in the possession of the Fifth Defendant that were directly relevant to key issues joined in these proceedings.
- 19) There is no applicable right of the **First**, Third and/or Fifth Defendants to withhold disclosure and/or inspection of the requested documents.
- 20) The specific disclosure request is necessary to dispose fairly of this matter.
- 21) Failing to grant this Order will prejudice the Claimants as they would be denied the use of relevant documentation necessary to prove their case and assist the Court in determining key issues which, at all material times, were in the possession of the **First**, Third and/or Fifth Defendants.
- 22) Granting this Application in the terms sought will be in furtherance of *Part 1 of the CPR* which enables the Court to deal with cases justly which includes ensuring that the parties are on equal footing and that the matter is dealt with fairly.
- 23) The Claimants humbly ask that this Honourable Court grants the reliefs sought.

**The Affidavit deposed by Paul Lamb and filed on October 13, 2025 is in support of this application.**

Dated the 4<sup>th</sup> day of March 2026

  
LEX CARIBBEAN

**Per: Akeem D. Rowe**  
Attorneys-at-Law for the Claimants

**CERTIFICATE OF TRUTH**

I, **PAUL LAWRENCE LAMB**, **CERTIFY** on behalf of the Claimants herein that the facts stated in this Application are true.

Dated the 4<sup>th</sup> day of March 2026

  
**PAUL LAWRENCE LAMB**

**NOTICE:**

This application will be heard by the Judge in Chambers on the       day of       ,  
2026 at       a.m/p.m.

If you do not attend this hearing an order may be made against you.

**NB:** This notice of application must be served as quickly as possible on the respondent to the application.

The Registry is located at The Law Courts, Bridgetown, telephone number (246) 535-9700, FAX (246) 426-2405. The office is open to the public between 8:15 a.m. and 3:30 p.m. Mondays to Fridays except on public holidays.

Filed by **LEX** Caribbean  
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**GARDEN WALL VILLA ASSOCIATION INC.**

**SIXTH DEFENDANT**

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**DRAFT ORDER**

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**Before: The Honourable Justice Bryan Weekes, Judge of the High Court on the 5<sup>th</sup> day of March, 2026**

**Entered: On the            day of            , 2026.**

**UPON THE APPLICATION** filed on behalf of the Claimants on the 4<sup>th</sup> day of March, 2026 coming on for hearing this day;

**AND UPON READING** the Affidavit filed herein by the Claimants on the 13<sup>th</sup> day of October, 2025;

**AND UPON HEARING** Mr. Garth Patterson, S.C., Mr. Akeem D. Rowe and Ms. Amanda C. Best, of the law firm of Lex Caribbean, Attorneys-at-Law for the Claimants, Mr. Roger C. Forde S.C., Attorney-at-Law for the First, Second, Third and Fourth Defendants and Ms. Ruan C. Martinez and Mr. Malcolm Deane Attorneys-at-Law for the Fifth Defendant;

**AND UPON** the Sixth Defendant being absent from the hearing;

**IT IS ORDERED THAT:**

1. The First, Third and/or Fifth Defendants carry out a search for and disclose the following documents which are directly relevant to the proceedings, and which are, were or ought to have been in the possession of the First, Third and/or Fifth Defendants:
  - i. A copy of the Purchase and Sale Agreement between Republic Bank (Barbados) Limited ("**Republic Bank**"), and Plantation Sanctuary Inc. ("**PSI**") dated February 3, 2020 (the "**Purchase and Sale Agreement**");
  - ii. A copy of the Inventory Agreement between Republic Bank, PSI and Apes Hill Development SRL dated February 3, 2020 (the "**Inventory Agreement**");
  - iii. All requisitions on title and any answers or replies thereto;
  - iv. Any correspondence or reports exchanged between Republic Bank, PSI and their agents relating to the said sale;
  - v. All correspondence between PSI and the Second, Third and Fourth Defendants in relation to their appointment as directors of the First Defendant;
  - vi. Application No: 2347/10/90C made to the Chief Town Planner and recorded in the Land Registry of this Island on February 28, 2005 under the reference number 1665 (the "**Application for Permission**");
  - vii. Letter dated the 31<sup>st</sup> day of July, 2001 from the Minister of Finance and Economic Affairs granting permission (the "**Permission**") for the subdivision of a parcel of land comprising approximately 870 acres from other lands of Taitts Waterhall and Apes Hill Plantations in parish of Saint James and Gregg Farm Plantation in the parish of Saint Andrew for the development of a golf complex (the "**Apes Hill Development**") and for the further subdivision of

the Apes Hill Development into lots for tourism and residential purposes subject to the conditions contained in the Permission and recorded in the Land Registry on February 28, 2005 under the reference 1666;

- viii. Any subsequent applications for permission to further subdivide the Apes Hill Development and any permissions granted in relation to the said applications;
- ix. Plan of 1,902,000 square meters of land part of the Plantations (described in the Conveyance dated December 16<sup>th</sup>, 2005 between C. O. Williams Construction Ltd. and Apes Hill Development SRL) made and certified on the 11<sup>th</sup> day of October 2005 by Brian A. Hart Land Surveyor (the "**Plan**") and which Plan was submitted to and approved by the Chief Town Planner on November 17<sup>th</sup>, 2005 and recorded in the Land Registry of this Island on January 5, 2005 under the reference number 81;
- x. All other plans of the Apes Hill Development, particularly those depicting the common areas, roads and other shared facilities;
- xi. Certificate of compliance dated November 15, 2005 ("**Certificate of Compliance**") certifying that condition numbered 18 of the Permission had been complied with to the satisfaction of the Chief Town Planner and that there was no objection to the sale lease or other disposition of the lots in the Apes Hill Development and recorded in the Land Registry of this Island on January 5, 2005 under the reference number 82;
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- xvii. Notice of Secretary filed on behalf of the First Defendant on November 09, 2007;
- xviii. Notice of Secretary filed on behalf of the First Defendant on March 3, 2006;
- xix. All Board Resolutions of the First and Sixth Defendants;
- xx. All minutes and/or contemporaneous notes of meetings of the boards of directors of the First and Sixth Defendants;
- xxi. Any books and records of the First and Sixth Defendants which were transferred to the Fifth Defendant in connection with the sale of the Development;

- xxii. The Register of Members of the First and Sixth Defendants;
  - xxiii. All Annual General Meeting notices, minutes and all attendant documents circulated to members of the First and Sixth Defendant from February 3, 2020 up to and including the Annual General Meetings held in August 2024 and September 2025;
  - xxiv. Any Affidavits of mailing and/or service of notices of meetings of the members, including but not limited to Annual General Meetings and any extraordinary general meetings from February 3, 2020 to present;
  - xxv. The audited financial statements of the First Defendant for the year 2024;
  - xxvi. Books and records of the First Defendant relating to the membership dues collected from February 3, 2020 to present, as contained in the audit financial statements of the First Defendant for the years 2021, 2022 and 2023;
  - xxvii. Books and records of the First Defendant relating to the repairs and maintenance from February 3, 2020, to present, as contained in the audit financial statements of the First Defendant for the years 2021, 2022 and 2023; and
  - xxviii. Books and records of the First Defendant relating to property management from February 3, 2020, to present, as contained in the audit financial statements of the First Defendant for the years 2021, 2022 and 2023.
- 2. The Claimants be permitted to inspect the documents requested herein within forty-eight (48) hours of the date of this Order.
  - 3. Costs be costs in the cause.

**BY THE COURT**

.....  
**REGISTRAR**

**SUPREME COURT OF BARBADOS  
IN THE HIGH COURT OF JUSTICE**

**CLAIM NO.** CV 284 OF 2023

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**SIXTH DEFENDANT**

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**DRAFT ORDER**

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Presented for filing by **LEX** Caribbean  
Attorneys-at-Law for the Claimants

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**AMENDED NOTICE OF APPLICATION**

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**Presented for filing by LEX Caribbean  
Attorneys-at-Law for the Claimants**