



Special Report of Investigation

**Concerning the Circumstances Surrounding the Grant
and Use of Prescribed Licences and Permits issued in
relation to the Construction and Renovation of the Blue
Diamond Hotel Group's "Royalton Negril" Resort**

Integrity Commission

March 2021



This Publication until tabled in Parliament shall be confidential.

Sections 55 (4) and (5) of the Integrity Commission Act states:

"(4) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged."

Section 56 of the Integrity Commission Act states:

"Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, statutory declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to him in the execution of any of the provisions of this Act to any person —

(a) other than a person to whom he is authorized under this Act to communicate it; or

(b) otherwise than for the purpose of this Act, commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

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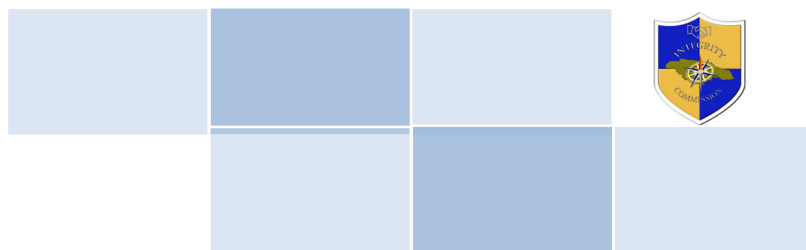
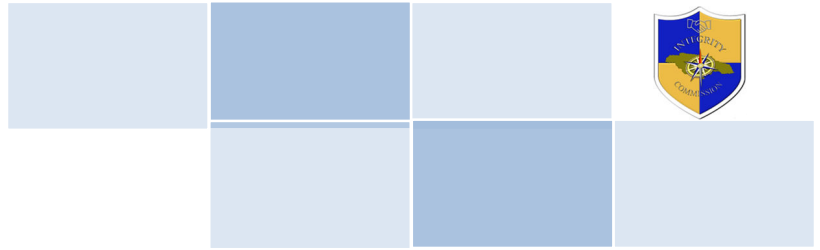
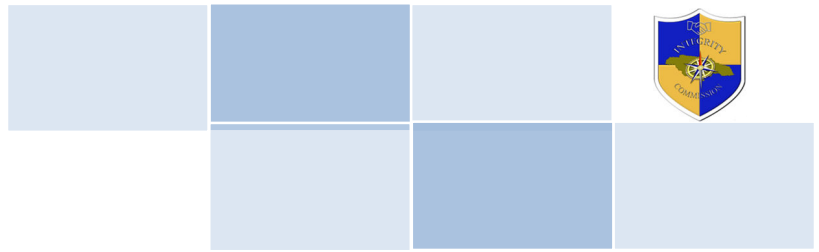


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Summary of Investigation

- 1.1 On May 13, 2016, the Office of the Contractor General (hereinafter referred to as the then OCG), acting on the authority of the Contractor General and pursuant to Sections 4, 15(1) and 18 of the Contractor General Act (CGA), launched an investigation into the circumstances surrounding the grant, award, issuance and use of prescribed licenses and permits, which were issued in relation to the construction and renovation of the Blue Diamond Hotel Group's "Royalton Negril" Resorts (hereinafter referred to as "the Royalton Negril Resort") which was being constructed on the property of the former Grand Lido Resort in Negril.
- 1.2 The then OCG's decision to undertake an investigation into the instant matter was prompted by, among other things, several reports in the media in relation to the lack of required approvals from the relevant authorities, which culminated with the collapse of portions of the hotel whilst under construction.
- 1.3 The aforementioned matters raised several concerns for the then OCG, especially in light of the provisions which are enshrined in Section 4(1)(b) of the Contractor General Act. Section 4 (1)(b) of the Act requires, *inter alia*, that the then OCG monitor the grant, issue suspension or revocation of any prescribed licence with a view to examining whether "...such licence is used in accordance with the terms and conditions thereof". The foregoing objectives formed the basis of the then OCG's Terms of



Reference for the Investigation and were primarily developed in accordance with the provisions which are contained in Section 4(1) and Section 15(1) (e) to (f) of the Contractor General Act.

- 1.4 The then OCG was also guided by the expressed provisions which are contained in Section 21 of the Contractor General Act. Section 21 specifically mandates that a Contractor General shall consider whether he has found, in the course of his Investigation, or upon the conclusion thereof, evidence of a breach of duty, misconduct or criminal offence on the part of an officer or member of a Public Body and, if so, to refer same to the competent authority to take such disciplinary or other proceedings as may be appropriate against that officer or member.
- 1.5 The Investigation sought to determine, *inter alia*:
- a) whether there was any irregularity in the grant and issue of permits for the construction and renovation at the Royalton Negril Resort;
 - b) the level of compliance with the conditions of permits issued; and
 - c) the level of compliance with the provisions of the CGA, the Town and Country Planning Act, the Town and Country Planning (Negril and Green Island Area) confirmed Development Order (2013), the Natural Resources Conservation Authority Act (NRCA) and NRCA Regulations, the Parish Council's Building Act (Hanover) 1952 and any other relevant legislation.
- 1.6 The Findings of the Investigation into the circumstances surrounding the aforementioned matter are premised primarily upon a review and an analysis of the statements and the documentary evidence which were



provided by the Respondents, who were requisitioned by the then OCG and/or Director of Investigation (hereinafter referred to as the "DI").

1.7 **Summary of Key Findings**

1.7.1 The following table highlights the permits and approvals, that were issued by various government entities, to the developers of the Royalton Negril Resort:

Table No. 1

Permit/Approval	Date of approval	Entity	Terms and Conditions	Expiration Date
Permit to Undertake Preliminary Works	August 12, 2015	Hanover Parish Council	8 conditions were enumerated	N/A
Building Permit	November 19, 2015	Hanover Parish Council	98 conditions were enumerated in resolution of Council dated November 19, 2015	Valid for two years after approval date.
Environmental Permit: Permit to Undertake Enterprise, Construction or Development of Hotel or Resort Complex of 501 to 1000 rooms	November 10, 2015	NEPA	16 General Conditions and 51 Specific Conditions were enumerated in the permit	Permitted activity to commence within five years after the date of issue of Permit.
Planning Permission for proposed construction of a 632 room hotel development	November 11, 2015	Town and Country Planning Authority	19 conditions were enumerated in letter dated November 11, 2015.	The development must begin no later than expiration of two (2) years beginning with



Permit/Approval	Date of approval	Entity	Terms and Conditions	Expiration Date
				the date on which permission was granted.
Planning Permission for proposed construction of a 573 room hotel development	July 1, 2016	Town and Country Planning Authority	20 conditions were enumerated in letter dated July 1, 2016.	The development must begin no later than expiration of two (2) years beginning with the date on which permission was granted.
No objection to approval granted	April 26, 2016	National Works Agency	13 conditions were enumerated in letter dated April 26, 2016	
Building Plans for Royalton Resort Negril approved	April 22, 2016	Jamaica Fire Brigade	20 conditions were enumerated in letter dated April 22, 2016	

1.7.2 As a result of breaches observed in relation to constructions works at the site of the Royalton Negril Resort, the following Cease Work Notices were issued by the Hanover Parish Council:

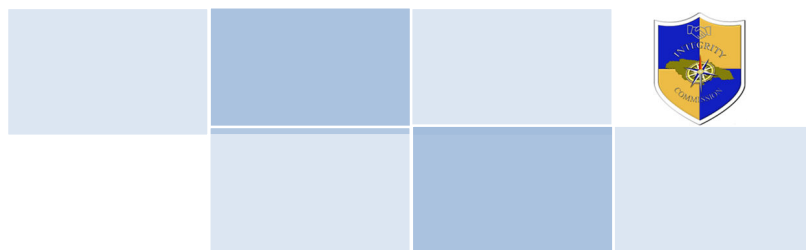


Table No. 2

DATE	TO	NOTICE
20-10-15	Hotel Royalton Negril	Buildings #2 and 3 were being constructed without approval
10-05-16	Royalton Hotel (Raphael Cosano)	Breaching the building conditions of approval

1.7.3 The Hanover Parish Council served Cease Work Notice as construction had commenced prior to a building permit being issued.

1.7.4 The Hanover Parish Council/Hanover Municipal Corporation was unable to confirm whether construction continued after the Cease Work Notice dated October 20, 2015, was issued and prior to the grant of Building Permit on November 19, 2015.

1.7.5 NEPA conducted the following enforcement actions in relation to the construction activities which were observed at the site of the Royalton Negril Resort:

Table No. 3

Enforcement Instruments	Date	Nature of Contravention/ Requirement
Enforcement Notice	October, 23 2015	Contravened the Town and Country Planning Act and the Town and Country Planning (Negril and Green Island (Confirmed) Development Order by undertaking construction without planning permission.
Stop Notice	October 23, 2015	Required to immediately cease construction because the development was unauthorized and being carried out without the grant of planning permission. The Stop Notice was valid for a period



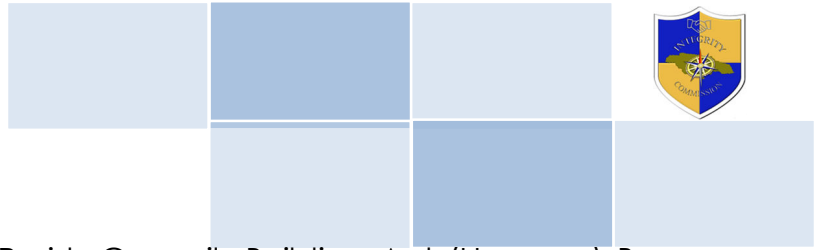
Enforcement Instruments	Date	Nature of Contravention/ Requirement
		of ten days.
Cessation Order	October 23, 2015	Ordered to immediately cease construction because they failed to obtain a required permit.
Site Warning Notice	October 28, 2015	Breaches relating to the Town & Country Planning Act were observed. Specifically, failure to comply with a cessation order.
Site Warning Notice	December 3, 2015	Breaches relating to the Natural Resources Conservation Authority Act were observed. Specifically breach of general Condition #9 and special conditions #25, 27, 33, 34, 36, 39, 40, 45, 47 and 48. ¹
Site Warning Notice	December 3, 2015	Breaches relating to the Town & Country Planning Act were observed. Specifically breaches of general conditions #9i, 11 and 17.
Cessation Order*	January 13, 2016	Ordered to immediately cease mining of carbonated sand because they failed to obtain a required permit in breach of the Natural Resources Conservation Authority Act.

*The DI noted that this Cessation Order was addressed to Yabyanas Limited and not BBNH Resorts, the owners/operators of Royalton Negril Resort, but was provided by NEPA in relation to Royalton Negril Resort.

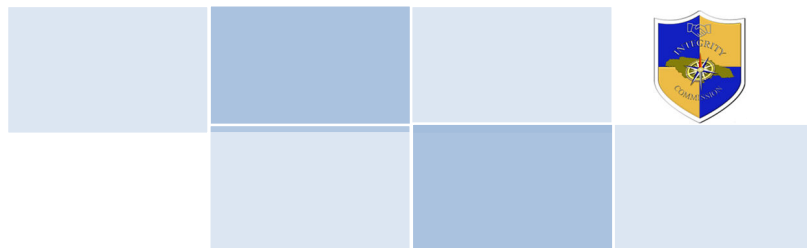
1.7.6 Notwithstanding a Cessation Order which was issued by NEPA on October 23, 2015, to the developers of Royalton Negril Resort, to cease all construction as at October 26, 2015, the developers continued construction on site, with the result that a Site Warning was issued on October 28, 2015.

1.7.7 The developers of Royalton Negril Resort acted in breach of the following legislation:

¹ See Appendix#1 for a copy of Environmental Permit to Undertake Enterprise "Construction and Operation of Hotel or Resort Complex of 501 to 1000 rooms", dated November 10, 2015.



- a) Sections 3 and 4 of the Parish Councils Building Act (Hanover) By-Laws 1952, when it began construction without obtaining a building permit/approval from the Hanover Municipal Corporation; and
- b) Sections 4 and 5, of the Town and Country Planning (Hanover Coast) Provisional Development Order when the developers of Royalton Negril Resort began construction without obtaining planning permission from the local planning authority prior to the commencement of any development of land.



Chapter 2 – Background

2.1 This chapter outlines the background information concerning the investigation.

Initiation of Investigation

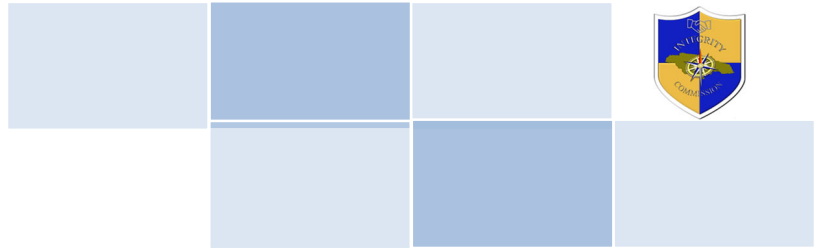
2.1.1 On May 13, 2016, the then OCG, acting on the authority of the Contractor General, launched an investigation into the circumstances surrounding the grant, award, issuance and use of prescribed licenses and permits, which were issued in relation to the construction and renovation of the Royalton Negril Resort which was being constructed on the property of the former Grand Lido Resort in Negril.

Jurisdiction

2.1.2 The jurisdiction of the then OCG to enquire into the circumstances surrounding the grant, award, issuance and use of prescribed licenses and permits, issued in relation to the construction and renovation of the Royalton Negril Resort, was grounded in the following sections of the Contractor-General Act (CGA).

2.1.3 Section 4 of the CGA states as follows:

“(1) Subject to the provisions of this Act, it shall be the function of a Contractor-General, on behalf of Parliament-



...

*(b) to monitor the grant, issue, suspension or revocation of any prescribed licence, with a view to ensuring that the circumstances of such grant, issue, suspension or revocation do not involve impropriety or irregularity and, where appropriate, to examine whether such licence is used in accordance with the terms and conditions thereof."*²

2.1.4 Section 15(1) of the CGA provides that:

"... a Contractor-General may, if he considers it necessary or desirable, conduct an investigation into any or all of the following matters-

...

*(e)the circumstances of the grant, issue, use, suspension or revocation of any prescribed licence;
(f)the practice and procedures relating to the grant, issue, suspension or revocation of prescribed licences."*³

2.1.5 Section 16 of the CGA expressly provides that:

² Section 4(1)(b) of the Contractor-General Act (CGA)

³ Section 15(1) of the CGA.



“An investigation pursuant to section 15 may be undertaken by a Contractor-General on his own initiative or as a result of representations made to him, if in his opinion such investigation is warranted.”⁴

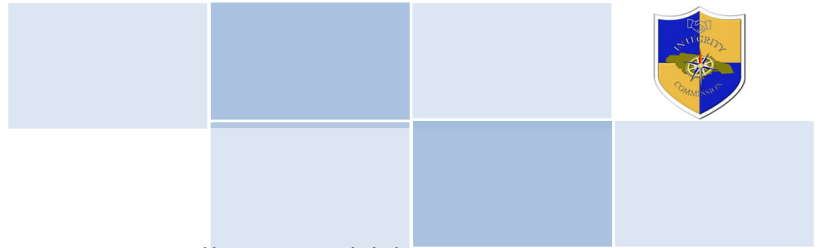
2.1.6 Having regard to the obligations outlined in Sections 15 and 16 of the CGA, the licences and/or permits issued by the relevant authorities in relation to the subject renovation and/or construction, fell within the remit of the then OCG.

2.1.7 Consequently, the then OCG initiated an investigation into the grant, award, issuance and use of prescribed licenses and permits in relation to the construction and renovation of the Royalton Negril Resort.

2.1.8 In regards to the continuation of the referenced investigation by the DI, Sections 63(1), 63(2)(a) and (b) of the Integrity Commission Act provides, *inter alia*, that:

“63(1) Notwithstanding the amendment or repeal of an Act under this Part, as from the appointed day and legal proceedings or claims pending immediately before the appointed day, which, before the appointed day, were brought, continued or enforced by or against any of the respective Commissions, shall be brought, continued or enforced by or against the

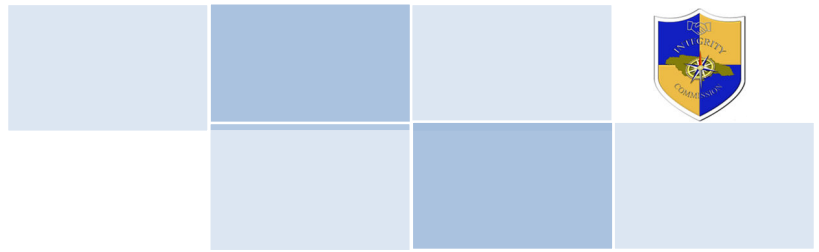
⁴ Section 16 of the CGA.



Commission in the same manner as they would have been brought, continued or enforced before the appointed day.

(2) The Commission established under this Act may –

(a) commence or assume any investigation, swear any information or commence or conduct any prosecution in respect of an offence committed, or alleged to be committed before the appointed day under a provision of either of the amended Acts that has been amended or repealed by this Act, or under the repealed Act, and each such amended or repealed provision and the repealed Act shall be deemed to remain in full force and effect, for the purposes of any such investigation, information and prosecution as it had been immediately before the appointed day; or
(b) continue or do any act, thing or investigation which was pending before the appointed day."



The Investigation

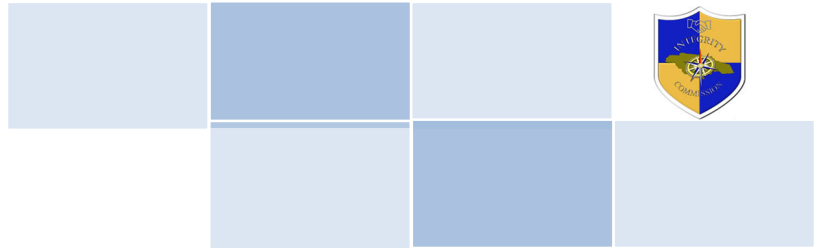
2.1.9 The Requisitions/ Questionnaires, which formed a part of the then OCG's methodology, were directed by the then OCG and the Integrity Commission, to the following Public Officials/Officers:

- i) Mrs. Althea Stewart, Secretary Manager, Negril Green Island Area Local Planning Authority;
- ii) Mr. David Gardner, Secretary Manager, Hanover Parish Council; and
- iii) Mr. Peter Knight, Chief Executive Officer, National Environment and Planning Agency.

2.1.10 During the course of the investigation, a detailed review and cross referencing of the responses and supporting documentation that were submitted by the aforementioned persons, was conducted.

2.1.11 A review of other documents, to include the Natural Resources Conservation Authority Meeting Minutes, for the period May 17, 2016 to December 5, 2017, was also undertaken.

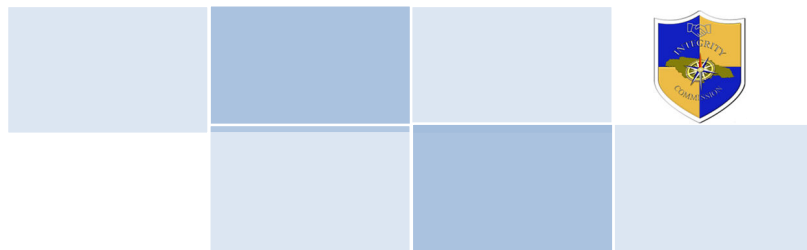
2.1.12 A comprehensive review of the then applicable Parish Council Building Act-By Laws, the Town and Country Planning Act, the Contractor-General Act and other relevant legislation, in relation to the issuance of licences and permits as it regards the construction and renovation of the Royalton Negril Resort, was also undertaken.



Entities Pertinent to the Investigation

2.1.13 Negril Green Island Area Local Planning Authority;

Hanover Municipal Corporation, formerly the Hanover Parish Council; and
National Environment and Planning Agency.



Chapter 3 – Terms of Reference

3.0 This chapter sets out the scope of the investigation and the issues that were explored.

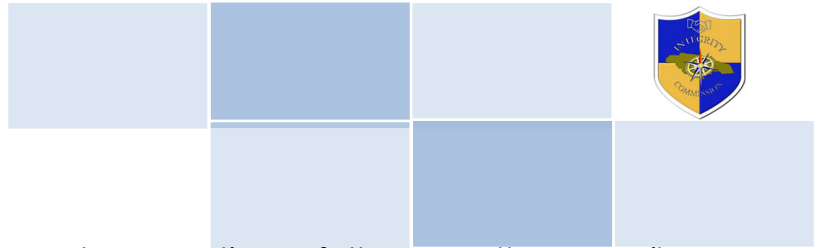
3.1 The Investigation had the following specific objectives:

3.1.1 To determine whether the requisite approvals and/or permits in relation to the construction and renovation of the Royalton Negril Resort were obtained;

3.1.2 To determine whether the terms and conditions of the approvals and/or permits which may have been issued to Royalton Negril Resort were adhered to;

3.1.3 To determine whether any cease work notices or stop orders, were issued by the Hanover Parish Council or the National Environment and Planning Agency, in relation to the construction and renovation of the Royalton Negril Resort and, if so, whether construction continued in breach of same; and

3.1.4 To determine whether there was/were any breach(es) of the Parish Council Building Act-By Laws, the Town and Country Planning Act, and the Contractor-General Act and any other relevant legislation, in relation to the issuance of relevant licences and permits as it



regards the construction and renovation of the Royalton Negril Resort.



Chapter 4 –Evidence, Findings and Discussion

4.0 This chapter sets out the discussion of the findings and the relevant legislation in respect of the investigation.

Relevant Legislation

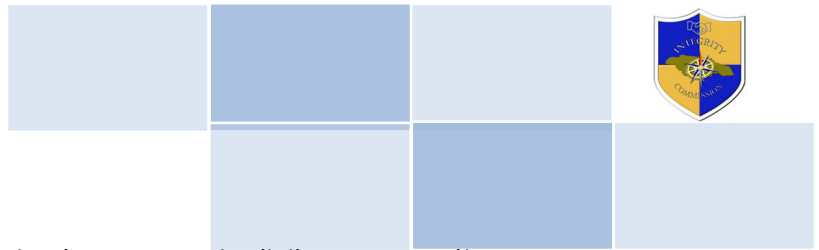
4.1.1 The then OCG undertook a review of the legislative framework which governs the permits and licenses required in respect of the construction and renovation works ,which were undertaken by the Blue Diamond Hotel Group at the Royalton Negril Hotel. The following provisions of law are highlighted below:

4.1.2 Sections 3 and 4(2) of the Parish Councils Building Act (Hanover) By-Laws 1952, states as follows:

“3. No person shall erect or re-erect any building or remove, alter or extend any building or any part thereof unless the plan of such building, alteration or extension has been approved by the Council.

...

4(2) The Council shall approve or disapprove such plans within sixty days and shall-



(a) In case of approval, issue a building permit authorizing the proposed erection, re-erection, removal, alteration or extension..."

4.1.3 Additionally, Section 9 of the Natural Resources Conservation Authority Act (NRCAA) stipulates that:

"(2) ...no person shall undertake in a prescribed area any enterprise, construction or development of a prescribed description or category except under and in accordance with a permit issued by the Authority.

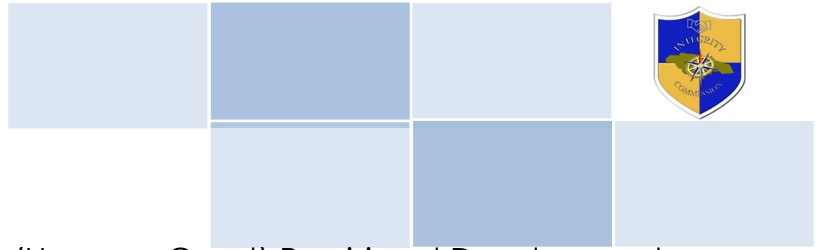
...

(7) Any person who contravenes any provisions of subsection (2) shall be guilty of an offence and shall be liable on summary conviction...to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment..."

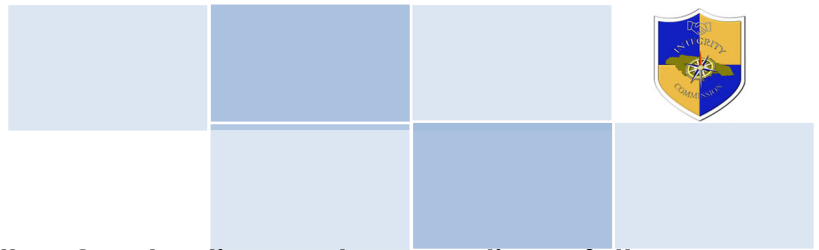
4.1.4 Further, Section 13(1)(a) of the NRCAA stipulates that:

" where a person fails to comply with the provisions of section 9(2)...

the Authority may issue an order in writing to such person directing him to cease, by such date...the activity in respect of which the permit...is required."



4.1.5 The Town and Country Planning (Hanover Coast) Provisional Development Order at Sections 4 and 5, makes reference to the requirement to obtain planning permission from the local planning authority prior to the commencement of any development of land.



Requisite Approvals in Relation to the Construction and Renovation of the Royalton Negril Resort

4.2.1 The construction and renovation of the Royalton Negril Resort required the following permits and/or licences:

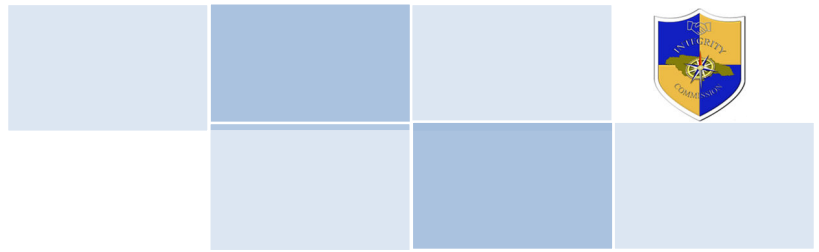
- a. Building Permit from the Hanover Parish Council;
- b. Planning Permission from the Town and Country Planning Authority after consultation with the Negril and Green Island Area Local Planning Authority; and
- c. Environmental Permit issued by NEPA.

4.2.2 The Negril/Green Island Area Local Planning Authority (NGIALPA) confirmed that the land previously occupied by Grand Lido Negril, which is the location of the Blue Diamond Hotel Group's "Royalton Negril", is within the Negril Green Island Area Development Order Area.⁵

4.2.3 The then OCG undertook a detailed review of the permits and processes related to the grant of the aforementioned permits and licences and, noted with importance, that the application and approval process included input from various stakeholders and/or commenting agencies.

4.2.4 In relation to the procedures associated with the granting of the planning permissions and environmental permits, for the construction of Royalton Negril Resort, Mr. Peter Knight, Chief Executive Officer, NEPA, indicated the following:

⁵ Letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Response # 2



"The development required planning permission and the applications were submitted to the Negril and Green Island Area Local Authority.

The Application was referred to the Town and Country Planning Authority (TCPA) pursuant to section 12 (1A) of the Town and Country Planning Act, 1957.

The development also required Building Permission from the Hanover Municipal Corporation (HMC) pursuant to the Building Act, 2016.

...

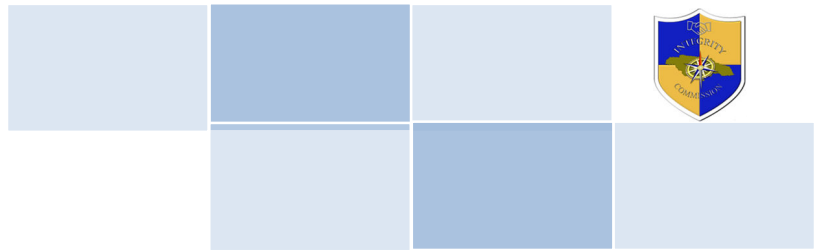
The application was taken through the development application review process...

Environmental Considerations

The IRC [Internal Review Committee]/TRC [Technical Review Committee] /NRCA [Natural Resources Conservation Authority]/TCPA[Town &Country Planning Authority] considered the applicable potential impacts and appropriate mitigation." ⁶

4.2.5 The Hanover Parish Council and the Negril Green Island Area Local Planning Authority (NGIALPA) are the two (2) local authorities in the parish of Hanover tasked with the mandate of issuing building and planning permits.

⁶ Letter dated 4 February, 2020, from Mr Peter Knight, CEO of NEPA, responses # 1 and 2.
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4.2.6 Having regard to the foregoing, the then OCG by way of Requisition dated May 17, 2016, required the then Hanover Parish Council to provide information regarding the standard procedures, policies, protocols and regulations associated with the granting of licences and/or permits, for the construction of Hotels, Guest Houses and other Tourism Service Accommodations in the Negril/ Green Island Area.⁷

4.2.7 Mr. David Gardner, then Secretary/Manager of the Hanover Parish Council, provided the following response:

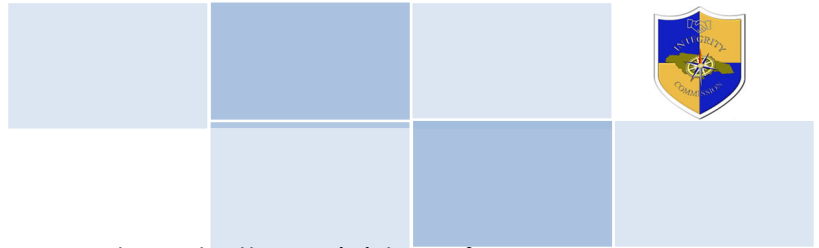
"1. The necessary steps involved in the approval process for the granting of licences/permits for the construction of hotels, etc are as follows:-

(a) The submission of an application to the Negril Green Island Planning Authority for Planning permission through referral to the Town and Country Planning Authority. N.B. This is only applicable for development falling within the zone over which the NIGIPA has jurisdiction:-

(b) The submission of an application to the National Environment Planning Agency for Environmental Permit.

(c) The submission of an application to Hanover Parish Council for a Building Permit. The application is also circulated to critical agencies such as the National

⁷ Requisition dated May 17, 2016, from the then OCG addressed to Mr. David Gardener, then Secretary/Manager, Hanover Parish Council; Question 1.



Works Agency, the Fire Department, the Ministry of Health, National Water Commission and the Office of Disaster Preparedness for their recommendations..."⁸

4.2.8 In relation to the particulars of all stakeholders involved in the granting of building permits/licences, Mr. Gardner provided the following response:

*"Building permits are granted by the Hanover Parish Council, through approval granted at the Physical Planning & Environment Committee. The Committee comprises all seven (7) Councilors of the Hanover Parish Council, who are the voting members. **Applications are usually referred to the Committee for approval, once the Council is in receipt of favorable responses from the commenting agencies.***

*The Committee is provided with guidance through the Secretary/Manager, Superintendent, and Director of Planning, also, **representatives of the key commenting agencies are usually present to provide clarity where necessary on the input of their agency.**"⁹ (DI Emphasis)*

⁸ Response dated May 30, 2016, from Mr. David Gardener, then Secretary/Manager, Hanover Parish Council, to the then Office of the Contractor General; Response 1(a) to (c)

⁹ Response dated May 30, 2016, from Mr. David Gardener, then Secretary/Manager, Hanover Parish Council, to the then Office of the Contractor General; Response 1(c))iii)



4.2.9 In addition to the foregoing, Mr. Gardner also indicated that the following persons are involved in the Council's building approval process and outlined the role(s) and responsibilities of each as follows:

"...Superintendent of Roads & Works - Chief Technical Advisor to Council. Make recommendations for plans to be forwarded to the Physical Planning & Environment Committee, sets and sign off on conditions of approval also signs off on Building Officers recommendation.

...Deputy Superintendent of Roads & Works. Access plans for fees, Structural details and other criteria, carry out site inspections, monitoring and enforcement, make recommendations for plans to be forwarded to the Physical Planning & Environment Committee, set and sign off on conditions of approval

...Building Officer. Access plans for fees, Structural details and other criteria, carry out site inspections, monitoring and enforcement, make recommendations for plans to be forwarded to the Physical Planning & Environment Committee, sets recommendations on conditions of approval

...Director of Planning. Review applications to ensure they are within the zoning area and are conforming to



uses, liaise with external agencies to receive recommendations, permits, license to be embodied in approvals, refer applications to commenting agencies, monitor AMANDA System.

...AMANDA Representative. Prepare physical file for application, input data in AMANDA system, Assess application for documentations (sic).

...Planning Coordinator. Helps with assessment for documentations(sic), prepare physical file, assist with circulation of application, types conditions forwarded from the Superintendent, seal plans signed by the Secretary/Manager.

...Cashier. Receive payment for application and issue receipt.

Council – Grant final approval.

... Secretary /Manager. Sign plans, Building Permit and resolutions."¹⁰

¹⁰ Response dated May 30, 2016, from Mr. David Gardener, then Secretary/Manager, Hanover Parish Council, to the then Office of the Contractor General; Response 1(c)(ii)-(Appendix 1.ii).



4.2.10 The DI sought to ascertain whether the decision of the Negril/Green Island Area Local Planning Authority influences the Hanover Parish Council's/Municipal Corporation's decision to approve or refuse to grant Building Permission. In response, Mr. Gardner indicated the following:

"...the comments of all referral agencies are treated by the Municipal Corporation as recommendations for the consideration of Building approval. Therefore, the Corporation is not obligated to accept any particular recommendation in granting building approvals."¹¹ (DI Emphasis)

¹¹ Response to the Integrity Commission from Mr. David Gardner, Chief Executive Officer, Hanover Municipal Corporation, dated February 20, 2020. Response #6.



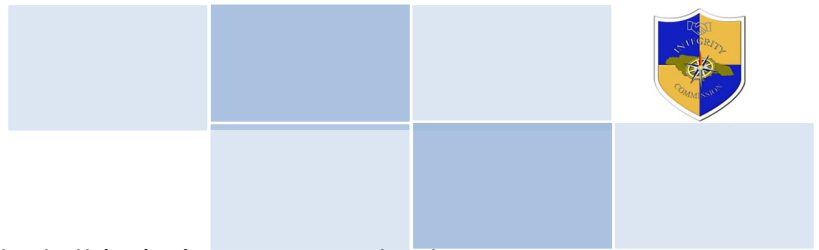
Permission from the Hanover Parish Council to Undertake Preliminary Works at the Royalton Negril Resort

4.3.1 By way of Internal Memorandum, the Acting Deputy Superintendent Roads & Works, indicated to the Secretary Manager, that Royalton Negril Resort requested permission to undertake preliminary works. The referenced Memorandum stated, *inter alia*, the following:

“Re: ROYALTON NEGRIL HOTEL – REQUEST FOR PERMISSION TO UNDERTAKE PRELIMINARY WORKS

The Council is in receipt of letter date August 7, 2015 were [sic] the above captioned development has expressed their desire to undertake several aspects of works for the development.

The Council should advice [sic] the developer of works which can be done prior to receiving a building permit. Please be mindful that a permit for construction of this nature requires minimum three permits, namely; (1) Planning permit- granted by NEPA (in this case), (2)Environmental Permit- also granted by NEPA and (3) Building Permit- granted by the Hanover Parish Council. The document attached shall be signed by the developer, where in signing this document the developer agrees to the compliance of the terms and conditions stipulated in same. They should also be



reminded of the fact that this is in no way to be considered to be a building approval as the application is still being processed.

*The developer can undertake works in the following specified aspects, which would form part of conditions of approval and shall not commence any other works unless otherwise instructed."*¹²

- 4.3.2 Based on the foregoing, certain terms were outlined by the Hanover Parish Council to Royalton Negril Hotel granting permission to undertake preliminary works, which included facilitating fencing & sidewalk, temporary structure construction, infrastructure development (works which can be done prior to the construction of building which can be modified if necessary), among other things.¹³

¹² Internal Memo dated August 12, 2015, from Acting Deputy Superintendent Roads & Works to the Secretary Manager "**Re: ROYALTON NEGRIL HOTEL-REQUEST FOR PERMISSION TO UNDERTAKE PRELIMINARY WORKS**"

¹³ Letter dated August 12, 2015, from the Hanover Parish Council to General Manager, Grandlido Hotel, which enclosed document entitled "Terms to Undertake Preliminary Works".



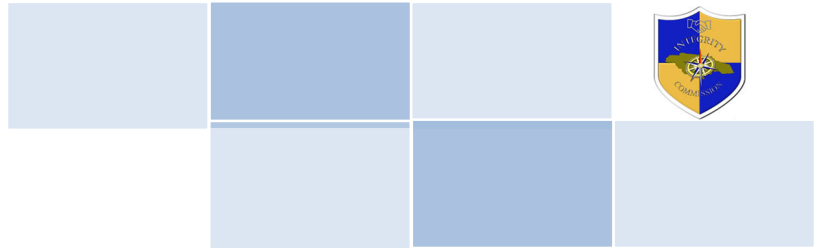
Cease Work Notice Issued by the Hanover Parish Council on October 20, 2015

4.4.1 After permission was granted to undertake preliminary works, it was noted that construction of permanent structure/ buildings ensued and, as a result, a Cease Work Notice was issued to Royalton Negril Resort on October 20, 2015. The Cease Work Notice stated that builders were "...in the process of carrying out the construction of Buildings #29'3 proposal of submission (sic)...without the approval of the Hanover Parish Council" and they were required to "CEASE ALL WORKS IMMEDIATELY". In order to ascertain clarity with regards to the reason stated on the Cease Work Notice, the Integrity Commission sought an explanation from the Hanover Municipal Corporation and the following was indicated:

*"...The message that...was being communicated was that buildings # 2 & 3 were being constructed without the necessary approvals and therefore the requisite building proposal or plans needed to be submitted to the Council for consideration of approval. The Notice was complied with, in respect of Buildings #2 & 3. Formal building approval was granted on November 19, 2015 and work resumed thereafter."*¹⁴

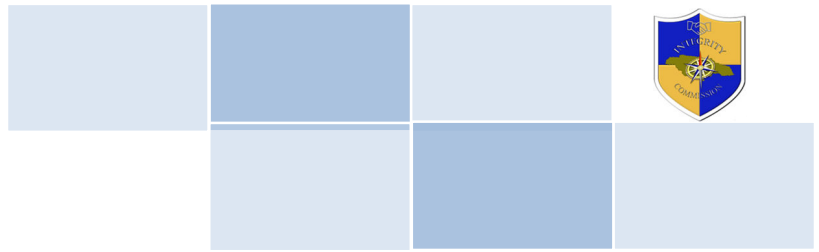
4.4.2 In relation to Cease Work Notice issued on October 20, 2015, Mr. David Gardner indicated the following to the DI:

¹⁴ Response to the Integrity Commission from David Gardner, Secretary Manager, Hanover Municipal Corporation, dated February 20, 2020. Response #3.



*"The Hanover Municipal Corporation served cease work notices as construction had commenced prior to a building permit being issued, which is a contravention of the Parish Council's Building Act (By-Laws 1952) and the Town and Country Planning Act of 1957."*¹⁵

¹⁵ Response to the Integrity Commission from David Gardner, Secretary Manager, Hanover Municipal Corporation, dated February 20, 2020. Response #7.



Building Permit

4.5.1 The Hanover Parish Council issued a Building Permit, dated November 19, 2015, to BBNH¹⁶ Resorts Limited (the owners and operators of the Blue Diamond Hotel Group's "Royalton Negril" Resorts).

4.5.2 The Building Permit allowed construction in accordance with the plans which were approved by the then Hanover Parish Council. Additionally, the conditions in the Resolution passed by Council dated November 20, 2015, which accompanied the referenced permit, stipulated, *inter alia*, the following:

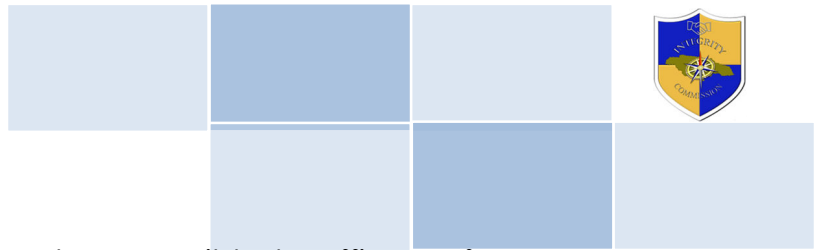
*"7. The development shall be carried out in strict accordance with all the amendments and notations made in red on plans submitted and approved by the Local Planning Authority **dated November 19, 2015 by the Hanover Parish Council.***

*8. The buildings shall be constructed in accordance with all P.E. signed plans submitted to and approved by the Local Planning Authority **dated November 19, 2015 by the Hanover Parish Council.***

...

10. All approval conditions, to include but not limited to, Environmental and Planning Permit shall be kept on

¹⁶ Bloody Bay Negril Hotel Resorts.



site at all times and be made accessible to officers of all relevant Authorities at time of inspections.

...

12. The developer shall notify the Superintendent of Roads and Works in writing of the date on which it is proposed to commence work."

4.5.3 By way of letter dated January 22, 2016, the Hanover Parish Council wrote to Mr. Francisco Rayo, who was the Site Manager at "Royalton White Sands" during the construction phase¹⁷, informing him of unapproved modifications to the Royalton Negril Resort:

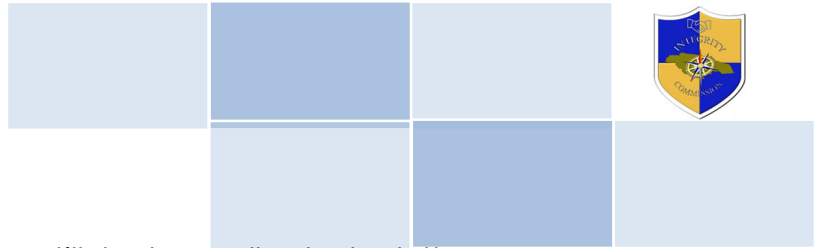
"Re: Unapproved Modifications to Royalton Hotel Project – Negril"

On Tuesday, January 12, 2016, a team of Officers from the Hanover Parish Council visited the construction site of the captioned hotel development.

The following very grave observations were made and pointed out to your team:

(1) The approved building plans and permit were not on site for inspection by the Officers, as required. These

¹⁷ Response to the Integrity Commission from David Gardner, Secretary Manager, Hanover Municipal Corporation, dated February 20, 2020. Response #5. The letter to Mr. Rayo was incorrectly addressed to him at Jamaica Public Service Company Limited.



necessary documents are still to be collected at the Hanover Parish Council.

(2) It was noted that while the architectural designs of the buildings have not been altered, the structural designs have been modified.

(3) It was also observed that there was no written communication to the Superintendent- Roads & Works pertaining to the date on which you had intended to commence work; this is a glaring breach of the required procedures which will not be tolerated. We are dealing with a relatively large development and it is critical that there be very timely communication with the Council, each step in the process. We therefore do not expect a repeat of this situation.

Further, we are directing that a full set of revised structural plans be submitted to the Hanover Parish Council for consideration, no later than Friday, January 29, 2016. It is not our desire to place a Cease Work Order on the project, however, your failure to comply with the stipulated conditions of approval will compel us to do so in the interest of public safety."¹⁸

¹⁸ Letter dated January 22, 2016, from the Hanover Parish Council to Mr. Francisco Rayo.



4.5.4 It was noted by the Hanover Municipal Corporation that Mr. Rayo did not provide a written response to the above referenced letter, however, the Corporations Technical Department continued to monitor the site and *"...the revised drawings that the Council sought from Royalton were subsequently received, vetted and eventually approved"*.¹⁹

4.5.5 Additionally, a Building Officer at the then Hanover Parish Council, advised the Secretary Manager of the said Parish Council by way of an Internal Memo dated May 10, 2016, the date of the collapse of a section of the Royalton Negril Hotel, that a team visited the location and after inspection, concluded, *inter alia*, as follows:

*"...the above mentioned hotel development have breached several of the conditions of approval given. The department will continue to monitor the development more rigorously; however there are several issues to be ironed out. It is most apparent that due to the construction methodology which resulted in the failure of the props which would have cause this incident to occur."*²⁰

¹⁹ Response to the Integrity Commission from David Gardner, Secretary Manager, Hanover Municipal Corporation, dated February 20, 2020. Responses #5c and d.

²⁰ Internal Hanover Parish Council Memo dated May 10, 2016, from Building Officer to Secretary Manager re "Report of Collapse at the Royalton Negril Hotel on May 10, 2016"



Cease Work Notice issued by the Hanover Parish Council on May 10, 2016

4.6.1 Subsequent to the collapse which occurred at the construction site of the Royalton Negril Hotel, a Cease Work Notice was issued on May 10, 2016, to Royalton Negril Resort (Raphael Cosano) for *"BREACHING THE BUILDING CONDITIONS OF APPROVAL"* and served on the said date. Additionally, a *"...special meeting was convened involving representatives of the Ministry of Local Government, the Hanover Municipal Corporation, other Stakeholders as well as the Developers. The conditions of approval were reaffirmed and additional conditions imposed"*²¹.

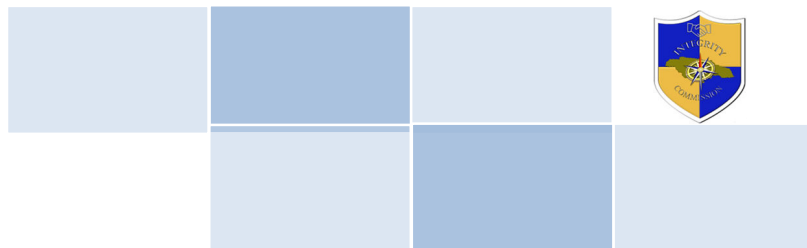
4.6.2 On May 27, 2016, the Cease Work Order was lifted on the section of the project that was not affected by the collapse and work was slated to resume on May 30, 2016.²² By letter dated July 7, 2016, to Mr. Rafael Cosano, Corporate Project Coordinator, Royalton Hotel, the then Hanover Parish Council lifted the cease work notice on Royalton Negril Resort, having been *"...satisfied that adequate safety and other measures have been put in place...Work...therefore resume fully on all aspects of the project, in accordance with the conditions of approval granted"*.²³

²¹ Response to the Integrity Commission from David Gardner, Secretary Manager, Hanover Municipal Corporation, dated February 20, 2020. Response #2b.

²² Letter dated May 27, 2016, from the Hanover Parish Council addressed to Mr. Enrico Pezzoli, General Manager, Royalton Hotel, which was Exhibit #1 to Response to the Integrity Commission from David Gardner, Secretary Manager, Hanover Municipal Corporation, dated February 20, 2020.

²³ Letter dated July 7, 2016, from the Hanover Parish Council addressed to Mr. Rafael Cosano, which was Exhibit #3 to Response to the Integrity Commission from David Gardner, Secretary Manager, Hanover Municipal Corporation, dated February 20, 2020.

INTEGRITY COMMISSION Special Report of Investigation into the Circumstances Surrounding the Grant, Award, Issuance and Use of Prescribed Licences and Permits issued in relation to the Construction, Renovation and Operation of the Blue Diamond Hotel Group's "Royalton Negril" Resort



Environmental Permits and Planning Permission

4.7.1 In relation to the basis upon which environmental permits and planning permission are granted to an applicant, for the construction and operation of hotels, Mr. Peter Knight, Chief Executive Officer of NEPA indicated the following:

"The application was taken through the development application review process. This includes presentation of the applications to the Internal Review Committee (IRC), Technical Review Committee (TRC) and the joint Boards of the Natural Resources Conservation Authority (NRCA) and the Town & Country Planning Authority (NRCA/TCPA). The application was considered using key technical assessments and was guided by all relevant legislation and policies...

...

*In keeping with section 9(5) of the Natural Resources Conservation Authority (NRCA) Act the input of the key government entities were received. These include the National Works Agency and the Jamaica Fire Brigade."*²⁴

²⁴ Response to the Integrity Commission from Peter Knight, Chief Executive Officer, National Environment and Planning Agency, dated February 4, 2020. Response #2.



4.7.2 Mrs. Althea Stewart, Secretary/Manager of NGIALPA, indicated that NGIALPA is not involved in the building approval process²⁵ and stated, among other things, that:

“iii. The Negril/Green Island Area Local Planning Authority Board makes recommendation to the Town & Country Planning Authority for the construction of hotels, guest houses and other tourism service accommodation.

iv. The Negril/Green Island Area Local Planning Authority Board grants planning permission only to residential developments in an approved sub-division.
The Town & Country Planning Authority grants planning permission and the Westmoreland & Hanover Municipal Corporation grants building approval.²⁶

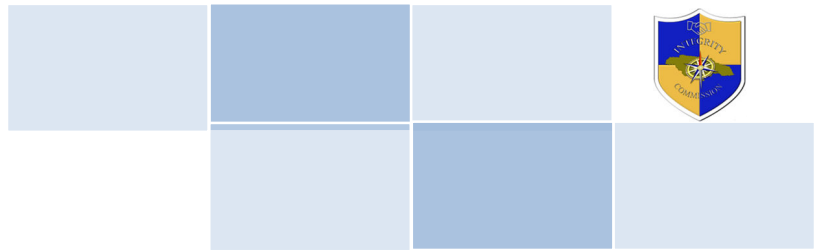
4.7.3 The Integrity Commission further inquired of NGIALPA by way of requisition, *whether the developer/owner of the Royalton Negril hotel submitted an application for planning permission.*²⁷

4.7.4 The NGIALPA indicated the following in response to the foregoing:

²⁵ Response letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Response # 1 (ii)

²⁶ Response letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Responses # 1 (iii) and (iv)

²⁷ Requisition letter to NGIALPA from the Integrity Commission dated October 18, 2018, question 3.



"Outline application was submitted to the Authority by Royalton on November 15, 2013 for a three hundred and seventy-three (373) bedroom extension to an existing hotel known as Grand Lido. The application was presented to the Authority's Board on November 19, 2013 and November 27, 2013 respectively.

Detailed application was submitted on July 10, 2015 to the Authority for the proposed construction of a proposed six hundred and thirty-two (632) bedroom hotel. The application was process [sic] and dispatched to the National Environment Planning Agency and Hanover Municipal Corporation on July 13, 2015 and July 20, 2015 respectively. Amended drawings were submitted on October 16, 2015, for a proposed six hundred and thirty-two (632) proposed hotel room the application was processed and forwarded to the National Environment and Planning Agency by the applicant on Tuesday, October 20, 2015 and National Works Agency on Friday, October 23, 2015 and Hanover Municipal Corporation on Monday, October 26, 2015.

Royalton Negril submitted an application to the Authority on May 12, 2016 for the proposed retention of



five hundred and seventy three (573) bedroom Hotel

*the application was presented to the Authority's board on Thursday, May 19, 2016, **wherein it was recommended for refusal subject to policy dc 12 of the Town and country Planning** (Negril and Green Island Confirmed Development Order 2015).*

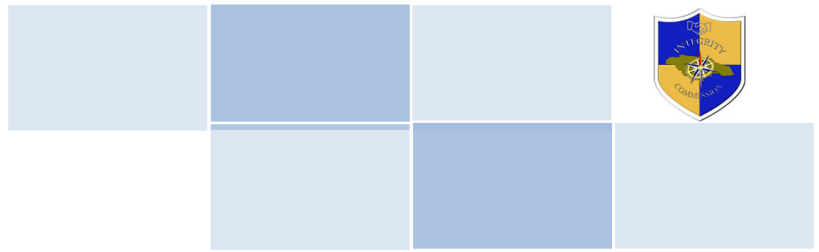
*The said application was forwarded to the National Environment & Planning Agency on Tuesday, May 24, 2016."*²⁸ (DI Emphasis)

4.7.5 The DI highlights POLICY DC12 of the Town and Country Planning (Negril and Green Island Confirmed Development Order 2015), which stipulates that, *"The planning authority will not approve the erection of any permanent structure, fences, or obstructions within 45.75 metres of the high water mark, save and except as otherwise determined by the Town and Country Planning Authority"*.

4.7.6 Mr. Knight, the CEO of NEPA indicated that the *"comments from NGIALPA are deemed material consideration by the NRCA/TCPA and are duly considered when it comes time to take a decision on an application"*²⁹. It is noted, however, that NEPA still granted an Environmental Permit to the operators of Royalton Negril Resort.

²⁸ Letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Response # 3i

²⁹ Response to the Integrity Commission from Peter Knight, Chief Executive Officer, National Environment and Planning Agency, dated February 4, 2020. Response #4.



4.7.7 Mrs. Stewart further indicated that the NGIALPA monitors developments under construction to ensure they conform to planning permission granted³⁰. In this regard, NGIALPA undertook monitoring activities of the referenced construction site on 11 occasions, between the period January 28, 2016 and December 28, 2016.³¹ NGIALPA indicated that no breaches were observed during their site visits.³² NGIALPA and NEPA undertook joint site visits on several occasions.³³

4.7.8 The Integrity Commission by way of a statutory requisition³⁴ sought to ascertain comments from NGIALPA regarding the following assertions that were made in a Gleaner Newspaper article published on Wednesday, May 11, 2016, which was entitled, “Negril planning authority never approved Royalton plans - Former chairman”:

(a) The immediate past chairman of the Negril and Green Island Area Local Planning Authority (NGIALPA), Cliff Reynolds indicated that

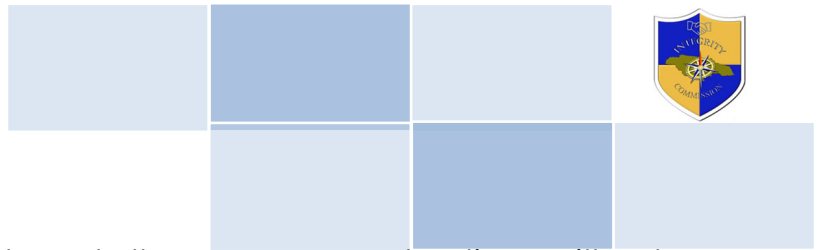
³⁰ Letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Responses # 8

³¹ Response letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Responses # 9i

³² Response from Althea McKenzie Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated February 3, 2020. Response # 1(a).

³³ Response letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Responses # 9i and Response to the Integrity Commission from Peter Knight, Chief Executive Officer, National Environment and Planning Agency, dated February 4, 2020. Response #5.

³⁴ Letter to NGIALPA from the Integrity Commission dated October 18, 2018, question 11.



NGIALPA was bypassed and they were constructing without building approval from NGIALPA; and

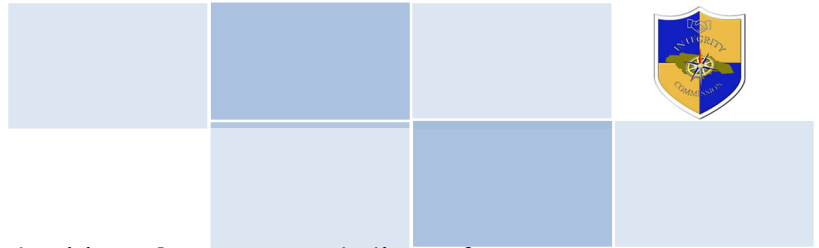
(b) The process regarding building approval was breached.

4.7.9 In response to the foregoing assertions, Mrs. Stewart, Secretary/Manager of NGIALPA, indicated that NGIALPA does not grant building approval, however, all applications for developments within the Negril Development Order Area should be submitted to the Negril/Green Island Area Local Planning Authority.³⁵

4.7.10 The DI notes the relationship between the Hanover Municipal Corporation and NGIALPA, in relation to the application and/or building approval process, as indicated by Mrs. Stewart:

“ 11i The Negril/Green Island Area Local Planning Authority and the Hanover Municipal Corporation...maintains a ...co-operative... working relationship. The Chief Executive Officer from the Hanover Municipal Corporation is an appointed member of the Authority's Board and attends the Authority's Boards meetings and is actively involved in discussions regarding the development applications

³⁵ Response letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Response# 11



*submitted for the Board decision. [A representative of the NGIALPA] attends the Hanover Municipal Corporation's Physical Planning & Environment Committee meetings since July 2016 on behalf of the Authority."*³⁶

³⁶ Letter to the Integrity Commission from Althea Stewart, Secretary/Manager of the Negril/Green Island Area Local Planning Authority, dated 7th day of November 2018, Responses # 11



Planning Permission for Proposed Construction of Hotel Development at Ruthland Pen, Norman Manley Boulevard, Negril, Hanover

4.8.1 The following Planning Permissions were issued in relation to the renovation of the Grand Lido Resort and subsequent construction and operation of Royalton Negril Resort, by the Town and Country Planning Authority:

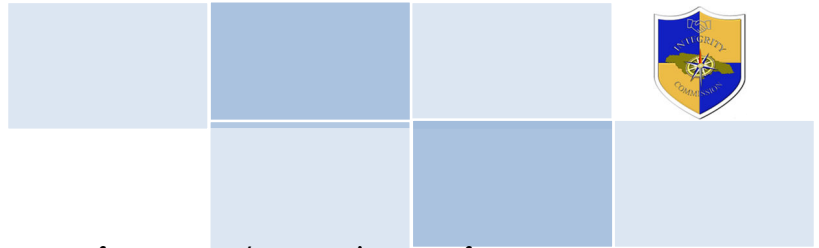
- a) Planning Permission for proposed renovation and construction of a 632 room hotel development, dated November 11, 2015; and
- b) Planning Permission for proposed construction of a 573 room hotel development, dated July 1, 2016 (as a result of submission of amended plans).

4.8.2 Of importance, the DI highlights, hereunder, several conditions enumerated on the Planning Permission dated, November 11, 2015:

"6. No development shall commence until each of the ... plans are submitted to the Negril Green Island Local Planning Authority and the Town and Country Planning Authority and approved...

...

11. Construction work time shall be confined to the hours of 7:00am to 6:00pm on weekdays and on 8:00am to 6:00pm Saturdays. No construction work is permitted on Sundays and on public holidays.



Reason: *In consideration of owner/occupiers of adjoining properties and patrons of the resort.*

...

13. *The recommendations of the relevant government agencies, including the National Works Agency.*

Reason: *To ensure that the development satisfies the requirements of the relevant government agencies and that all the relevant standards and guidelines are adhered to."*



Environmental Permit to Undertake Enterprise, Construction or Development at Ruthland Pen, Norman Manley Boulevard, Negril, Hanover

4.9.1 An Environmental Permit³⁷ to Undertake Enterprise “*Construction and Operation of Hotel or Resort Complex of 501 to 1000 rooms*”, dated November 10, 2015, was issued by the National Environment and Planning Agency, to the operators of Royalton Negril Resort. The permit enumerated 51 conditions.³⁸

4.9.2 The DI observed that notwithstanding the fact that the Environmental Permit (with 51 specific conditions listed) was issued by NEPA on November 10, 2015, the developers were consistently in breach of a number of conditions as at May 5, 2016 and which were also indicated in subsequent site reports ending with that of August 8, 2017. The following instances of non-compliance were noted:

³⁷ The DI observed that an Environmental Permit dated March 3, 2015, was issued to “BBNH Resort Limited T/A Hotel Grand Lido Negril”, to undertake the development of hotel/resort complex of more than twelve (12) rooms.

³⁸ See Appendix 1 for a copy of Environmental Permit to Undertake Enterprise “Construction and Operation of Hotel or Resort Complex of 501 to 1000 rooms”, dated November 10, 2015.



Table #4³⁹

Specific Condition	Level of Compliance	Comments/Action	Date of Site Visit/Report
4. Permittee shall apply to the Authority for an Environmental Permit pursuant to section 9 and 12 of the Natural Resources Conservation Authority Act for any subsequent development.	Non-Compliant	The Permittee has constructed contrary to the approval and to date a request for amendment has not been submitted to the Agency.	May 5, 2016/June 6, 2016 and August 8, 2017/September 3, 2017
39. The Permittee shall prior to any development work, including site clearance, apply to the National Works Agency for approval for vehicular ingress/egress/ a copy of the approval shall be submitted to the Agency.	Non-Compliant	The development started prior to the approval from the NWA. A copy of the NWA approval letter dated April 26, 2016 has been submitted to the Agency. Site Warning Notice had previously been served.	May 5, 2016/June 6, 2016 and August 8, 2017/September 3, 2017
40. Permittee to ensure that flagmen are employed to regulate traffic flow during the site preparation and construction phase of the development.	Non-Compliant	The condition remained in breach, as no flagmen were seen at the entrance of the site during the visit.	May 5, 2016/June 6, 2016 and August 8, 2017/September 3, 2017

³⁹ Table constructed from response to the Integrity Commission from Mr. Peter Knight, Chief Executive Officer, National Environment and Planning Agency, dated February 4, 2020. Response Appendix 'PK7'- NEPA's Enforcement Branch Monitoring Reports of site visits conducted on May 5, 2016 and August 8, 2017.



Permits and Approvals Provided by the Relevant Stakeholders

4.7.1 The following permits and approvals were issued by the relevant stakeholders, in relation to the construction and renovation of the Royalton Negril Resort:

Table #5

Permit/Approval	Date approval/refusal or permit	Entity	Terms and Conditions	Expiration Date
Permit to Undertake Preliminary Works	August 12, 2015	Hanover Parish Council	8 conditions were enumerated.	N/A
Building Permit	November 19, 2015	Hanover Parish Council	98 conditions were enumerated in resolution of Council dated November 19, 2015	Valid for two years after approval date.
Environmental Permit: Permit to Undertake Enterprise , Construction or Development of Hotel or Resort Complex of 501 to 1000 rooms	November 10, 2015	NEPA	16 General Conditions and 51 Specific Conditions were enumerated in the permit	Permitted activity to commence within five years after the date of issue of Permit
Planning Permission for proposed construction of a 632 room hotel development	November 11, 2015	Town and Country Planning Authority	19 conditions were enumerated in letter dated November 11, 2015.	The development must begin no later than expiration of two (2) years beginning with the date on which



Permit/Approval	Date approval/refusal or permit	Entity	Terms and Conditions	Expiration Date
				permission was granted.
Planning Permission for proposed construction of a 573 room hotel development	July 1, 2016	Town and Country Planning Authority	20 conditions were enumerated in letter dated July 1, 2016.	The development must begin no later than expiration of two (2) years beginning with the date on which permission was granted.
No objection to approval granted	April, 26 2016	National Works Agency	13 conditions were enumerated in letter dated 26 th April, 2016	
Building Plans for Royalton Resort Negril approved	April 22, 2016	Jamaica Fire Brigade	20 conditions were enumerated in letter dated April 22, 2016	



Enforcement Action taken by NEPA

4.8.1 NEPA also monitored the ongoing construction and renovation works at Royalton Negril Resort, to ensure compliance with the environment and planning laws as the development was considered “high risk”⁴⁰. In this regard, Mr. Knight, CEO of NEPA, indicated to the DI the following in relation to the monitoring and enforcement activities:

*“The Agency employed a process of consistent monitoring and taking enforcement action in the appropriate case to ensure compliance with the environment and planning laws.”*⁴¹

4.8.2 The Table below details the enforcement actions undertaken by NEPA:

Table #6⁴²

Enforcement Instruments	Date	Nature of Contravention/ Requirement
Enforcement Notice	October 23, 2015	Contravened the Town and Country Planning Act and the Town and Country Planning (Negril and Green Island (Confirmed) Development Order by undertaking construction of a hotel without planning permission.
Stop Notice	October 23, 2015	Required to immediately cease construction of a hotel because the

⁴⁰ Response to the Integrity Commission from Peter Knight, Chief Executive Officer, National Environment and Planning Agency, dated February 4, 2020. Response #5&6.

⁴¹ Response to the Integrity Commission from Peter Knight, Chief Executive Officer, National Environment and Planning Agency, dated February 4, 2020. Response #5.

⁴² Table constructed from response to the Integrity Commission from Peter Knight, Chief Executive Officer, National Environment and Planning Agency, dated February 4, 2020. Response #5 and Appendix ‘PK8’.

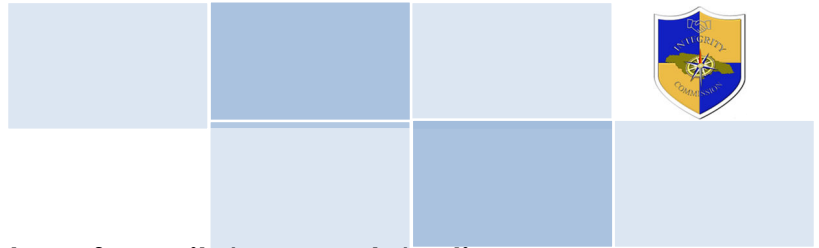


Enforcement Instruments	Date	Nature of Contravention/ Requirement
		development was unauthorized and being carried out without the grant of planning permission. Stop Notice valid for a period of ten days.
Cessation Order	October 23, 2015	Ordered to immediately cease construction of a hotel because they failed to obtain a required permit.
Site Warning Notice	October 28, 2015	Breaches relating to the Town & Country Planning Act were observed. Specifically, failure to comply with a cessation order.
Site Warning Notice	December 3, 2015	Breaches relating to the Natural Resources Conservation Authority Act were observed. Specifically breach of general condition #9 and special conditions #25, 27, 33, 34, 36, 39, 40, 45, 47 and 48. ⁴³
Site Warning Notice	December 3, 2015	Breaches relating to the Town & Country Planning Act were observed. Specifically breaches of general conditions #9i, 11 and 17. ⁴⁴
Cessation Order*	January 13, 2016	Ordered to immediately cease mining of carbonated sand because they failed to obtain a required permit, in breach of the Natural Resources Conservation Authority Act.

*The DI noted that this Cessation Order was addressed to Yabyanas Limited and not BBNH Resorts, the owners/operators of Royalton Negril Resort, but was provided by NEPA in relation to Royalton Negril Resort.

⁴³ See Appendix#1 for a copy of Environmental Permit to Undertake Enterprise "Construction and Operation of Hotel or Resort Complex of 501 to 1000 rooms", dated November 10, 2015.

⁴⁴ Ibid

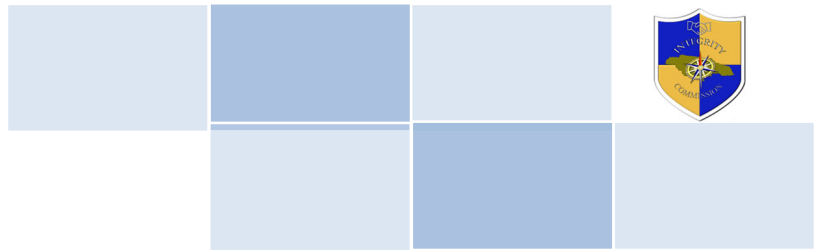


Fines and Penalties in relation to Breaches of Permits/Approvals/Notices

- 4.9.1 The DI observed that the Cease Work Notices issued by the Hanover Parish Council, stipulates that if you fail to comply with the notice, you shall be guilty of an offence and liable to a penalty not exceeding \$20,000 and, a daily penalty of \$1,000, for every day during which the breach continues.
- 4.9.2 The Hanover Parish Council/Hanover Municipal Corporation was unable to confirm whether construction continued after the Cease Work Notice dated October 20, 2015, was issued and prior to the grant of Building Permit on November 19, 2015.⁴⁵
- 4.9.3 Additionally, the DI enquired of the Hanover Parish Council whether any fines or penalties were imposed as a result of breaches of the Parish Council Building Act. Mr. Gardner, Secretary Manager, Hanover Parish Council, indicated that no fines or penalties were imposed.⁴⁶

⁴⁵ Response letter dated February 20, 2020, from Mr. David Gardner, Secretary Manager, Hanover Municipal Corporation, Response #2d

⁴⁶ Response letter dated February 20, 2020, from Mr. David Gardner, Secretary Manager, Hanover Municipal Corporation, Response # 2b



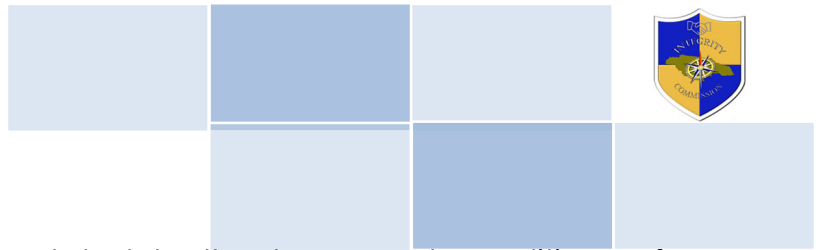
Chapter 5 – Conclusions

5.0 This chapter outlines the conclusions determined by the Director of Investigation (DI) based upon the findings of this investigation.

5.1 Based upon a review of applicable legislation and the various documents and responses that were submitted by the Hanover Municipal Corporation, NGIALPA and NEPA, the Director of Investigation has arrived at the following considered Conclusions:

5.1.1. The relevant building, planning and environmental permits required for the construction and renovation of Royalton Negril Resort, were issued by the respective authorities (Hanover Parish Council, National Environment and Planning Authority and the Town and Country Planning Authority after consultation with the Negril and Green Island Area Local Planning Authority).

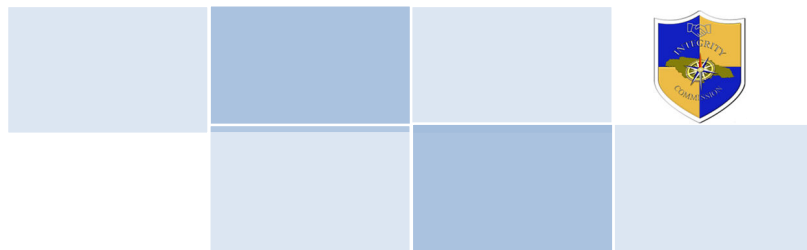
5.1.2. The developers/owners of Royalton Negril Resort commenced construction of permanent structures prior to the issuance of the building permit and planning permit, which contravened Sections 3 and 4 of the Parish Council's Building Act (Hanover) By-Laws and Sections 4 and 5 of the Town and Country Planning (Hanover Coast) Provisional Development Order.



5.1.3. The aforementioned breaches related to the terms and conditions of permits which were issued in relation to ongoing construction at the referenced location. Details relating to the specific breaches are contained in Tables 2 and 3 of this Report.

5.1.4. Construction related activities continued notwithstanding a Cessation Order which was issued by NEPA to the developers of Royalton Negril Resort, on October 23, 2015, to cease all construction as at October 26, 2015, with the result that a Site Warning was issued on October 28, 2015.

5.1.5. Notwithstanding the breaches which were identified, the DI observed that the breaches were remedied, resulting in the continuation and conclusion of construction.



Chapter 6 – Recommendations

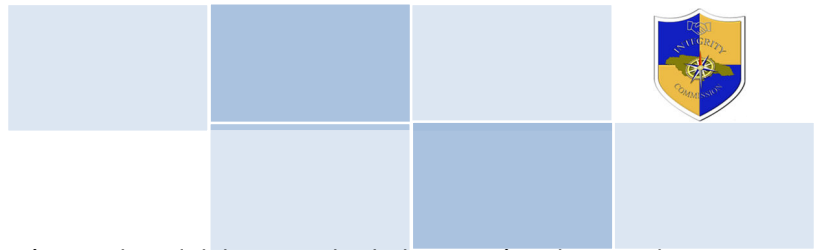
6.0 This chapter outlines the corruption prevention initiatives identified by the Director of Investigation (DI) based upon the findings and conclusions of this investigation.

Anti-Corruption Recommendations and Initiatives

6.1 The DI recommends that the Hanover Municipal Corporation, the Negril Green Island Area Local Planning Authority and the National Environment Planning Agency, the entities tasked with the responsibility of issuing building, environmental and planning permits, urgently, if they have not yet done so, develop internal policies and procedures to ensure the enforcement of penalties.

In particular, the DI recommends the pursuit of fines and imprisonment orders, in relation to breaches and non-compliance of the terms and conditions of the permits as outlined in the Natural Resources Conservation Authority Act and the Parish Council Building Act (Hanover-By-Laws).

The DI is of the considered opinion that the enforcement of the provisions of the law that prescribe fines and penalties would serve as a greater deterrent and reduce the inclination to violate Orders and Notices issued by the Corporation.



6.2 More stringent monitoring mechanisms should be undertaken prior to and during the construction phase of development projects by the Hanover Municipal Corporation and the National Environment Planning Agency, in a bid to proactively prevent the occurrence of breaches of the terms and conditions of issued permits.

The DI's recommendation is premised upon the findings and observations noted in this Report of instances where steps were not taken by the Municipal Corporation to pursue fines or penalties in circumstances where there was a breach of the Parish Council Building Act.

A handwritten signature in blue ink, appearing to read 'K. Stephenson', positioned above a horizontal line.

Kevon A. Stephenson, J.P.
Director of Investigation
for and on behalf of the Integrity Commission

March 5, 2021
Date



APPENDIX #1



**THE NATURAL RESOURCES CONSERVATION AUTHORITY ACT
The Natural Resources Conservation (Permits and Licences)
Regulations, 1996**

**Permit to Undertake Enterprise, Construction
or Development in a Prescribed Area
[Pursuant to Section 9 (2)]**

Permit No. ' 2015-09017-EP00112 '

Application Date: 17 June 2015

Issue Date:

The Permittee: BBNH Resorts Limited

Of: 48 Duke Street, Kingston

Is hereby authorized to undertake:

Construction and Operation of Hotel or Resort Complex of 501 to 1000 rooms

At: Ruthland Pen, Norman Manley Boulevard, Negril, Hanover

In accordance with the terms and conditions specified in the Schedule:

**This permit is granted subject to the Terms and Conditions set forth in the
Schedule below**

Any reply or subsequent reference to this communication should be addressed to the Chief Executive Officer, to the attention of the officer dealing with the matter,
and the reference quoted where applicable.

*Managing and protecting Jamaica's land, wood and water
A Government of Jamaica Agency*



SCHEDULE

The Natural Resources Conservation Authority under its mandate to ensure the proper management, conservation and protection of the physical resources of this island has pursuant to Section 9 of the Natural Resources Conservation Authority Act and the Natural Resources Conservation (Permits and Licences) Regulations 1996 established a system of permits for certain prescribed activities as mandated by The Natural Resources (Prescribed Areas) (Prohibition of Categories of Enterprise, Construction and Development) Order, 1996. It is an implied condition of every permit that based on the information presented in the Project Information Form, the Application Form and where applicable, the Environmental Impact Assessment, and any addendum or adjustments made thereto, that the Authority is of the view that the activity subject to all the conditions stipulated in this permit is not likely to be injurious to public health or the environment. Where new regulations are made or existing regulations are amended by the Minister under the Natural Resources Conservation Authority Act 1991 or other statute this Permit shall be deemed, upon promulgation of such regulations or statute to automatically be amended to conform to such regulations or statute.

This Permit comprises of all eight (8) pages of this document, the Permit Application Form dated 8 June 2015 received and date stamped by the Authority 17 June 2015; Document titled "Technical Report Proposed Royalton Negril Hotel" dated August 2015 received and date stamped by the Authority 26 May 2015; Letter titled "Technical Report for Proposed Royalton Negril Hotel" dated 7 September 2015 received and date stamped by the Authority 7 September 2015; Drawings titled "Hotel Royalton Negril" received and date stamped by the Authority 20 October 2015 and any accompanying addenda.

Description of Permitted Activity

This Permit is for the construction of a resort/hotel facility with both family and adult only sections. The development involves a total of six hundred and thirty two (632) guestrooms constructed in fifteen (15) 4-storey guestroom blocks. It also features a main building, utility building and five (5) swimming pools.

The main building is to consist of kitchen, storage areas, restrooms, coffee shop, sports bar, discotheque, spa, gym and four (4) restaurants on the ground floor, a convention centre, offices, lounge, storage area, lobby bar, casino and seven (7) retail shops on the first floor.

The utility building is to consist of basement level with water tank, irrigation water tank and sewage pumping room. The ground floor is to consist of an osmosis and hydraulic machine room, electrical and air conditioning room, laundry and maintenance workshop. The first floor is to consist of housekeeping, human resources office and staff locker room while the second floor is to consist of offices.

The total floor area of development is 77,242 square metres on a lot size of 80,272.96 square metres.

Definitions

"Permittee" means the holder of this Permit.

"Agency" means the National Environment and Planning Agency established pursuant to S.4 of the Executive Agencies Act.

"Authority" means the Natural Resources Conservation Authority established pursuant to S.3 of the Natural Resources Conservation Authority Act.

"Representation" means any information implied or express on which the Authority has relied to grant this Permit and includes all the information contained in the Application Form, the Project Information Form and the Environmental Impact Assessment Report where applicable, addenda and all supplementary documentation and information including but not limited to correspondence.

The Permittee hereby undertakes to comply with all the following terms and conditions:-



General Conditions

1. All works carried out pursuant to this Permit shall be performed under the professional supervision of trained personnel who are qualified and competent to carry out the functions and duties of the Permitted Activity and who are conversant with the accompanying safety requirements and the hazards to workers, the public and the environment.
2. The Permittee shall not assign, or transfer or dispense with this Permit or part with any benefit under it except with the prior written consent of the Authority.
3. Any reference to time in this Permit shall be computed as of the date of issue of this Permit.
4. The Authority reserves the right to alter, amend or introduce new conditions to this Permit at any time.
5. The Authority may in its sole discretion revoke or suspend this permit if it is satisfied that a breach of any term or condition, implied or express, subject to which this permit has been granted has been committed.
6. The Permit is granted subject to any existing legal rights of third parties.
7. This Permit does not dispense with the Permittee's obligations under any other law, nor does it authorize a contravention of any statute, regulations, the common law or breach of any agreement.
8. The Authority reserves the right to review this Permit periodically and may initiate administrative and/or judicial action for any violation of any condition by the Permittee, its customers or guests, its agents, employees, servants, contractors or assignees.
9. The Permittee shall forthwith post a sign in a prominent place at the location of the permitted activity using the same design and words as in the template attached.
10. The company shall maintain and keep in good repair all equipment used in carrying on the process (or operation) as the case may be. Maintenance shall be carried out in accordance with the manufacturers' recommendations or in such better manner or at such greater frequency as operational experience may show to be appropriate.
11. The Permittee shall keep all records of the operation including any environmental monitoring results for a period of not less than five (5) years, computed from the date on which the records were made and such records shall be available for inspection at any reasonable time by any member or officer of the Authority authorized to do so.
12. Any amendment to the records shall be made in such a way as to leave the original result legible. Only authorized persons may make amendments to records and every such amendment shall bear the signature of the said authorized person.
13. The failure of the Authority to enforce at any time or for any period any one or more of the terms or the conditions of this Permit shall not be a waiver of its right at any time subsequently to enforce all the terms and conditions of this Permit.
14. Any member of the Authority or any authorized officer of the said Authority may at any reasonable time, make such periodical inspections and investigations in respect of the activities that are herein permitted for the purpose of ascertaining whether the terms and conditions of this permit are being observed or not and the Permittee shall allow such authorized officer to do such inspections.
15. If there is any proposed change in the ownership of the Permittee notification of such change shall be given to the Authority at least one (1) month prior to such change.
16. If the permitted activity does not commence within five years after the date of this Permit, then this Permit is void and the Permittee shall re-apply for a new Permit.



Specific Conditions

DOCUMENTATION

1. The Permittee shall comply with all representations made in the Permit Application Form dated 8 June 2015 received and date stamped by the Authority 17 June 2015; Document titled "Technical Report Proposed Royalton Negril Hotel" dated August 2015 received and date stamped by the Authority 26 May 2015; Letter titled "Technical Report for Proposed Royalton Negril Hotel" dated 7 September 2015 received and date stamped by the Authority 7 September 2015; Drawings titled "Hotel Royalton Negril" received and date stamped by the Authority 20 October 2015 and any accompanying addenda.
2. The Permittee shall ensure that all correspondence, notifications, plans, reports or any other documents being submitted to the Authority pursuant to any General and/or Specific Condition of the Permit are addressed to "Manager, Enforcement Branch, National Environment and Planning Agency, 10 Caledonia Avenue, Kingston 5".

ROOM COUNT

3. The Permittee shall construct no more than 632 guestrooms in the development as presented in the drawing titled "Hotel Royalton Negril" received and date stamped by the Authority 20 October 2015.

APPLICATIONS REQUIRED

4. The Permittee shall apply to the Authority for an Environmental Permit and/or Licence pursuant to sections 9 and 12 of the Natural Resources Conservation Authority Act for any subsequent development on the property, inclusive of the additional phases, in accordance with the Natural Resources Conservation (Wastewater and Sludge) Regulations, 2013; Natural Resources Conservation (Permits and Licences) (Amendment) Regulations, 2015 and Natural Resources (Prescribed Areas) (Prohibition of Categories of Enterprise, Construction and Development) (Amendment) Order, 2015.
5. The Permittee shall prior to the commencement of any operation in connection with the permitted activity, apply for a licence under the Beach Control Act for any use of the foreshore or the floor of the sea in connection with the operation of the hotel or encroachment on the foreshore or the floor of the sea including but not limited to beach nourishment, coastline reclamation and dredging works.
6. The granting of this Environmental Permit does not relieve the Permittee from complying with any other statutory obligation or from applying for and obtaining any other, permission, certification, permit or licence. These include but are not limited to Building Permission under the Building Act and Planning Permission under the Town and Country Planning Act.

DOCUMENTATION REQUIRED

7. The Permittee shall submit forthwith for the written approval of the Agency/Authority detailed drawings for the front elevation of buildings 1 – 8 and 10 – 15, and side elevation for building 9.
8. The Permittee shall submit forthwith for the written approval of the Agency/Authority amended drawings for building 9 showing the staircase tower and ensure that said staircase tower and all sections of all buildings are in compliance with the maximum allowed height of 15.24m (50ft).
9. The Permittee shall submit forthwith for the written approval of the Agency/Authority an updated version of drawing RNEG-0AQ-202-GUI (Version A) in which all overwater suites and any reference to same is removed.
10. The Permittee shall submit forthwith for the written approval of the Agency/Authority a full set of drawings for the Kid's Club Building.
11. The Permittee shall submit forthwith for the written approval of the Agency/Authority drawings illustrating the mechanical ventilation & artificial lighting for the sections of the main building along the front façade such as conference centre, kitchens and dining for employees which do not include any windows to allow natural lighting and ventilation.

SEWAGE TREATMENT AND DISPOSAL

12. The Permittee shall ensure that the development is connected to the National Water Commission's Central Sewer System servicing the area.
13. The Permittee shall ensure that there is no commissioning of the newly constructed rooms/facilities prior to connection to the National Water Commission's Central Sewer System servicing the area.
14. The Permittee shall install grease traps within the hotel's sewerage collection network to remove oils and grease from wastewater entering the National Water Commission's sewerage network from the hotel. The grease traps shall be marked and maintained at all times to prevent buildup and overflows.
15. The Permittee shall not cause or allow seawater or sand to enter the National Water Commission's sewerage network as a result of the undertaking of the permitted activity.
16. The Permittee shall notify in writing the Manager of the Enforcement Branch of the National Environment and Planning Agency, 10 Caledonia Avenue, Kingston 5, the Director of the Environmental Health Unit of the Ministry of Health and Environment and the Local Health Authority when the sewer connection is completed to allow for inspection before commissioning of any of the rooms or facilities.
17. The Permittee shall provide toilet facilities for the use of the construction work force. These facilities shall be in the form of portable units (chemical toilets) installed with the approval of the Local Health Authority.
18. The Permittee shall ensure pursuant to Specific Condition 17 that the sewage from the portable chemical toilets are collected and treated at an existing approved sewage treatment facility to the satisfaction of the Local Health Authority.

DRAINAGE

- ✓ 19. The Permittee shall ensure that the storm water drainage plan is implemented based on a design approved by the National Works Agency.
- ✓ 20. The Permittee shall not commence any drainage works until plans have been approved in writing by the National Works Agency. The Permittee shall also submit forthwith, for the written approval of the National Works Agency, additional information requested in letter dated 9 November 2015 (see attached). A copy of said approval and approved plans shall be submitted to the Agency immediately upon receipt from the National Works Agency.
21. The Permittee shall ensure that the parking area is constructed using permeable material and a plan showing the parking area treated with such material shall be submitted to the Local Authority for its approval.
22. The Permittee shall ensure that surface drainage and storm water run-off generated from the development is effectively intercepted and disposed of within the curtilage of the site.

SOLID WASTE MANAGEMENT

23. The Permittee or its agents and subcontractors shall design a Waste Management Plan which must be submitted to and approved by the National Solid Waste Management Authority (NSWMA). The Plan shall include but not be limited to:
 - The designation of appropriate waste storage areas
 - Waste collection and removal schedule
 - System for the supervision and monitoring of the waste
 - Measures implemented to minimize and reduce the quantities of solid waste
24. The Permittee shall submit a copy the Waste Management Plan approved by the NSWMA to the Agency within thirty (30) days of the date of issue of this Permit.
25. The Permittee shall ensure that all solid waste generated during site preparation, construction and operational phases of the development is disposed of at a municipal dumpsite with the approval of the National Solid Waste Management Authority (NSWMA). A copy of the approval shall be submitted to the Agency prior to the commencement of the development.



26. The Permittee shall ensure that there is no burning of waste and/or debris on site.

27. The Permittee shall provide proper waste receptacles for solid waste collection onsite.

HAZARDOUS MATERIALS

28. The Permittee shall ensure that all hazardous chemicals and materials are properly stored in impermeable containers to prevent discharge into the environment.

29. The Permittee shall ensure that storage and handling areas for hazardous materials must have impermeable surfaces designed to contain materials stores/handled from which they shall be directed to a predetermined collection point authorized in writing by the Agency.

DUST CONTROL

30. The Permittee must fence/hoard the perimeter of the site to reduce the escape of fugitive dust during construction.

31. The Permittee shall cover construction materials during transport to prevent the generation of fugitive dust.

32. The Permittee shall during the construction phase wet road surfaces and stockpiles of soil and marl to prevent the generation of fugitive dust.

33. The Permittee shall ensure that construction materials are properly stored, bermed and covered on site so as to reduce the incidents of erosion into the adjacent marine environment.

34. The Permittee shall ensure that construction materials including soil and marl are stored away from surface drainage channels and features.

NOISE ABATEMENT

35. The Permittee shall ensure that the noise level during construction does not exceed 70 dB at the boundary of the site.

36. The Permittee shall ensure that work is carried out between the hours of 7:00 a.m. and 6:00 p.m. from Mondays to Fridays and 8:00 a.m. and 6:00 p.m. on Saturdays. There shall be no work on Sundays and Public Holidays. Any work to be done outside of this period will require the permission of the Authority.

SAFETY

37. The Permittee shall develop an Emergency Response Plan (ERP) for the facility with the approval of the ODPEM and Fire Department. The Emergency Response Plan shall be submitted to NEPA within eight (8) weeks of the date of issue of this Permit.

38. The Permittee shall develop a comprehensive Evacuation Plan for the facility with the approval of the ODPEM and Fire Department. The Evacuation Plan shall be submitted to NEPA prior to the occupation of the hotel/resort.

TRAFFIC MANAGEMENT

39. The Permittee shall prior to any development work, including site clearance, apply to the National Works Agency for approval for vehicular ingress/egress. A copy of the approval shall be submitted to the Agency.

40. The Permittee shall ensure that flagmen are employed to regulate traffic flow during the site preparation and construction phase of the development.

LANDSCAPING AND IRRIGATION

41. The Permittee shall comply with all representation made in drawing titled "Master Plan Ground Level Architecture - Landscape" dated 24 September 2015 received and date stamped 20 October 2015 by the Authority and any subsequent amendment required and approved by the Authority.

42. The Permittee shall ensure that no alien or exotic species are introduced on the site without the prior approval of the Agency.



43. The Permittee shall ensure that no non-native and potentially invasive plants are used for landscaping.
44. The Permittee shall ensure that only water collected through rainwater harvesting is used for the irrigation of the landscaped areas of the development.

PROTECTION OF MARINE ENVIRONMENT

45. The Permittee shall ensure that appropriate sediment control mechanism are installed and maintained within the path of all drainage features and pathways to ensure that there is no increase in the ambient turbidity of the adjacent marine waters.
46. The Permittee shall monitor areas of exposed soil during periods of heavy rainfall throughout the construction phase in a bid to reduce the impact of soil erosion and runoff into the marine environment.
47. The Permittee shall ensure that all material stockpiles are contained within berms covered with an impervious material and stored away from drainage channels.

ENVIRONMENTAL MANAGEMENT


48. The Permittee shall conduct fortnightly water quality monitoring during the construction phase and the first month of operations. The parameters assessed shall include but not be limited to:
 - Nitrates
 - Phosphates
 - BOD
 - Faecal Coliform
 - COD
 - pH
 - TSS
 - TDS
 - Turbidity
49. The Permittee shall submit forthwith an Environmental Management Plan for the written approval of the Agency. The Environmental Management Plan shall include but shall not be limited to the following:-
 - Name of the person(s) company responsible for environmental monitoring
 - Details for the monitoring of water quality (turbidity) in the adjacent marine environment
 - Details for the implementation of the mitigation measures outlined in Section 6 of document titled "Technical Report for Proposed Royalton Negril Hotel" dated 7 September 2015
 - Energy conservation measures; and
 - Water conservation measures
50. The Permittee shall undertake environmental monitoring in accordance with Specific Conditions 48 and 49 during the construction and operation of the development and submit monitoring reports to the Agency on a quarterly basis during the period of construction and every six months during the operation of the development. These monitoring reports shall include, but shall not be limited to:
 - The date, exact place and time of sampling or measurement of water quality inclusive of ambient water turbidity and turbidity during construction and maintenance works
 - The person(s) responsible for performing the sampling or measurement
 - The date(s) analyses were performed
 - The analytical techniques for methods used
 - The results of such analysis
 - Details of any environmental incidents, including spills, leaks, discharges on the ground or into the marine environment and corrective actions taken
 - Details of preventative actions to be implement to prevent the reoccurrence of any environmental incident
 - Effectiveness of mitigations implemented



51. The Permittee shall ensure that all employees, agents, contractors and their workers are familiar with the Environmental Management Plan referred to in Specific Conditions 45 and sensitized to the environmental issues.

Dated this 10th day of November, 2015


PETER KNIGHT, J.P.
for Natural Resources Conservation Authority


MORJORN WALLOCK
Secretary
Natural Resources Conservation Authority

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