



INTEGRITY COMMISSION
Special Report of Investigation

Conducted into the Sale of Lands Situated at Bogue Estate by the St. James Parish Council

St. James Parish Council

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St. James Municipal Corporation

Ministry of Local Government and Community Development

INTRODUCTION

In 2017, the Government of Jamaica enacted the Integrity Commission Act (ICA), which retroactively became effective on February 22, 2018, as per Gazette dated March 7, 2017. The enactment and subsequent gazette of the Integrity Commission Act, partially repealed the Contractor General Act (1983), and established the Integrity Commission (IC).

Pursuant to Sections 1 and 5 of the Integrity Commission Act (ICA), the functions of the Office of the Contractor General (OCG) have been fully subsumed into the IC. Section 63(2)(b) of the ICA provides, *inter alia*, as follows:

“The Commission established under this Act may -

...

*(b) continue to do any act, thing or investigation
which was pending before the appointed day.”*

The Office of the Contractor General (OCG), acting on behalf of the Contractor General, and pursuant to the provisions which are contained in Sections 15(1) and 16 of the Contractor General Act, initiated an Investigation into the circumstances surrounding the proposed sale of lands situated at Bogue Estate, St. James, by the St. James Parish Council. The Council has been



subsequently renamed as the St. James Municipal Corporation, in keeping with the provisions of Sections 5 and 6 of the Local Governance Act 2016.

Section 15 (1) of the Contractor General Act provides the following:

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

- (a) the registration of contractors;*
- (b) tender procedures relating to contracts awarded by public bodies;*
- (c) the award of any government contract;*
- (d) the implementation of the terms of any government contract;*
- (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.”*

Section 16 of the Act expressly provides that *“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.”*

The OCG’s decision to commence a formal Investigation was triggered by its receipt of a letter of complaint from Mr. Charles Sinclair, Councillor, St. James Parish Council. The letter which was received on November 20, 2013, made allegations concerning the manner in which the sale of the St. James Parish Council’s interest in lands, part of Bogue Estate, was being conducted. It was alleged that the sale was being pursued based upon a 2009 Valuation Report. Further, the letter also alleged that (a) the sale of the lands was in breach of a Commission of Inquiry ruling



and the Government of Jamaica Divestment Policy; and (b) a possible conflict of interest existed in respect of a sitting Councillor in the St. James Parish Council and the referenced lands.

The aforementioned allegations raised several concerns for the OCG, especially in light of the perceived irregularities and infractions of the Government of Jamaica Divestment Policy and the Contractor General Act. Of note, Section 4 (1) of the Act requires, *inter alia*, that GoJ contracts should be awarded “...*impartially and on merit*” and that the circumstances of the award should “...*not involve impropriety or irregularity*”.

The OCG’s investigation sought to determine, *inter alia*, (a) whether there were breaches of the then applicable GOJ Public Sector Procurement Procedures and/or any other applicable policies, rules and regulations, on the part of the St. James Parish Council, or anyone acting on their behalf, in the sale of lands situated at Bogue Estate, (b) the process which was being utilised by the St. James Parish Council in the proposed sale of the specified lands at Bogue Estate, and (c) whether the aforementioned process was devoid of irregularity and impropriety and was fair and transparent.

The foregoing objectives formed the basis of the OCG’s Terms of Reference for its Investigation and were primarily developed in accordance with the provisions which are contained in Section 4 (1) and Section 15(1)(a) to (d) of the Contractor General Act.

The Findings of the OCG’s Investigation are premised primarily upon an analysis of the statements and documentary evidence which were provided by the Respondents, who were requisitioned by the OCG, during the course of the Investigation.



JURISDICTION

Detailed below is the legal basis upon which the Contractor General has enquired into the sale of the lands situated at Bogue Estate by the St. James Parish Council.

The Office of the Contractor General's (OCG) Jurisdiction in the matter is grounded in Sections 4, 15 and 16 of the Contractor General Act, which enables the Office to enquire into the circumstances surrounding the proposed sale of the lands situated at Bogue Estate by the St. James Parish Council.

The OCG is of the reasoned view that the sale of the lands situated at Bogue Estate by the St. James Parish Council, is in fact the divestment of a government-owned asset, a matter for which the OCG has lawful jurisdiction. The sale of the referenced land, will, upon the acceptance of a successful bid, mark the commencement of a formal contract between the St. James Parish Council and the successful Bidder. The award of a Government of Jamaica (GoJ) contract falls within the realm of the OCG's jurisdiction and accordingly, Section 4 (1) of the Contractor General Act requires, *inter alia*, that GoJ contracts must be awarded "*impartially and on merit*" and that the circumstances of award must "*not involve impropriety or irregularity*".

Instructively, Section 2 of the Contractor General Act provides the following interpretations:

"government contract" includes any licence, permit or other concession or authority issued by a public body or agreement entered into by a public body for the carrying out of building or other works or for the supply of any goods or services;"...

"public body" means –

- (a) a Ministry, department or agency of government;*
- (b) a statutory body or authority;*



(c) *any company registered under the Companies Act, being a company in which the Government or an agency of Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company;”*



TERMS OF REFERENCE

The primary objectives of the OCG's Investigation into the circumstances surrounding the proposed sale of lands situated at Bogue Estate by the St. James Parish Council are to determine the following:

1. Whether there were breaches of the applicable GOJ Public Sector Procurement Procedures and/or any other applicable Policies, Rules and Regulations, inclusive of the Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands, 2015, on the part of the St. James Parish Council, or anyone acting on their behalf, in the sale of lands situated at Bogue Estate.
2. To determine whether the aforementioned process was devoid of irregularity and impropriety and was fair and transparent.

The specific objectives of the OCG's Investigation were to determine, *inter alia*:

1. The processes which were undertaken by the St. James Parish Council in the sale of the specified lands at Bogue Estate.
2. Whether the proposed sale gives rise to a conflict of interest.
3. Whether there is merit to the allegation that the proposed sale of the lands at Bogue Estate was based upon a 2009 Valuation Report.
4. Whether there is merit to the allegation that the sale of the stated lands was in breach of a Commission of Inquiry ruling and the Government of Jamaica Divestment Policy.



METHODOLOGY

The Requisitions/Questionnaires, which formed a part of the OCG's investigative methodology, were directed by the OCG to the following persons:

1. Ambassador, the Hon. Douglas Saunders, Cabinet Secretary, Office of the Cabinet;
2. Mr. Denzil Thorpe, Permanent Secretary, Ministry of Local Government and Community Development;
3. Mr. Gerald Lee, Chief Executive Officer, and then Secretary Manager, St. James Parish Council;
4. Mr. Charles Sinclair, Councillor, St. James Parish Council; and
5. Mr. Martin Kellier, Councillor, St. James Parish Council.

The OCG conducted a detailed review and cross-referencing of the Statements, and supporting documentation that were submitted by the aforementioned persons.

The OCG also undertook a comprehensive review of the applicable Government of Jamaica Handbook of Public Sector Procurement Procedures, the Parish Councils Act, Ministry Paper #34 - Privatization Policy and Procedures, and the Policy Framework and Procedures Manual for the Divestment of Government-owned Lands (2015).



FINDINGS OF FACT

1. The lands referred to as the 'Bogue Lands' are situated in the vicinity of the Bogue Industrial Estate, Montego Bay, St. James.
2. Mr. Dennis Morrison was engaged, in November 2003, by the Ministry of Local Government, Community Development and Sport to enquire into and report on the status of lands belonging to the St. James Parish Council at Bogue Industrial Estate, Montego Bay.
3. A Report on the Status of Lands Belonging to the St. James Parish Council at Bogue Industrial Estate, Montego Bay', was prepared by Mr. Dennis Morrison. The Report bore the date March 1, 2004 and made the following key resolutions:

"While a final decision on the way forward is therefore clearly a decision for the present Council to take, I would recommend that the best approach to the problem at this time that falls within this term of reference is as follows:

- (i) To ascertain the identities of the persons currently in occupation of the Bogue lands.*
- (ii) To commission a survey of the property with a view to preparing a sub-division plan of the property*
- (iii) **To obtain current valuations by the Commissioner of Lands and independent private valuations with respect to each lot occupied.***
- (iv) **To negotiate sales of the said lots to each occupant, based upon the average of the valuations obtained at (iii) above. As in the case of Mr. Barrett, I would expect the sales prices to give***



**credit to the Council for each occupant's rent free
occupation for a number of years.**

(v) *To obtain the approval of the Minister for the sales
at (iv) above."*

4. By way of Cabinet Decision No. 37/05, which was dated December 19, 2005, the Cabinet gave approval for:

- (i) *the transfer of lands known as the Bogue Industrial Terrace from the Commissioner of Lands to the St. James Parish Council consistent with the advice of the Attorney General's Department;*
- (ii) *the regularization of the use of the existing lands at the Bogue Industrial Terrace consistent with the recommendations; and*
- (iii) *the sale of lands known as the Bogue Industrial Terrace to qualified purchasers, including existing occupants in the recommendations."*

5. The St. James Parish Council decided to sell the property to the occupiers. The Council made the decision based on its interpretation of the recommendations of the Commission of Enquiry report for Bogue lands and Cabinet Decision No.37/05 dated December 19, 2005.

6. The St. James Parish Council recommended that the sale price be based on a 2009 Valuation of the property that was previously agreed upon and used in the formula to calculate the sale price that included the valuation and Infrastructural Cost.

7. The following provisions were also stated by the Council:

- (a) *All Occupiers and potential purchasers were required to submit building applications for approval of structures with payment of requisite fees upon receipt of cabinet approval.*



(b) A Draft Lease Agreement subject to Cabinet Approval for the last six (6) years occupancy was stated to have has been prepared and submitted for review by the occupiers with an option to purchase at rates to be approved by Cabinet.

(c) That no monies have been collected by the Council from occupiers of Bogue estate Property it owns for either lease or sale of the property after the Commission of Enquiry Report.”

8. The referenced lands were illegally occupied by the following persons:

- i. Clarence Bailey;
- ii. Jean Ghauongui;
- iii. Rhoan Williams;
- iv. Leroy Peart;
- v. Lydia Thompson Barrett;
- vi. Kelley;
- vii. Desmond Steel;
- viii. Ansle Beckord;
- ix. Winston Chue;
- x. Marquise Spence;
- xi. Errol Campbell;
- xii. Martin Kellier;
- xiii. Lascelle Grizzle;
- xiv. Garth Nelson;
- xv. Aubrey Minto;
- xvi. Imhopet Lamumba;
- xvii. Carlton Mahoney;
- xviii. Clasford Woolery;
- xix. Richard Downer;
- xx. Partick McIntyre; and



xxi. Boyd Anslip.

9. The occupants of the land, in at least two (2) instances, wrote to the St. James Parish Council, through the Bogue Businessman Association, to express their interest in entering into an agreement with the Council for the purchase of the lands.
10. A Valuation Report dated July 2008 was prepared by the Commissioner of Land Valuations for the purposes of determining the then current open market value. The value of the property as certified by the National Land Agency on July 7, 2008 was in the amount of \$250,000,000.00 to 260,000,000.00. Of note, based on the Valuation Report, the structures which were affixed to the subject land did not form a part of the Valuation.
11. As it regards the market profile, the Valuation Report detailed the following:

“There is good demand for warehouse sites within this neighbourhood. Recent market activities within Bogue Industrial Estate and other comparable suburban parks (e.g. Bogue Commercial / Fairview, Montego Bay Freeport, Ironshore Light Industrial Estate) are indicating that the subject property should receive fairly good responses if offered for sale on the open market.”

12. The Valuation Report identified the physical boundaries of the property as, Land part of Bogue Estate, Montego Bay, St. James, located south of the reserved road opposite the JPS Bogue sub-station, on the northern side of the reserved road leading to the second entrance to the Bogue Village Housing Scheme. It is bounded as follows:

- North: Reserved Road – Roadway
- South: Temple Galleries Road – Roadway



- East: Barnett Limited Subdivision
- West: Bogue Estate Industry

13. The name of the Owner/Person in possession being the Commissioner of Lands and the St. James Parish Council. The Commissioner of Land is the registered proprietor of the fee simple estate and interest for the registered portion and the St. James Parish Council is recorded on the Valuation Roll for the unregistered portion.

14. The St. James Parish Council in November 2014 took the following decisions:

- a. That the Bogue Lands be sold at the 2009 Valuation plus present infrastructure cost;
- b. That Fifteen percent (15%) of the Sale Price be deposited upon signing and occupiers would be required to pay up Property Taxes for the area of the property occupied;
- c. Occupiers would be required to submit building plans for the structures and seek requisite planning and building approvals with payment of requisite fees;
- d. That the Council foregoes the six (6) years back rental; and
- e. That the Ministry be notified of the decision of Council in order for final Cabinet approval to be sought.

15. The illegal occupants were engaged in the following services:

- a. Commercial;
- b. Restaurant and Bar;
- c. Hardware Supplies;
- d. Construction Equipment;
- e. Auto parts;
- f. Garage and
- g. Wrecking.



16. The recommendation which was made by the St. James Parish Council for the sale of the lands at Bogue Estate to the illegal occupants at a cost determined by a 2009 valuation was in breach of the then applicable provisions of Ministry Paper 34 and the current Policy Framework and Procedures Manual for the Divestment of Government-owned Lands (2015).
17. Mr. Martin Kellier was elected as a Councillor for the Welcome Hall Division in St. James in March 2012 and has been a sitting Councillor for the Welcome Hall Division in the St. James Parish Council from that date.
18. Mr. Martin Kellier is an illegal occupant of the lands at Bogue.
19. There is a discrepancy as it regards the specific lot which is occupied by Mr. Martin Kellier. The Lease Agreement which was submitted by Mr. Kellier, the substance of which has been detailed in this report, indicates that Mr. Kellier occupies lot number 12. The receipts corroborating payments made by Mr. Kellier, in respect of the said lands, also indicate that the payments had been in respect of lot number 12. However, the St. James Parish Council, by way of its response which was dated December 17, 2015, states that Mr. Kellier occupies lot number 16 of the said lands.
20. Mr. Martin Kellier is a Director and the majority shareholder of the entity M & K Heavy Equipment Hireage Company Limited.
21. Mr. Martin Kellier commenced his occupation of the lands at Bogue in 1998 by “*capturing it*”. As at the date of this Report, Mr. Kellier would have been illegally occupying the referenced lands for over 19 years.
22. As a Councillor in the St. James Parish Council, Mr. Martin Kellier has been a member of or has been invited to the following meetings of the St. James Parish Council:
- i. Executive Management;



- ii. Council;
- iii. Infrastructure Development & Maintenance;
- iv. Public Health;
- v. Finance and Administration;
- vi. Physical Planning & Environment;
- vii. Disaster Preparedness and Emergency Management;
- viii. Civic and Community Affairs; and
- ix. Poor Relief.



DISCUSSION OF FINDINGS

The Allegations

On December 12, 2013, the OCG received a letter, which was dated November 20, 2013, under the signature of Mr. Charles Sinclair, Councillor, and Minority Leader, St. James Parish Council. The referenced letter stated, *inter alia*, the following:

“It has come to my attention that the Saint James Parish Council by a majority decision of the Finance Committee agreed to sell its interest in lands part of Bogue Estate, popularly known as “Bogue Lands” at prices determined by a valuation report in 2009.

The sale of these lands was determined by a Commission of Inquiry ordered by Hon. Portia Simpson Miller when she was Minister of Local Government. The Commission determined that same should be sold current market value.

In light of the apparent breach of the Commission’s ruling, and Government’s divestment policy, and because of the conflict interest that exists where a sitting Councillor from the majority side in the St James Parish Council has an interest in the said land, in the opinion of the minority caucus of the Council that your office launch an investigation into this matter, and to maintain oversight of the entire process to ensure



that all procedures are adhered to, and the Council is not short changed.”¹(OCG Emphasis)

The OCG also received an email which was sent by Mr. Sinclair and addressed to the Most Honourable Portia Simpson-Miller ON, MP, former Prime Minister of Jamaica, dated December 19, 2014, which made further allegations and stated, *inter alia*, as follows:

“Dear Prime Minister,

I am writing to express grave concern regarding a decision taken by the majority in the Saint James Parish Council to sell a valuable asset of the Council at the 2009 valuation, and to forego/waive six years mesne profits (for ease of language going forward, to be called rental) which can and should be collected from the occupiers of said land who have and operated businesses on said property generating thousands if not millions of dollars in revenue over the many years.

...

The minority caucus of the Council has the following concerns:

- 1. The decision was taken in spite of the advice and concerns stated by the Secretary Manager and Director of Administration that to do so would not be in the best interest of the Council and the citizens of Saint James.*
- 2. There is no clear reasonable reason put forward by anyone for such a decision to be taken.*

¹ Letter dated November 20, 2013 which was addressed to the Contractor General by Mr. Charles Sinclair, Councillor, St. James Parish Council.



3. *The waiver would leave the cash strapped Council without much needed revenue to honour is [sic] financial obligations. Presently the Council owes Jamaica Public Service approximately \$2.5 million dollars for electricity bills, the NIS and NHT approximately \$11 million dollars in unpaid statutory payments for staff, and is behind in travelling emoluments by three months.*
4. *The waiver would not be in keeping with sound fiscal management nor in line with fiscal regulations by which Council is governed.*
5. *The waiver smacks of nepotism and favors as [sic] at least one former and one current councillor and another politically aligned persons are interested parties.*
6. *The occupiers have been in occupation operating businesses for quite sometime and would have derived immense benefit while the Council can only lawfully claim six years rental. Many of the occupiers have sublet portions of the property occupied by them and collecting large sums in rental. Why then should the Council not get it's "pound of flesh"?*

Madam Prime Minister, other reasons could be stated, but I do believe the point has surely been made and that you will take the necessary steps to ensure that good sense prevail.



I have taken this opportunity to also copy this letter to the Auditor General and Contractor General for their information, guidance and if they deem it necessary, intervention.”²(OCG Emphasis)

The allegations and comments which were expressed raised concerns for the OCG, which would suggest, *inter alia*, that the process (es) utilised by the St. James Parish Council may have been, or are irregular, improper and/or lacking in transparency and fairness.

In an effort to ascertain more specific particulars as it regards the allegations of impropriety and irregularity in the proposed sale of the referenced lands, and in keeping with the OCG’s internal procedures, the OCG wrote to Mr. Charles Sinclair, by way of a letter which was dated December 4, 2013. The OCG by way of its statutory requisition required Mr. Sinclair to respond to the following questions:

“1. What is the extent of your knowledge of the allegation that the St. James Parish Council has agreed to “sell its interest in the lands part of Bogue Estate”? Please provide a comprehensive statement to this question and provide documentary evidence, where possible, to substantiate your assertions/responses. Your statement should also include:

- (a) The exact physical address of the referenced property; and*
- (b) The Volume and Folio number, if known, for the subject property.*

² Letter which was addressed to the Hon. Portia Simpson-Miller, former Prime Minister and which was received by the OCG by way of an email dated December 19, 2014.



2. What is the extent of your knowledge of the matter pertaining to the allegation of a conflict of interest involving a "...sitting Councillor from the majority side ...in the St. James Parish Council ..." and his /her interest in the "Bogue Lands"? Please provide a comprehensive statement to this question and provide documentary evidence where possible, to substantiate your assertions/responses. Your statement should include:

- (a) The name and title of the referenced Councillor;
and
- (b) Full particulars of the perceived conflict of interest."³ (OCG Emphasis)

Mr. Charles Sinclair, by way of his response to the OCG which was dated January 13, 2014, informed the OCG of the following:

"My knowledge of the allegation that the Saint James Parish Council has agreed to sell its interest in lands part of Bogue Estate is based on comments made by the Director of Administration Mr. Ricardo Rhoden in finance committee meetings of the council during the months of November 2013 and December 2013.

In said meetings the said director informed the committee that the proposal for sale with all relevant documents have been sent off to the Ministry of Local Government for approval, in keeping with the Parish Council Act. The

³ OCG requisition which was dated December 4, 2013. (Questions Nos. 1 and 2).



committee was also informed that the proposed price was based on a 2009 Valuation Report.

The lands referred to as the Bogue lands are located in the vicinity of the Bogue Industrial Estate, Montego Bay Saint James. It is bordered on the southern boundary by Temple Gallery Road, section of the area known generally by Bogue Industrial Estate, by lands formerly owned by Barnett Estate Limited but portions sold to persons.

...

*The conflict of interest arises by the virtue of the fact that a **Councillor, Martin Kellier whether directly or through a company in which he has interests occupies one of the lots. The Councillor is also the Chairman of one of the Committees of the Council, namely the Public Health Committee, and he also sits on the Finance Committee.***

Further as chairman of a Committee, The Councillor sits on the Executive Management Committee of the council and it is possible that issues such as this relating to potential divestment of council's property can be raised in Executive Management Committee Meetings.

Further that it is the practice of the respective councillors to hold private meetings called caucus which are confined to party members at which consensus can be arrived at which are then taken to



*committee or council meeting and are carried by a majority thereby establishing council's position. It may be possible that in a caucus of the majority side of Council that this issue could be raised."*⁴ (OCG Emphasis)

⁴ Response that was received from Mr. Charles Sinclair dated January 13, 2014.



The Circumstances Surrounding the Sale of Lands Situated at Bogue Estate by the St. James Parish Council

Having regard to the allegations that were received in the subject regard and which have been noted with significant detail in this Report, the OCG by way of its statutory requisition which was dated June 17, 2014, sought to ascertain the veracity of the allegations that were made. In this regard, the OCG required the Secretary Manager of the St. James Parish Council, Mr. Gerald Lee, to respond to the following questions:

“1. What is the extent of your knowledge of the allegation that the St. James Parish Council has agreed to “sell its interest in the lands part of Bogue Estate”? Please provide a comprehensive statement to this question and provide documentary evidence, where possible, to substantiate your assertions/responses. Your statement should also include:

- (a) The exact physical address of the referenced property;*
- (b) The Volume and Folio number, if known, for the subject property; and*
- (c) A copy of the Certificate of Title.”⁵*

Mr. Gerald Lee, by way of his response which was dated July 16, 2014, informed the OCG as follows:

“1. The St. James Parish Council in keeping with Cabinet Decision No. 37/05 dated December 19, 2005 in respect of the caption... has agreed to sell

⁵ OCG requisition which was sent to Mr. Gerald Lee, Secretary Manager, St. James Parish Council, dated June 17, 2014. Question1.



its interest in the lands part of Bogue Estate subject to Cabinet Approval. The properties are under:

i) *Lot Valuation Number: 031D-5Y-05-001*

Title Reference: V: 326 F: 32

Area: 3.5258H

ii) *Lot Valuation Number: 031d-5y-02-022*

Title Reference: Not Stated

Area: 2.2258 H".⁶

Review of Cabinet Decision No. 37/05

The OCG was provided with an extract of Cabinet Decision No. 37/05 by Mr. Gerald Lee, Secretary Manager, St. James Parish Council, in an effort to substantiate his aforementioned response. The referenced extract, which bore the heading “**EXTRACT FROM CABINET DECISION No.37/05 DATED DECEMBER 19, 2005 Proposal for the Regularization and Sale of Lands at the Bogue Industrial Terrace, Montego Bay by the St. James Parish Council**”, informed as follows:

“The Submission advised that consequent on the allegations regarding impropriety in the leasing of the Bogue Lands property, the Ministry of Local Government, Community Development and Sport, in November 2003, engaged Mr. Dennis Morrison, Q.C., of Dunn Cox to conduct an Enquiry in the status of the lands related to the St. James Parish Council at the Bogue Industrial Estate. It advised further that a Committee chaired by Mr. Lloyd B.

⁶ Response which was received from Mr. Gerald Lee, which was dated July 16, 2014.



Smith was established in October 2004 to make recommendation on how to proceed.

After consideration, the Cabinet gave approval for:

- (i) **the transfer of lands known as the Bogue Industrial Terrace from the Commissioner of Lands to the St. James Parish Council consistent with the advice of the Attorney General's Department;**
- (ii) **the regularization of the use of the existing lands at the Bogue Industrial Terrace consistent with the recommendations; and**
- (iii) **the sale of lands known as the Bogue Industrial Terrace to qualified purchasers, including existing occupants in the recommendations.**" ⁷ (OCG Emphasis)

Review of the Report on the Status of Lands Belonging to the St. James Parish Council at Bogue Industrial Estate, Montego Bay

The OCG undertook a review of the document entitled 'Report on the Status of Lands Belonging to the St. James Parish Council at Bogue Industrial Estate, Montego Bay', which was prepared by Mr. Dennis Morrison and dated March 1, 2004. The OCG has also extracted and highlighted hereunder, the following points considered to be significantly intricate to this Investigation:

1. Mr. Dennis Morrison was engaged by the Ministry of Local Government, Community Development and Sport to enquire into and report on the status of lands belonging to the St. James Parish Council at Bogue Industrial Estate, Montego Bay.

⁷ EXTRACT FROM CABINET DECISION No.37/05 DATED DECEMBER 19, 2005 Proposal for the Regularization and Sale of Lands at the Bogue Industrial Terrace, Montego Bay, by the St. James Parish Council.



2. The Terms of Reference included:

1. To enquire into the status of lands belonging to the Parish Council at Bogue Industrial Estate.
2. To determine whether or not there is any truth to the allegations of corruption and impropriety on the part of members of the Council regarding the leasing of the Council's property.
3. To review the current system for disposal of Council Lands to determine its adequacy or otherwise to recommend corrective action.
4. To find a transparent and non-confrontational way of dealing with person already settled on the lands at Bogue Industrial Estate.

3. Two (2) parcels of land were identified as follows:

- a. Lands part of Bogue Industrial Estate, registered at Volume 955 Folio 440 of the Registered Book of titles, consisting of approximately 60,000sq. ft.
- b. Lands part of Bogue (adjoining the Bogue Industrial Estate,) consisting approximately 10.5 acres (no title available...)

The referenced Report cited no contention as it regards the parcel of land identified at “a” above.

4. Notwithstanding the substance of Terms of Reference No.2, which sought “*to determine whether or not there is any truth to the allegations of corruption and impropriety on the part of members of the Council regarding the leasing of the Council's property*”, the following comments were made:

“Having considered the matter carefully, and bearing in mind the Terms of Reference of the Enquiry (particularly Number 2), I am of the view that its proper conduct will require public hearing and the taking of evidence. I do not think that it will be possible – or, indeed, desirable to – determine



allegations of corruption and impropriety without undertaking such an exercise..

The Honourable Minister may want to consider whether in these circumstances it might not be preferable to recommend to His Excellency the Governor General that a formal Commission of Enquiry be established, as by this means I would have the power to summon witnesses and to do whatever will be necessary to achieve the fullest ventilation of the issues.

...

In a subsequent meeting with the Permanent Secretary, in the Ministry, I was requested to provide a report based on the material supplied to me and I agreed to do so on the basis only that I would make no comment on the issues raised by paragraph 2 of the Terms of Reference. This was subsequently confirmed to me by letter dated January 23, 2004."

5. The parcel of land, part of Bogue, consisting of approximately 10.5 acres, hereinafter referred to as 'Bogue lands' is bounded as follows:

"North: On the lateral Reserved Road running from the Reading / Montego Bay Main Road;

South: On land owned by Barnett Estates Limited;

East: On lands owned by Barnett Estates Limited;

West: On Bogue Industrial Estate Subdivision."



6. “...The then Acting Secretary/Manager, Mrs. L.M. Allen in a letter dated October 19, 1994 [indicated that] ‘the Council does not have in its possession a Registered Title for the property as many years ago the Council was instructed to have the lands vested in the name of the Commissioner of Lands’.” The Secretary Manager was, however, unable to substantiate the instructions, as it was indicated that the records of the Council were destroyed in a fire which destroyed the building in 1968.
7. Notwithstanding the absence of the registered Certificate of Title, the referenced report indicated that there appears to be no dispute that the Council is the beneficial owner of the ‘Bogue Lands’.
8. In relation to the occupancy of the ‘Bogue Lands’, it was stated that “...the property has a number of Informal Settlers (fourteen (14) at the last physical survey). Over time, some of the Informal Settlers have built permanent structures on the land, while others have used the parcels occupied by them, for storage of materials, establishment of garages, offices and other commercial outfit. On average each settler seems to occupy approximately 0.5 Acre...”.(OCG Emphasis)
9. As it regards the matter concerning the ‘informal settlement’, it was stated that “...*there is one occupant of a section of the property, Mr. Oscar Barrett, whose occupancy appears to be supported by some form of agreement with the Council.*”
10. A Memorandum which was prepared by the Superintendent of Roads and Works and dated July 11, 2002, indicated that a further incursion on the property was observed, subsequent to a tour of the property on June 25, 2002. The following observation was noted:



“We observed what appears to be an enormous structure being constructed on a section of the property... I was... astonished, because my last visit to the site was on May 17, 2002 and that building was not there...”

Upon a subsequent visit by officers of the Parish Council on June 26, 2002, *“...the land was completely fenced with chain –link metal and galvanized zinc sheets, and a large metal gate at the entrance which was fully secured with padlocks”*.

It was also indicated that there was *“...no approval from the Council or any other relevant authorities for the construction of this building.”* Further that *“...the Superintendent’s subsequent investigations revealed that the “developer” was a Mr. Patrick McIntyre, “believed to be a Customs Officer” and that the building was intended to be a “Customs Clearance Warehouse”*. The aforementioned was confirmed by way of a letter which was dated July 10, 2002 from Mr. Charles Sinclair, Attorney-at-Law representing Mr. Patrick McIntyre. The referenced letter stated, *inter alia*, the following:

“I represent Mr. Patrick McIntyre of Porto Bello, Saint James.

It is my instructions that based on representations made to my client he has occupied a lot at Bogue Industrial estate which is in the process of being Subdivided and sold by the Saint James Parish Council. My client has acted on said representation and constructed a warehouse building on the said Lot.

He is now eager to regularize his occupation and is requesting if necessary... immediate hearing with you so as to ensure that all formalities to have the



property transferred to him be done and all relevant payments due by him made.”

7. Having regard to the foregoing, the Superintendent, by way of a Memorandum which was dated July 24, 2002, stated as follows:

“I have no idea at all who made the representation to Mr. McIntyre to illegally occupy the Council’s land at Bogue. I am attesting herein and now, that such representation was not made by me. Consultation was had with my staff and none of them made any such representations...”

8. The occupants of the ‘Bogue Lands’ are as follows:

- (i) Mr. Oscar Barrett⁸
- (ii) Fourteen (14) informal settlers who occupied the lands at a time which is not known by the Council, within the last 10 – 15 years.

9. A letter dated July 18, 2001, was sent to Mr. Oscar Barrett, stating, *inter alia*, the following:

“Re: Lease of Property “Part of Bogue Industrial Estate”

⁸ The referenced Report indicated that permission had been sought by Barrett to lease a section of the land used as a playfield by students of the Montego Bay High School for a period of 20 years. This was approved by the Council. A subsequent request was made by Barrett for an extension of the lease to 50 years with the option to purchase the land at any time within that period. It is the finding of the said Report that *“Barrett has been in possession of the land, approximately 1.4 hectares, with the Council’s permission, from a date between 1992 and 1993”*. It was, however, stated that though there is evidence of an ‘agreement’, it cannot be regarded as a fully concluded agreement, as terms such as ‘rent’ had not been addressed. Further, it was stated that the proposed lease did not receive Ministerial approval.



I am directed by the Finance and Administration Committee, at its meeting held on July 4, 2001, to inform you that the Lease Agreement between the St. James Parish Council and yourself treating with the captioned property has been expired a long time ago, and therefore you are occupying the property illegally.

Consequently, the Committee directed that you vacate the property immediately.”

10. The Report also indicated that *“All other known occupants of the land ... were sent “notices to quit” dated July 18, 2001, in the following terms:*

“This serves to inform you that you are occupying the Council’s land at Bogue Industrial Estate illegally.

Consequently, as directed by the Finance and Administration Committee at its meeting held on July 4, 2001, you are ordered to vacate the property immediately, failing which legal actions will be taken against you”.

11. Note was made of the following responses to the St. James Parish Council’s letter. Mr. Barrett, by way of a letter dated April 26, 2002 wrote to the Council stating, *inter alia*, as follows:

“I received a letter from the Parish Council ...sometime in last year stating that my lease with the Parish Council expired... and that I was occupying the property illegally. I wish to remind the Parish Council of the true position.



I applied for and was granted a twenty (20) year lease in 1992 to occupy the portion of land at Bogue. Thereafter, based on certain factors including the enormous amount of money which would be invested, I wrote to the Parish Council and asked for an extension of 30 years on the lease. The then Superintendent Roads and Works, Mr. Binns, after extensive discussions with me, recommended that the extension be granted because of the amount of money which I would have to invest and the time needed to recover this amount. The Council subsequently advised that I would be further communicated with as soon as a decision was taken on the extension. Since that time the only communication I have had is the letter informing me that my five year lease had expired, which is certainly not so...”

Mr. Martin Kellier, by letter dated September 6, 2001 protested that “I have been occupying the Council’s land at Bogue Industrial Estates for over eight years unmolested” and proposed to the Council that “you commission a survey and valuation to establish the market price of the area that I presently occupy, so that payment can be made accordingly”. (OCG Emphasis)

Having regard to the foregoing, the following, *inter alia*, resolutions were proffered in the referenced report:



1. With regard to the occupation of the 'Bogue Lands' by the persons listed herein, namely, Mr. Oscar Barrett, at least 14 informal settlers, and Mr. Patrick McIntyre, it was stated that;

“...there is a complete absence of legal title on the part of any of them. In Mr. Barrett’s case, perhaps the one most deserving of some sympathy, since he did go into possession with Council’s permission, his claim to legal entitlement to occupy the land is, it seems to me, fatally impaired by the absence of any Ministerial approval...” (OCG Emphasis)

2. *“None of the “informal settlers” has, as far as I can ascertain, advanced any claim to legal entitlement to the portions of the land occupied and indeed, several of them have now written formally “seeking permission to lease with the option to purchase the property”.*
3. *“The case of Mr. Patrick McIntyre is particularly outrageous. I have already set out the circumstances in which his occupation of a portion of the Bogue lands came to the attention of the Council... There is no indication whatsoever of what the content of these “representations” might have been or by whom they are said to have been made. Further, I have seen no documentary evidence to support this claim, neither is there any record of an application by Mr. McIntyre ...for the right to lease or purchase the land.*



In these circumstances, the virtually irresistible conclusion is that between May 17, 2002 and June 25, 2002, Mr. McIntyre took possession of the property without any formal sanction from the Council, commenced the construction of a substantial structure without any building or other approval and proceeded to practical completion of the building despite the Superintendent's order that he cease construction...”

4. *“...The existing policy for the sale and lease of Parish Council lands islandwide is embodied in Cabinet decision number 19/96 dated May 27, 1996...So far as it goes, it appears adequate and, if there is full compliance with its terms, should secure a process of divestment of Council lands that is “fair, objective and transparent, and that such lands are disposed of at market value”.*
5. *“...the material that I have reviewed does not disclose that the Council over the relevant period developed any policy whatsoever with regard to its approach to the divestment of the Bogue lands. The ad hoc occupation and “development” of the property by the “informal settlers” and Mr. McIntyre are, at the very least, a direct result of this policy vacuum.*”
6. *“I am of the view that the Council must develop a philosophy of land use and development to guide*



and underpin its approach to divestment of Council lands. In addition and crucially, there must be some technical and administrative capability within the office of the Superintendent to ensure that in future the ad hoc “informal setting” of the Bogue lands cannot take place without stimulating the authorities to full consideration of all the circumstances.”

7. *“Though, as I have indicated, Mr. Barrett may not be able to establish any legal right to the parcel of land he occupies, he is in occupation with the permission of the Council and I would expect the Council to want to honour its own- albeit incomplete – agreement to lease 1.4 hectares of land to him. In this regard, it will be necessary for the outstanding issues of valuation of the property occupied by him to be resolved and a final agreement to be struck on the lease rental and the conditions of the exercise of the option to purchase. The Council and Mr. Barrett may wish to consider whether, given the history and all of the circumstances, it might not be in the best interest of them both to attempt to negotiate an outright purchase by Mr. Barrett of the land occupied by him at an agreed price. In this event, I would expect any such agreed price to reflect an element of credit to the Council with respect to Mr. Barrett’s apparently rent free occupation of the land for more than 10 years. Naturally, whatever arrangement*



and terms are agreed, the approval of the Minister will have to be sought and received.”

8. **“In the case of the “informal settlers” and Mr. McIntyre, a clear policy decision by Council will be needed...”** (OCG Emphasis)

9. *“While a final decision on the way forward is therefore clearly a decision for the present Council to take, I would recommend that the best approach to the problem at this time that falls within this term of reference is as follows:*

(vi) *To ascertain the identities of the persons currently in occupation of the Bogue lands.*

(vii) *To commission a survey of the property with a view to preparing a sub-division plan of the property*

(viii) **To obtain current valuations by the Commissioner of Lands and independent private valuations with respect to each lot occupied.**

(ix) **To negotiate sales of the said lots to each occupant, based upon the average of the valuations obtained at (iii) above. As in the case of Mr. Barrett, I would expect the sales prices to give credit to the Council for each occupant’s rent free occupation for a number of years.**

(x) *To obtain the approval of the Minister for the sales at (iv) above.”* (OCG Emphasis)



The following Conclusions were also arrived at in the referenced Report:

1. *“...The Council at all levels – Councillors, management and technical staff over the years must take responsibility for the several departures from proper procedure... that have obviously occurred over the period.* In this regard, however, it must be pointed out that the current Superintendent and the Secretary /Manager have only been at this Council since February 1999 and January 2002, respectively, and cannot therefore bear the brunt of responsibility for all that has occurred.”
2. *“The Ministry itself is also not without fault; the record shows long gaps in responses to correspondence, as well as repetitive requests for further information over the period. There is certainly no impression from the correspondence that at that end there was any urgency in responding. It may well be that a comprehensive review of existing procedures within the Ministry needs to be undertaken as well.”*(OCG Emphasis)



Review of the Ownership of the Land Registered at Volume 955 Folio 440 (Bogue Lands)

Notwithstanding the fact that there has been no contestation, as it regards the ownership of the referenced lands, the OCG thought it prudent, given the substantive issue at hand, to undertake a review of the lands which are registered at Volume 955 Folio 440, with a view to highlighting the legal owner(s) and the description and physical attributes of the property.

The copy Certificate of Title for Bogue Estate registered at Volume 955 Folio 440, attached at Appendix 1, states that the registered owner was the Chief Secretary of Jamaica (the Commissioner of Lands). The land, comprising of, in excess of 47 acres, was subdivided according to the attached plan into 40 lots of which various lots were leased to different companies and individuals between the tenure 1965 to 1968 for a period of 20 years.

On April 25, 2008, by Miscellaneous No. 1521410, title registered at Volume 955 Folio 440 was cancelled owing to the fact that the duplicate Certificate of Title was reported lost. The Certificate of Title registered at Volume 955 Folio 440 was cancelled and a new duplicate Certificate was registered at Volume 1420 Folio 171, attached herein at, Appendix #2.

Further, the Certificate of Title registered at Volume 1420 Folio 171 was reported lost and was later replaced by Volume 1452 Folio 518 on August 17, 2011. The registered owner of Volume 1452 Folio 518 (Attached at Appendix 3) as at the issuance of the new title was the Commissioner of Lands. However, through Transfer No. 1727744 by way of gift, the Commissioner of Lands on October 12, 2011 transferred specific lots to the St. James Parish Council. Based upon the endorsements and description observed on the Certificate of Title, of the 40 lots, the lots which were transferred to the St. James Parish Council were lots: A, 9, 28, 29, 30 and 37-40.

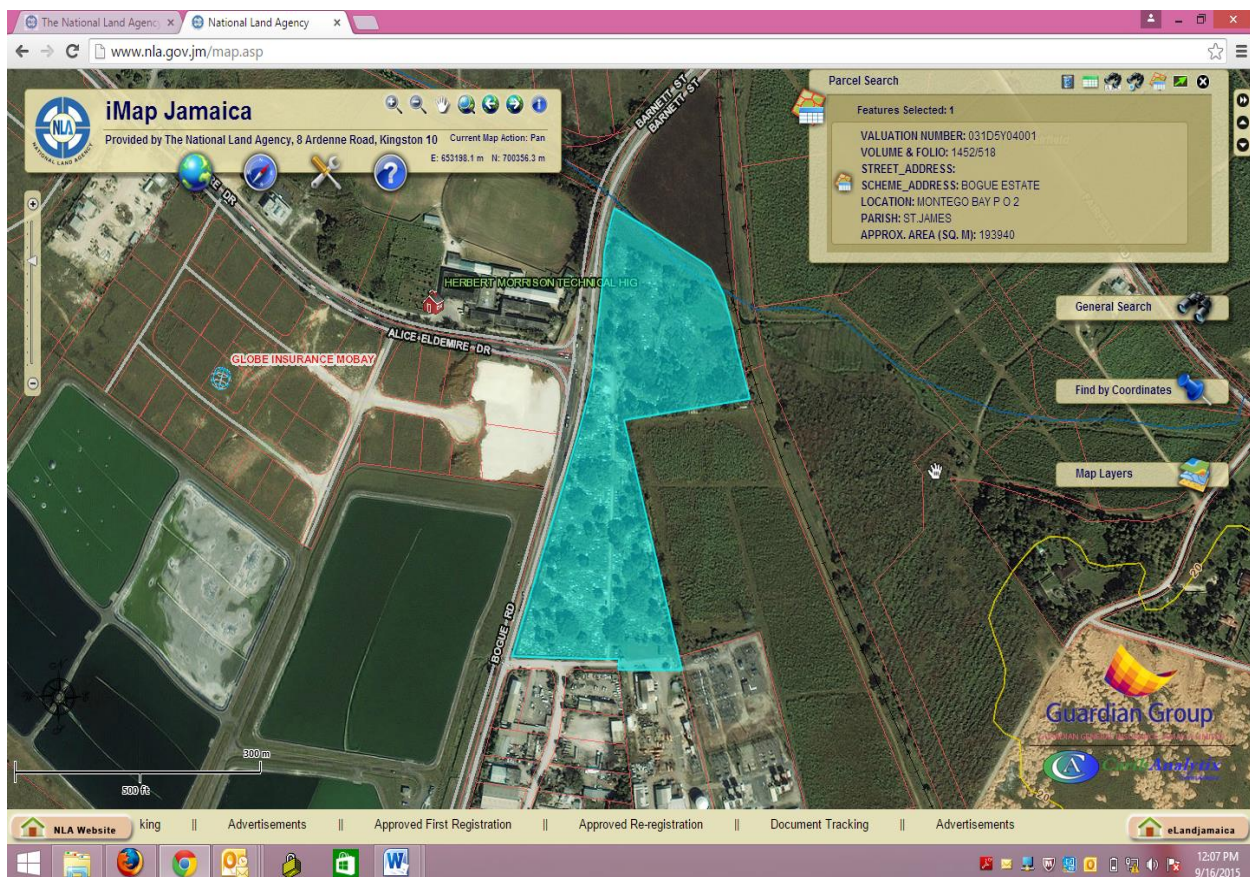
As at the date of this report, the registered proprietors for the remaining lots which were not transferred to the St. James Parish Council were not ascertainable without the further assistance of the National Land Agency.

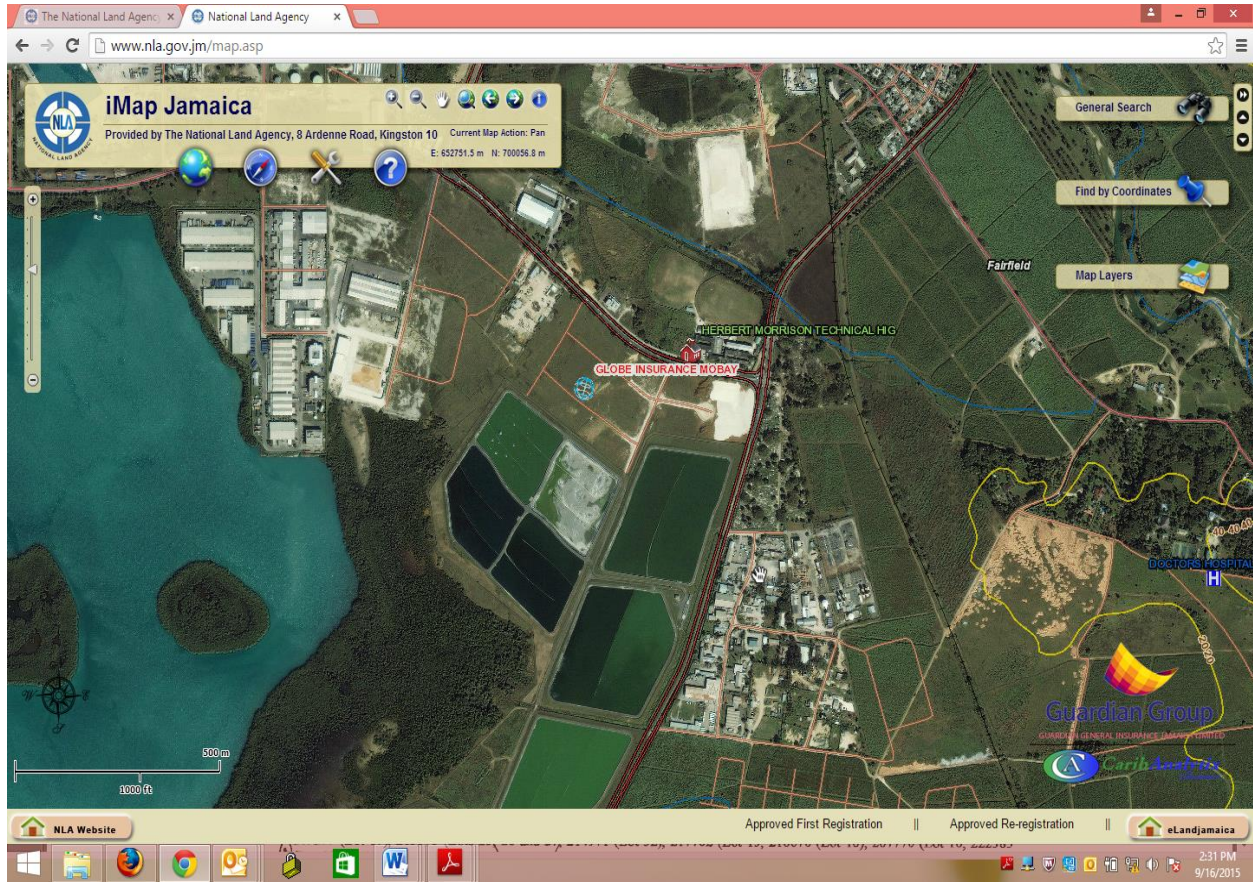


The OCG's review and checks do not indicate that any Caveats, Mortgages or Restrictive Covenants were endorsed on the Certificate of Title Volume 1452 Folio 518.

The OCG has attached hereunder, a graphical representation illustrating the physical location of the parcel of land registered at Volume 1452 Folio 518, for which the area shaded in blue represents said property and boundaries. The referenced lot is identifiable on its west boundary by the Bogue Road and Barnett Street in the vicinity of the Herbert Morrison Technical High School.

Map 1







The Process which was Administered by the St. James Parish Council in the Sale of the Lands Part of Bogue Estate

In an effort to verify the veracity of the allegations, as well as to ascertain the process which was administered with regard to the subject matter, the OCG, by way of its statutory requisition of June 17, 2014, required that the Secretary Manager of the St. James Parish Council, Mr. Gerald Lee, provide responses to the following questions:

“Kindly provide a comprehensive report on the status of the sale or pending sale of Lands situated at ‘Bogue Estate’ by the St. James Parish Council.

Your response should include:

- a. Copies of the Expression(s) of Interest; (if applicable)*
- b. Copies of the Letters of Invitation; (if applicable);*
- c. Copies of all Tender Documents;*
- d. Copies of Tender Receival and Tender Opening forms;*
- e. A copy of the report of any and/or all Valuation(s) in respect of the matter at caption;*
- f. A copy of a detailed and signed Evaluation Report;*
- g. Evidence of requisite approvals;*
- h. A copy of the signed Sale Agreement;*
- i. Evidence of all payments received to date; and*
- j. A copy of all pertinent documentation or correspondence inclusive of letters, and/or e-mailed*



correspondence generated by the St. James Parish Council, Investors, the selected Purchaser and/or any other Public or Private Entity regarding this matter, which has not been previously submitted to this Office.”⁹

Mr. Lee, by way of his response which was dated July 16, 2014, informed the OCG as follows:

“The St. James Parish Council in keeping with the recommendations of the Commission of Enquiry report for Bogue Lands and subsequent Cabinet Decision decided to sell the property to the occupiers accordingly. A Survey has been done of the property to identify the boundaries and lot sizes. The Council recommended that the sale price be based on the 2009 Valuation of the property that was previously agreed upon and used in the formula to calculate the sale price that included the valuation and Infrastructural Cost. The Current Infrastructural Cost for the subdivision would be incorporated into the final price.

All Occupiers and potential purchasers will have to submit building applications for approval of structures with payment of requisite fees upon receipt of cabinet approval. The Council is mindful that Cabinet is not bound to accept its recommendation and await the cabinet Decision

⁹ OCG statutory requisition which was dated June 17, 2014. Question No.5.



*relating to the approval for sale. **However a Draft Lease Agreement subject to Cabinet Approval for the last six years (6) occupancy has been prepared and is being reviewed by occupiers with an option to purchase at rates to be approved by Cabinet. It must be noted that no monies have been collected by the Council from occupiers of Bogue estate Property it owns for either lease or sale of the property after the Commission of Enquiry Report.***¹⁰

In support of the aforementioned response, Mr. Gerald Lee provided the OCG with a copy of an extract from Cabinet Decision No.37/05 dated December 19, 2005, in respect of the subject matter. The referenced Cabinet Decision stated, *inter alia*, as follows:

“Proposal for the Regularization and Sale of Lands at the Bogue Industrial Terrace, Montego Bay by the St. James Parish Council

The Submission advised that consequent on allegations regarding impropriety in the leasing issues of the Bogue Lands property, the Ministry of Local Government, Community Development and Sport, in November 2003, engaged Mr. Dennis Morrison, Q.C., of Dunn Cox to conduct an enquiry in the status of the lands related to the St. James Parish Council at the Bogue Industrial Estate...

After consideration, the Cabinet gave approval for:

¹⁰ Response from Mr. Gerald Lee which was dated July 16, 2014. Response #5



- (i) *The transfer of lands known as the Bogue Industrial Terrace from the Commissioner of Lands to the St. James Parish Council consistent with the advice of the Attorney General's Department;*
- (ii) *The regularization of the use of the existing lands at the Bogue Industrial Terrace consistent with the recommendations; and*
- (iii) **The sale of lands known as the Bogue Industrial Terrace to qualified purchasers, including existing occupants in the recommendation.**¹¹ (OCG Emphasis)

Further, the OCG reviewed a copy of the Minutes of a meeting which was held on February 26, 2009, "...to discuss the sale of the Council's land at Bogue to the persons presently occupying the land"¹². The referenced Minutes indicated that the following persons were present:

*"Councillor Leeroy Williams – Chairman
Councillor Charles Sinclair- Mayor
Councillor Richard Solomone
Mr. Winston Palmer – Secretary/ Manger
Ms. Carmen Samuda – Director of Finance
Mr. Kenroy Stewart – Superintendent Roads and Works
Mr. Richardo Rhoden – Ag. Community Programmes Coordinator"*¹³

Further, the Minutes also stated that the following decisions were made:

"1. Cost Price:

¹¹ Extract from Cabinet Decision No.37/05 dated December 19, 2005.

¹² Minutes of Meeting that was held on February 26, 2009.

¹³ Minutes of Meeting that was held on February 26, 2009.



The Cost price of the land should be determined at J\$8,500 or US\$94.00 per square meter.

On signing of the agreement, the purchaser should pay 30% of the cost, 40% to be paid three (3) months later. It was hoped that the execution/ transfer would take approximately six (6) months and the remaining 30 % should be paid then.

2. Rental:

The occupants are to pay for six (6) years back rental. A schedule should be worked out indicating how much is owed for each pf the occupied lots.

3. Submission of Building Plans:

Once the agreement is signed (due to the fact that they are already in possession of the land) they should submit their building plans and pay the prescribe[sic] fees. The submission of the plans should be within the first three months of the agreement.

4. Development Time:

It was anticipated that the development works would be completed in a minimum time of six months.

5. Signing of Documents:

It was anticipated that by March 31, 2009 the documents would be signed.”¹⁴

¹⁴ Minutes of Meeting that was held on February 26, 2009. Re: Sale of Bogue Lands.



It is instructive to note that the OCG was provided with a copy of the ‘Schedule of Cost’ for Properties at Bogue Industrial Estate, which was prepared on March 6, 2009, and which outlined the lot numbers, the lot size in sq. m (m2), the cost per lot in US Dollars and the cost per lot in Jamaican Dollars. A copy of the Sub Division Plan of part of Bogue Estate, registered at Volume 955 and Folio 440, was also provided to the OCG. A copy of the referenced documents is attached at Appendices 4, and 5 respectively.

By way of a St. James Parish Council correspondence which was dated November 28, 2008 and which was addressed to the Secretary, St. James Parish Council, by Mr. Kenroy Stewart, the then Superintendent of Roads and Works, the OCG found that the cost attributed to the Development Works in the Bogue Industrial Estate amounted to \$83,379,140.00.

The following Estimate for the installation of Development Works in the Bogue Industrial Estate was prepared by the then Superintendent of Roads and Works on November 28, 2008, the details of which are represented verbatim below:

<i>Item</i>	<i>Description</i>	<i>Quantity</i>	<i>Unit</i>	<i>Rate</i>	<i>\$</i>
1.	<i>Preliminaries</i>		<i>L.S.</i>	<i>345,000.00</i>	<i>345,000.00</i>
2.	<i>Traffic Control and Safety</i>		<i>P.S.</i>	<i>230,000.00</i>	<i>230,000.00</i>
3.	<i>Indemnities, Insurance and Compensation</i>		<i>L.S</i>	<i>460,000.00</i>	<i>460,000.00</i>
4.	<i>Cost of Performance Bond</i>		<i>L.S.</i>	<i>1,150,000.00</i>	<i>1,150,000.00</i>
5.	<i>Allow for Sum to be used as directed by the Engineer.</i>		<i>P.S</i>	<i>230,000.00</i>	<i>230,000.00</i>
6.	<i>Dust Control</i>		<i>P.S.</i>	<i>115,000.00</i>	<i>115, 000.00</i>



7.	<i>Allow for Testing</i>		<i>P.S.</i>	<i>172,500.00</i>	<i>172,500.00</i>
8.	<i>Site Office</i>		<i>L.S.</i>	<i>69,000.00</i>	<i>69,000.00</i>
9.	<i>Supervision</i>		<i>P.S.</i>	<i>115,000.00</i>	<i>115,000.00</i>
10.	<i>Sub-base Material</i>	<i>5200</i>	<i>M3</i>	<i>2,415.00</i>	<i>12,558,000.00</i>
11.	<i>Additional Base Material</i>	<i>4,000</i>	<i>M3</i>	<i>2,415.00</i>	<i>9,600,000.00</i>
12.	<i>Base Material</i>	<i>2,100</i>	<i>M3</i>	<i>2,415.00</i>	<i>5,071,500.00</i>
13.	<i>Prime Coat (Base Course Protection)</i>	<i>7,900</i>	<i>M2</i>	<i>241.50</i>	<i>1,907,850.00</i>
14.	<i>Application of Wearing Surface</i>	<i>7,900</i>	<i>M2</i>	<i>1,436.35</i>	<i>11,347,165.00</i>
15.	<i>Provision of Material and installation of sidewalks(4ft wide)</i>	<i>3.2</i>	<i>Km</i>	<i>1,150,000.00</i>	<i>3,680,000.00</i>
16.	<i>Provision of kerb and Channel Drains</i>	<i>3.2</i>	<i>Km</i>	<i>1,150,000.00</i>	<i>3,680,000.00</i>
17.	<i>Provision and installation of Pipe Specials (4 inches diameter sch 40)</i>	<i>1.6</i>	<i>Km</i>	<i>2,300,000.00</i>	<i>3,680,000.00</i>
18.	<i>Provision and installation of Sewage Disposal System</i>	<i>1.6</i>	<i>Km</i>	<i>3,450,000.00</i>	<i>5,520,000.00</i>
19.	<i>Provision of Specials for Sewage Disposal</i>		<i>P.S.</i>	<i>2,300,000.00</i>	<i>2,300,000.00</i>



20.	<i>Provision and Installation of Fire Hydrants and Hydrant Specials</i>	40	No.	230,000.00	9,200,000.00
21.	<i>Provision of Road Furniture inclusive of Stop Signs, etc.</i>		P.S.	172,500.00	172,500.00
22.	<i>Provision and Extension of Electrical Energy to serve the Scheme inclusive of all Specials</i>	1.6	Km	5,750,000.00	9,200,000.00
23.	<i>Clearance of Site after construction</i>		P.S.	172,500.00	172,500.00
24.	<i>Topographical Survey</i>		P.S.	1,150,000.00	1,150,000.00
25.	<i>Sub-divisional Survey (26 Lots)</i>		P.S.	484,524.73	484,524.73
26.	<i>Legal Survey</i>		P.S.	708,600.87	708,600.87
27.	<i>Contingencies (Say 10%)</i>				11,715,625.60
				TOTAL	\$83,379,140.60

The OCG perused a copy of the Minutes of a meeting regarding the sale of the Bogue Lands to the Occupants, which was dated March 10, 2009, and which was held to “...outline the conditions of sale of the Council’s land at Bogue to the persons presently occupying the land.”¹⁵

Of note, the following representatives of the Council were present:

¹⁵ St. James Parish Council Minutes of Minutes of March 10, 2009.



*“Councillor Charles Sinclair- Mayor &
Chairman*

Councillor Richard Solomone

Councillor Leeroy Williams

Councillor Dale Delapenha

Mr. Winston Palmer –

Secretary/Manager

*Miss Claudette Corbett- Director of
Administration*

*Miss Carmen Samuda – Director
Finance*

*Mr. Kenroy Stewart – Superintendent
Roads and Works*

*Mr. Ricardo Rhoden- Ag. Community
Programmes Coordinator”¹⁶*

The referenced Minutes also indicated the following ‘Occupants’ of the subject lands at Bogue were present:

“Mr. Martin Kellier -

Garth Nelson - Lot 17

Sharon McIntyre- Lot 22

Lennox Headley – Lot 22

Kenneth Daley- Lot 7

Carlton Mahoney- Lot 7A

Imhotep Lamumba- Lot 8

Marquise Spence- Lot 11

Ansle Beckford – Lot 10

Laselles Grizzle – Lot 15

Richard Downer- Lots 23& 24

¹⁶ St. James Parish Council Minutes of Minutes of March 10, 2009.



Winston Chue – Lot 9

Sammuel Ghans – Lot 16

Michael Allen – Lot 24

*Andre Campbell for (Errol Campbell)-
Lot 12*

Aubrey Minto- Lot 18

Lydia Barrett -

Boyd Anslip – Lot 21

Denise Palmer – Lot 21

Neville Ricketts- Lot 7b

Lynden Buchanan-

Desmond Steele-”¹⁷

The stated Minutes also recorded, *inter alia*, the following:

“Payment of Rental for Property:

[Mayor Charles Sinclair] pointed out that where a man occupied a person’s land it was called rental but in the case of the persons occupying the Bogue land without permission the law called it ‘Mesne Profit’. Therefore that was the process that the Council was prepared to deal with in regards to the regulation of its land with the Occupants.

The Mayor then read the Lot numbers, the size of each lot, the monthly rental

¹⁷ St. James Parish Council Meeting of Minutes dated March 10, 2009.



applicable and the annual rental for each lot.

He advised that it was a decision of the Council's Asset Management Committee that the Occupants of the land should pay rental retroactive to six (6) years occupancy.

Mr. Samuel Ghans expressed the view that the mount quoted for Lot 14 which he occupied was too high as they had spent a lot of money to prepare the land to bring it to what it was and if it was the Council that had prepared the land, it would have cost them a large amount of money.

The Mayor remarked that many people had taken things upon themselves to do certain tings [sic] for their own benefit. The Occupants of the land were not given permission to capture the land and to carry out infrastructure work for their own benefit.

When asked how long he had been occupying the land, Mr. Ghans replied thirteen (13) years.

His Worship informed him that the Council was going back only six years



(6) to collect rental for the property and that it had used the valuation from the Commissioner of Lands which was the most conservative valuation.

Mr. Michael Allen of Lot 24 enquired what would happen if the person had occupied the land for less than six years, would there be some consideration from the Council. He advised that he had occupied the land for three years, had erected a board building and fenced the land as he was holding it for someone. The board building was being used by him as an office.

His Worship advised that the Council would give some consideration to his case.

Mr. Winston Chue of Lot 9 argued that a Stop Order was given to them to cease and desist from carrying out any further development on the land and he wanted know how they could be charged rental for that time.

His Worship stressed that he was still occupying the land to which Mr. Chue



replied in the negative as only the structure was left there.

The Mayor pointed out that he was still in possession as his building structure materials were still on the land.

Cost Price of Property

His Worship then advised the Occupants that the Commissioner of Lands carried out the Valuation in respect of the property which was critical to the Council to obtain splinter Titles for the respective lots. Also, that the cost of the property was at a conservative value of J\$8,500.00 per square meter or US \$ 94.00 per square meter.

He advised that the reason for the cost to be as stated was that development of the property could take a period of time and in a time of fluctuation of the dollar there were two options –

- 1. if the price for the property was quoted in Jamaican Dollars there was going to be a devaluation clause in the agreement;*



2. *if the price was quoted in US Dollars the purchaser would have to pay the cost at the current rate.*

His Worship further advised that the Asset Management Committee took the decision that on signing of the agreement, the purchaser would pay 30% of the cost, 40% to be paid three (3) months later. It was hoped that the execution/ transfer of the Titles would take approximately six (6) months at which time the remaining 30% should be paid.

Mr. Kellier informed that there was an association formed by the occupants and they would be having a meeting to discuss the matter and return to Council.

Mr. Chue then enquired if the amount they had already paid in 2003 for rent would be taken out of the present rental being discussed.

The Mayor stated that if any money was paid it would be taken into consideration by the Council.



Mr. Chue admitted that they had done things that should not have been done and had now come to put closure to the matter. Also that they had been on the land for way too long but they could not make blood out of stone.

The Mayor advised that the rules were that Government lands could be disposed of by obtaining valuations from two valuers- one from a private valuator and the other from the Commissioner of Lands. The Commission of Lands gave the more conservative valuation and the Council could not go below the valuation from the Commissioner of Lands.

Submission of Building Plans

...

*He pointed out that all persons occupying the Bogue lands would have to submit building plans. **Persons who had buildings on the land were to submit building plans and pay the prescribed fees in compliance with the Law.***

Mr. Kellier said he had submitted a building plan some years ago and had



paid the fees and the Council took it up on itself not to approve his plan.

The Mayor pointed out that whatever agreement was entered into some years ago between the former Council was null and void and would have no basis at this time. That arrangement was illegal.

Development Time:

His worship pointed out that the development time was anticipated to be completed in six months time and the signing of the documents should be completed by March 31, 2009... ”¹⁸

The OCG also perused a copy of the Minutes of the Meeting which was dated March 18, 2009, and which was held with the occupants of the Bogue Lands.

“ ...

The Attorney [representing the occupants] stated that the meeting was a fact finding one for her and proceed [sic] to seek information in respect of the land at Bogue.

The Attorney then enquired if there was a valuation report to which the Mayor

¹⁸ St. James Parish Council Meeting Minutes which was dated March 10, 2009.



*replied that there was a valuation of the property and that the full procurement guidelines would be applied in respect of the unoccupied lots which would be handled differently from the occupied lots. **He pointed out that a waiver of the procurement guidelines for those occupying the lots was granted.** Also, that the recommendation of the Committee was that the occupants be accommodated.*

The Attorney stated that the pricing of the land from what she saw would probably eliminate all of the occupants although the Council said that they would accommodate the persons squatting on the land.

His Worship the Mayor pointed out that in the previous meeting the first payment was set at 30 % by the end of March but the Council had concluded that they could consider 20% in the first instance then 40% for the second payment.

The Attorney suggested that the occupants pay 15% deposit which would take care of the stamp duty and the transfer tax.



Mr. Kellier stated that the persons could not afford the land and the Mayor said that the Government had said that the Council should accommodate them but the prices of the lots were out of their reach. He thought they were being penalized for developing the land they occupied and the period of time given for them to pay for the land would cause them not to meet that deadline. He also said that the think [sic] they should be given more time, for example, 20 years to pay for it.

Mr. Wilson mentioned that persons occupying the land were willing to purchase but were asking if –

1. the price could be adjusted to be in line with the neighbouring development of Mr. Kerr-Jarrett's of \$400.00 per square foot.
2. to reduce the percentage to be paid for the development and
3. reduce the time in which to pay for the land to two (2) years

He then enquired what would happen to the structures on the land if the



owners could not pay for them and if the Council was going to pay for them.

His Worship replied that they would go to tender, and the owners would get their portion and the Council would get its portion. He then stressed that the prices could not be adjusted.

He then advised that the occupants were getting the land at the most conservative price and stated that if the Council decided to ask them to pay 15% of the cost at the signing they would have to pay the other 15% within the stipulated period of time. Also that the devaluation clause would be included in that arrangement.

The Attorney recommended that the occupants would-

- 1. pay 15% deposit as the first payment;*
- 2. take the arrangement over a two (2) years period with the escalation clause.*

His Worship advised that he was going to call in the Council's attorney to prepare the documents which would be



sent to the occupants and it was to be returned to the Council at a certain time in order for the Council to move on with the process.”¹⁹

The OCG highlights that the following persons were noted as being present at the referenced Meeting:

Councillor Charles Sinclair – Mayor and Chairman;
Councillor Richard Solomone;
Councillor Leeroy Williams;
Mr. Winston Palmer – Secretary Manger;
Miss Carmen Samuda- Director of Finance;
Mr. Ricardo Rhoden – Ag. Community Programmes Coordinator;
Mrs. Audrey Wilson – Lawyer – representing the Occupants;

Occupants of the Land:

Aubrey Minto- Lot 18;
Lydia Barrett;
Laselles Grizzle – Lot 15;
Samuel Ghans –
Lennox Headley – Lot 22;
Martin Kellier - Lots 13 &14;
Garth Nelson - Lot 17;
Boyd Anslip – Lot 21;
Richard Downer- Lots 23& 24;
Winston Chue – Lot 9;
Imhotep Lamumba;
Glasford Woolery;

¹⁹ St. James Parish Council Minutes of the Meeting which was dated March 18, 2009.



Ansle Beckford – Lot 10;
Carlton Mahoney- Lot 7A;
Desmond Steele – Lot 8; and
Maarquise Spence- Lot 11.

Prior to the aforementioned meeting with the occupants, the OCG observed, by way of a copy of the Minutes of a Meeting, that another meeting had been held on October 17, 2007, with the occupants of the Council's land at Bogue. During the referenced meeting, it had been stated that *"...the Survey had been done and the Council was now looking at putting in infrastructure and seeking valuation of the property"*²⁰. It was also stated that:

"...Council was in the process of regularizing the recommendations of the Commission of Enquiry and that the services of Grantley Kindness and Associate had been solicited by the Council to carry out the layout and subdivision Plan..."

The Superintendent brought to attention that a decision had been taken by the former Minister of Local Government that there should not be any development on the land prior to the completion of the Council's procedures and he noticed that developments were taking place without any reference to the Parish Council,

²⁰ St. James Parish Council Minutes of a Meeting held on October 17, 2007.



which was a breach. He informed that notices were served on the owner as they were in contravention of the Town and Country Building Act and the parish Council's Act. He pointed out that they should not be building without the Council's permission and that ownership should be established.

Therefore they were to seize from building until ownerships were legalized, as that was also in contravention with the dictates of the Minister.

Mr. Barrett (Occupant) stated that buildings ere [sic] started before the Council went into [sic] regularize the land and it was not fair to close them down as they have to make some money to pay the amount the Council was going to charge them for the lots. He thought the Council could give the owners some "leeway" as the buildings were already started.

Building Plans

Mr. Barrett informed that every one [sic] occupying the land had a plan for their building (most persons present indicated



that plans were available) and they were willing to comply with the wishes of the Council

...

The Deputy Mayor instructed that they should cease from any further construction on the property in compliance with Cabinet's decision.²¹

(OCG Emphasis)

Of note, the St. James Parish Council provided the OCG with a copy of a letter which was dated January 29, 2013, and which was addressed to Mr. Glendon Harris, Mayor, St. James Parish Council by Mr. Richard Downer, Chairman, Bogue Businessman Association. The referenced letter recorded the interest of the occupants of the land to purchase the occupied property and expressed, *inter alia*, as follows:

“...It has been approximately twenty years since the St. James Parish Council has been suggesting the sale of these lands yet nothing concrete has materialized. We are aware that no information regarding these lands has reached the Minister of Local Government has to rule on the matter [sic]. I am sure you and your office are capable of initiating this matter and

²¹ St. James Parish Council Minutes of a Meeting held on October 17, 2007.



getting the land issue resolved in a timely manner.

We are willing to enter into an agreement with the St. James Parish Council as soon as possible in regards to the sale of the land and we are looking forward to an early response.”²²

The OCG was provided with another letter which was sent by Mr. Richard Downer, Chairman, Bogue Businessman Association that was dated, September 2, 2013, again expressing the interest of the occupants of the referenced land in purchasing said lands. The referenced letter stated, *inter alia*, as follows:

“We, the occupants and interested parties of the Bogue lands within Bogue Industrial Estate await your response from the last meeting held at your office regarding the sale of lands we occupy. As you are aware over the last seven (7) years we have been waiting for this process to begin but no attention has been given.

We are requesting a meeting with you and your team at the earliest time convenient.”²³

²² Letter dated January 29, 2013 addressed to Mr. Glendon Harris, Mayor, St. James Parish Council, by Mr. Richard Downer, Chairman, Bogue Businessman Association.

²³ Letter dated, September 2, 2013 that was sent by Mr. Richard Downer, Chairman, Bogue Businessman Association to the St. James Parish Council.



Having regard to the gravity of the allegations and the information which was provided to the OCG of certain discussions which were had during certain Parish Council Committee meetings, the OCG required that copies of the Minutes of the Finance Committee be provided by the St. James Parish Council. In this regard, the OCG undertook a review of the referenced Committee Minutes which were dated November 14, 2013 and December 11, 2013.

The OCG considers the following extracts of the referenced Minutes to be of significance:

St. James Parish Council Minutes of the Meeting of the Finance and Administration Committee-
November 14, 2013

“ ...

It was noted that the Council for sometime took a decision to sell the Councils Land at Bogue Industrial Estate to the occupants. Submission was made to the Ministry of Local Government to that effect and the process went through to the Cabinet where approval was granted vide Cabinet Decision No. 37/05 dated December 19, 2005.

...

At the meeting held on April 10, 2013, the Director of Administration reported that the meeting to deal with the regularization of the Bogue Lands was held in the Council Chamber on March 15, 2013 ...

Sixteen (16) occupiers of the property attended the meeting; His Worship the



*Mayor and Councillor Leeroy Williams
attended from the Political Directorate.*

*The following was highlighted to the
occupants:-*

- 1. All occupiers would have to submit
building applications and satisfied [sic]
all Building and Planning Regulations,
with the payment of all associated fees
and the submission of requisite
documents;*
- 2. Occupiers would be required to pay over
to the Council, funds representing the
last six (6) years of their respective
properties;*
- 3. Occupiers would be required to pay a
deposit of thirty percent (30%) of the
Agreed Sale price for each lot to be paid
to the Council on their signing of the
Sales Agreements.*
- 4. Occupiers would be required to pay to
the Council an amount representing
forty percent (40%) of the Agreed Sale
price for each lot occupied by them,
within ninety (90) days of signing of the
Sales Agreements;*
- 5. The balance of thirty percent (30%) of
the Agreed Sale price for each lot must
be paid to the Council on presentation of
the Titles.*



As it related to the present subdivision layout and the Schedule presented, the occupiers asked that consideration be given to the following:-

- 1. that an initial deposit of fifteen percent (15%) of the Agreed Sale price for each lot must be paid to the Council, in keeping with the Rent Board;*
- 2. that a longer time frame be considered for the next payment that was required;*
- 3. that the Council use the back rental as part of the initial deposit;*

...

The Director of Administration advised that the amount to be paid for back rental was to be reviewed and the Superintendent was to review the infrastructural cost.

He enquired if the valuation for 2009 should be used to calculate the back rental to be collected.

Councillor Sinclair suggested that the Council could use the 2009 valuation as the calculation for the back rental however the sale price of the property was to be calculated at current market price. (OCG Emphasis)

It was then recommended that-



1. *the Council should use the 2009 valuation to calculate the six years back rental for the property and that it must be within three months.*

The Committee on the motion of Councillor Troupe, Deputy Mayor seconded by Councillor Stanley Harris accepted the recommendation.

...

The Committee then decided on the following payment plan by the occupiers for the property for the sale of the property:-

- 1st payment of 15% at signing*
- 2nd payment of 15% 90 days after*
- 3rd payment of 30% 90 days after*
- 4th payment of 15% 90 days after*
- 5th payment of 25% on presentation of Titles*

All were in favour of the decision.

...

At the meeting held on June 12, 2013, the Director of Administration advised that the Council needed to decide what it was going to sell the property for;



whether it was going to use the 2009 valuation or it was going to obtain a present one.

Councillor Davis was of the view that the Council should obtain a new valuation of the property to be used for the sale.

Councillor Troupe, Deputy Mayor, enquired if the Council was not ready for the past two (2) year [sic] to sell the property and how come they were now going to revalue the property again when the occupants were ready for the past two years to purchase their lots.

The Director of Administration advised that some persons had indicated that the sale amount should be from when the Cabinet decision said it should be done. He stated that there were three things to look at-

- 1. to use the valuation at the time the decision was taken to sell;**
- 2. the Council could use the 2009 valuation;**



3. *any recommendation the Council made, the Cabined [sic] could over turn [sic] it.*

He stated that whatever the decision of this Council would be recommended first to the Ministry of Local Government and their recommendation would be forwarded to the Cabinet.

The Secretary/Manager advised that the Cabinet gave approval in 2009 that the land to [sic] be sold at current market value ...It was suggested that Cabinet be asked for a directive on the matter, and be given a synopsis of the events from 2009 to present.

His Worship the Mayor stated that Cabinet had approved the sale of the land on a current valuation that was done then, Council did not execute the sale then, it could now execute the sale to the occupants. The Council should have the Lawyer prepare a sale of agreement and to collect the money.

Councillor Troupe, Deputy Mayor, moved a motion that the Council should proceed to implement the sale of the



land to the occupants. This motion was not seconded.

The Director of Administration had advised the Committee that he would await the decision on whether to use the then valuation and the current price of the infrastructure.

Cabinet Decision

His Worship the Mayor had read extract from Cabinet Decision No.37/05 dated December 19, 2005.

He then moved a motion seconded by Councillor Anthony Henry that the Council move full speed ahead and collect the amount off the 2009 valuation of the property.

The Secretary\ Manger advised that the Cabinet gave an authorization but there was a procedure and they expected the Council would use the policy in place... ”²⁴

²⁴ St. James Parish Council Minutes of the Meeting of the Finance and Administration Committee- November 14, 2013



It is instructive to note that the following persons were in attendance at the referenced meeting as indicated in the Minutes of the Meeting:

Councillor Anthony Henry – Vice Chairman;

Councillor Stanley Harris;

Councillor Kenneth Vincent;

Councillor Knollis King;

Councillor Michael Troupe;

Councillor Richard Solomone;

Councillor Suzette Brown;

Councillor Stein Graham;

Councillor Glendon Harris; and

Councillor Homer Davis.

It was also noted that the Course of the Meeting the following persons attended:

Councillor Martin Henry;

Councillor Charles Sinclair;

Councillor Leeroy Williams;

Councillor Sylvan Reid; and

Councillor Jason Cummings.

St. James Parish Council Minutes of the Meeting of the Finance and Administration Committee-
December 11, 2013

**“Councillor Davis objected to the land
being sold with the 2009 valuation as it**



would affect the Council when materials were to be purchased.

Councillor Sinclair stated that the property was currently occupied therefore the Council should seek to collect six years rental as was decided by the Committee sometime ago.

The Committee on a motion of Councillor Homer Davis seconded by Councillor Leeroy Williams directed that the Council proceed in collected six years rental from the occupants using the 2009 valuation and building fees.

The Committee however noted that the property could not be sold at the 2009 valuation.

Deputy Mayor Michael Troupe moved a motion to have a special meeting be held to discuss the matter of the sale of the property. The motion was seconded by Councillor Stanley Harris.”²⁵

²⁵ St. James Parish Council Minutes of the Meeting of the Finance and Administration Committee- December 11, 2013



Valuation of Land Part of Bogue Estate

The OCG observed, by way of a letter which was dated August 12, 2008, which was sent by Mr. Lloyd Blake, Manager, Western Region, on behalf of the Commissioner of Land Valuations, to Mr. Ricardo Rhoden, Acting Public Relations Officer, St. James Parish Council, that a Certificate of Valuation for the referenced land was prepared for which the Valuation Report indicated, *inter alia*, as follows:

1. The date on which the value was determined was July 2008, for the purpose of determining the then current open market value.

2. As it regards the description of the property, the following was stated:

Property Name/Address- Land part of Bogue Estate , Montego Bay, St. James, located south of the reserved road opposite the JPS Bogue sub-station, on the northern side of the reserved road leading to the second entrance to the Bogue Village Housing Scheme . It is bounded as follows:

- North: Reserved Road – Roadway
- South: Temple Galleries Road – Roadway
- East: Barnett Limited Subdivision
- West: Bogue Estate Industry

3. The Registration of Titles Act being Volume 955 Folio 440. A section of the property is registered under the referenced Volume and Folio, whereas the remainder is unregistered.
4. The area of the Land being 4.979 Hectares (12 Acres – 1 Rood – 6.4 Perches).
5. The name of the Owner/Person in possession being the Commissioner of Lands and the St. James Parish Council. The Commissioner of Lands is the registered proprietor of the fee simple estate and interest for the registered portion and the St. James Parish Council is recorded on the Valuation Roll for the unregistered portion.
6. There were no Restrictive Covenants, Mortgages or Caveats endorsed on the Title.
7. It was stated that a number of structures exist on the property; however, they did not form a part of the Valuation.



8. The value of the property as certified by the National Land Agency on July 7, 2008 was in the amount of \$250,000,000 to 260,000,000.00.
9. The site inspection was conducted on June 25, 2008.
10. As it regards the market profile, the Valuation Report detailed the following:

“There is good demand for warehouse sites within this neighbourhood. Recent market activities within Bogue Industrial Estate and other comparable suburban parks (e.g. Bogue Commercial / Fairview, Montego Bay Freeport, Ironshore Light Industrial Estate) are indicating that the subject property should receive fairly good responses if offered for sale on the open market.”²⁶(OCG Emphasis)

In furtherance of the OCG’s statutory requisition which was dated June 17, 2014, the office was provided with a copy of a letter which was dated March 30, 2009, addressed to Mr. Winston Palmer, then Secretary Manger, St. James Parish Council, by Knight, Junor and Samuels, Attorneys-at –Law. The referenced letter advised as follows:

“Our Clients have instructed us that they are in dialogue with the Council regarding the sale to them of lands they presently occupy in the Bogue area. They have given us the history of the circumstances surrounding their occupation and have also provided us

²⁶ Report and Valuation on Land Part of Bogue Estate, St. James, dated July 7, 2008



with a lease document concluded between individuals in the Association and the St. James Parish Council on the 22nd of May 2003.

An essential provision in the lease was that its duration was for two years on a “lease to sell” basis. That was based on Clause 3(h) of the agreement which anticipated the Council completing a survey within two years and selling to the lessees the occupied lot if there was an existing structure on it. Different arrangements would apply where there was no existing structure. The Council failed to meet that deadline.

We are also provided with a “report on the status of lands belonging to the St James Parish Council at Bogue Industrial Estate, Montego Bay” delivered by the now Judge of Appeal C. Dennis Morrison on March 1, 2004. We refer generally to the recommendations in Clause 67 which point to “the best approach to the problem”. The fact that the survey was done and negotiations are taking place indicate that the Council accepted the recommendations and began implementation.



Clause 67(iii) is of particular importance in that it recommended that the Council “obtain current valuations by the Commissioner of Lands and independent private valuations with respect to each lot occupied”. It seems that in the present scenario the Council obtained valuations which reflects current values. It is our view that this approach is against the letter and spirit of the “Report” and is particularly onerous on the occupiers. Indeed they had a legitimate expectation that the valuations would have been done expeditiously and that the sales would have been concluded since 2004. Of importance is that the occupiers were paying the rental agreed on, however, the Council refused to accept payment, some years ago although these were tendered.

We wish to advise you that our clients expended large sums to put in infrastructure such as water, light, road and sewerage and also dumped the land to make it suitable for commercial use. A valuation on the premises in the present state would certainly be to the



**great disadvantage of our clients and
needless to say inequitable.**

**Having regard to the above we ask that
the following approach be used:-**

- 1. That the valuers be instructed to
value the respective lots occupied by
our clients using the unimproved value
in 2004;**
- 2. That the sale price be negotiated on
those values;**
- 3. That the uncollected rental be accepted;**
- 4. That an agreement of sale
incorporating 1 and 2 above and the
usual terms \ conditions of payment be
concluded.”²⁷ (OCG Emphasis)**

The Preparation of Lease/ Sale Agreements by the St. James Parish Council

The OCG, by way of its statutory requisition which was dated October 13, 2014, required that the St. James Parish Council provide a comprehensive report on the then status of the sale or pending sale of lands situated at ‘Bogue Estate’ by the St. James Parish Council. In this regard, the St. James Parish Council informed that the Council had drafted Lease Agreements and presented to the occupiers of the property. It was also stated that meetings had been held with a view to preparing draft sales agreements, subject to the approval of the Cabinet of Jamaica.²⁸

²⁷ Letter dated March 30, 2009 that was addressed to Mr. Winston Palmer, then Secretary Manager, St. James Parish Council, by Knight, Junor and Samuels, Attorneys-at-Law.

²⁸ Response which was received from Mr. Gerald Lee, Secretary Manager, St. James Parish Council, dated October 29, 2014.



Having regard to the disclosure which was made by the St. James Parish Council in its response of July 16, 2014, which was submitted to the OCG, that the subject lands were being sold pursuant to a Cabinet Decision No. 37/05 which was dated December 19, 2005, the OCG requested that the Council state the procurement methodology and/or GoJ Policy or Regulation that was utilized to effect the sale of the said Lands.

In respect of the aforementioned request, the OCG was advised by Mr. Gerald Lee, Secretary Manager, St. James Parish Council of the following:

“The Council is mindful of the procurement methodology and/or the GOJ Policy or Regulation as it relates to the sale of property and is guided by same. The original Cabinet Decision No. 37/05 dated December 19, 2005 is used as a precursor to enter into discussions with occupiers as part of the regularization of the occupancy as Cabinet had only approved of the sale of lands to occupiers and other interested parties in principle.

The Council is cognizant of and guided by the fact that the final approval of Cabinet is required as it relates to the individual lots and their lease and sale



price to occupiers/prospective purchasers.”²⁹

The OCG was also advised by Mr. Gerald Lee that the St. James Parish Council was awaiting the approval and/or Cabinet Decision for “*Final Sale of Property to occupiers*”³⁰.

The OCG, again, on January 27, 2015, requested, by way of a statutory requisition, that Mr. Gerald Lee, provide a comprehensive report on the current status of the sale or pending sale of Lands situated at ‘Bogue Estate’ by the St. James Parish Council. The OCG also requested that the Council provide the following:

- (a) A copy of each draft Lease Agreement that was prepared by the St. James Parish Council and issued to the occupiers of the said land.*
- (b) Minutes and/or documented records of the referenced meeting/s which was/were held in relation to the drafting of the Sale Agreements.*
- (c) Minutes and/or documented records of ... all meetings held, to date, in relation to the sale of the referenced lands.*
- (d) A copy of each draft Agreement for Sale.”³¹*

²⁹ Response which was received from Mr. Gerald Lee, Secretary Manager, St. James Parish Council, dated October 29, 2014.

³⁰ Response which was received from Mr. Gerald Lee, Secretary Manager, St. James Parish Council, dated October 29, 2014.

³¹ OCG Requisition which was dated January 27, 2015, that was addressed to Mr. Gerald Lee, St. James Parish Council.



In respect of the foregoing, Mr. Gerald Lee, by way of his response which was dated March 5, 2015, provided the following responses to the OCG:

“The Council has had ongoing discussions with the occupiers of the Bogue Estate Property as it relates to the regularization of their tenancy and the lease and sale of the property to said occupiers...

A meeting to deal with the regularization of the Bogue Lands was held on March 15, 2013 and the following was highlighted to the occupants:-

- ***All occupiers would have to submit building applications and satisfy all Building and Planning Regulations, with the payment of all associated fees and the submission of requisite documents;***
- ***Occupiers would be required to pay over to the Council, funds representing the last six (6) years back rental / occupancy of their respective properties;***
- ***Occupiers would be required to pay a deposit of the agreed Sale price for each lot to be paid to***



**the Council on their signing of
the Sales Agreements.**

- **Payments would be made based
on agreed payment schedule for
balance after the signing of
Sales Agreements...**

**It was always noted that any
decision of Council was in fact a
recommendation to the Ministry
of Local Government for
submission to Cabinet.
Additionally, that Cabinet had
the final decision to make w.r.t.
any submission it received.**

*Draft Lease Agreements were received
from Council's Lawyer and a meeting
was held with the occupiers and the
Council on Wednesday May 21, 2014
and occupiers were asked to collect and
review prepared draft lease agreements
and return by Monday June 23, 2014."*

³²(OCG Emphasis)

Decision to Sell the Bogue Lands based on a 2009 Valuation Report

It is instructive to note that the St. James Parish Council took the decision in November 2014, to sell the subject lands based upon a 2009 Valuation. In respect of the foregoing, Mr. Gerald Lee,

³² Response which was received from Mr. Gerald Lee, dated March 5, 2015. Response No.1.



by way of his response which was dated March 5, 2015, provided the following responses to the OCG:

“The Council in November 2014 decided on the following and took a decision for the Ministry of Local Government and Community Development to be advised of same as a recommendation as under:

- *Bogue Lands be sold at the 2009 Valuation; plus present infrastructure cost.*
- *Fifteen percent (15%) of the Sale Price be deposited upon signing and occupiers would be required to pay up Property Taxes for the area of property occupied*
- *Occupiers would be required to submit building plans for the structures and seek requisite planning and building approvals with payment of requisite fees.*
- *The Council foregoes the six (6) years back rental.*
- *Ministry be notified of the decision of Council (new recommendation); in order*



for final Cabinet approval to be sought. ”³³(OCG Emphasis)

The OCG, by way of its statutory requisition which was dated October 15, 2015, required Mr. Gerald Lee, Secretary Manager, St. James Parish Council, to respond to the following questions:

“You advised by way of your previous response which was dated March 5, 2015, of a decision of the Parish Council that the “...Bogue Lands be sold at the 2009 Valuation; plus infrastructure cost...” In this regard, kindly provide the following:

- (a) The means by which the St. James Parish Council arrived at this decision;*
- (b) The rationale/ justification for this decision;*
- (c) The policy(ies) and/or guidelines which informed this decision;*
- (d) Please provide details of the infrastructure cost that is associated with each lot; and*
- (e) A copy of the Minutes and/or documented records of the meeting(s) at which this decision was contemplated.* ”³⁴

Having regard to the foregoing, Mr. Gerald Lee, advised the OCG, by way of his response which was dated December 17, 2015 of the following:

“2a. The St. James Parish Council after deliberations took a decision that based on the tardiness of the

³³ Response which was received from Mr. Gerald Lee, dated March 5, 2015. Response No.1.

³⁴ OCG requisition which was sent to Mr. Gerald Lee, dated October 15, 2015. Question No. 2



process and the fact that the occupiers had agreed to pay that price based on that valuation; which was not finalized because of the length of time of the process to date.

2b. This was based after consideration of the fact that the occupiers had agreed to purchase the lots in 2010 based on the 2009 valuation and had done significant improvements to the property in terms of addressing the flooding or swampy nature of same.

2c. This was a decision of Council to be made as a recommendation to Cabinet for consideration/ approval; however, there was policy which speaks o [sic] it.

2d. The infrastructure Development Cost was not detailed per lot; but was arrived at based on the Overall Infrastructure Development Cost divided by the size of each lot.³⁵ (OCG Emphasis)

The OCG, by way of its requisition which was dated October 15, 2015 also sought to ascertain whether the St. James Parish Council had sought to obtain a current valuation with a view to selling the referenced lands based on current market value. The OCG's requisition also required that Mr. Gerald Lee indicate the extent of the consideration that was provided to obtaining a current valuation and to sell the referenced land in accordance with current market value. In the

³⁵ Response which was received from Mr. Gerald Lee, Secretary Manger, St. James Parish Council, dated December 17, 2015 Response 2.



event that the St. James Parish Council did not give any consideration to obtaining a current valuation, the OCG sought justifications for this decision.

Mr. Lee, in his response to the OCG which was dated December 17, 2015, stated the following:

“Consideration was given to obtaining a current valuation for the property with a view to selling the referenced lands based on current market value. However, a decision of Council was taken to recommend to Cabinet the Sale of the referenced lands at the 2009 Valuation and if this was approved by Cabinet the present valuation would be done as it is quite costly to undertake. Hence no new valuation would be requested until Cabinet has taken a decision as to determination of Sale Price.”³⁶(OCG Emphasis)

Delays in the Process for Regularization

The OCG, by way of its statutory requisition of October 15, 2015 sought to ascertain the justifications for the delays which were encountered by the Parish Council in relation to this matter. The following question was posed by the OCG:

*“Kindly provide a detailed chronological account of the reasons for the delays encountered by the Parish Council commencing from the date of the 2009 Valuation Report to current, as it regards the sale of the referenced lands at Bogue. **Please also***

³⁶ Response which was received from Mr. Gerald Lee, Secretary Manger, St. James Parish Council, dated December 17, 2015. Response 9.



provide documentary evidence, where possible, to substantiate your responses and/or assertions.”³⁷

In relation to the aforementioned, Mr. Gerald Lee provided the following response:

“The reasons for the delays that have accounted [sic] in the delays encountered by the Parish Council commencing from the date of the 2009 Valuated [sic] include the following:

- i. The Lands were vested in the Commissioner of Lands and had to be transferred to the Council subsequent to the valuation being obtained.*
- ii. After the referenced lands were transferred to the Council it took some time for a decision of Council to be made for the recommendation of a Sale Price and other related costs related to the referenced property. The subdivision layout has been amended and the final design has been made available as per memo dated October 6, 2015.*
- iii. The Council is therefore awaiting the Cabinet decision based on recommendation made and the Council is fully mindful that Cabinet has final decision.”³⁸*

³⁷ OCG requisition which was addressed to Mr. Gerald Lee, dated October 15, 2015. Question 12.

³⁸ Response of Mr. Gerald Lee, Secretary Manager, St. James Parish Council, dated December 17, 2015. Response No. 12.



Particulars of the Illegal Occupants of the Lands at Bogue

The OCG has represented, hereunder, details of the lots occupied, the occupiers, the intended purchasers as well as the proposed purchase price.

<i>Lot Number</i>	<i>Lot Size</i>	<i>Name of Occupant</i>	<i>Name of Purchaser</i>	<i>Purchase Price/Agreed Sale Price (\$US)</i>	<i>Means by which the Purchase Price was determined</i>
1	971.54	Clarence Bailey	Clarence Bailey	91,324.76	(*Total Value of Land +2008 Infrastr. Cost)\Lot Size(\$US)
2	1,771.48	Jean Ghauongui	Jean Ghauongui	166,519.12	-do-
3	497.36	*	*	46,751.84	-do-
4	1,813.38	*	*	170,457.72	-do-
5	1,643.08	*	*	154,449.52	-do-
6	1,894.37	Rhoan Williams	Rhoan Williams	178,070.78	-do-
7	1,390.45	Leroy Peart	Leroy Peart	130,702.30	-do-
8	2,968.53	Lydia Thompson Barrett	Lydia Thompson Barrett	279,041.82	-do-
9	832.71	Kelley	Kelley	78,274.74	-do-
10	1,544.71	Desmond Steel	Desmond Steel	145,202.74	-do-
11	1,394.59	Ansle Beckford	Ansle Beckford	131,091.46	-do-
12	2,336.46	Winston Chue	Winston Chue	219,627.24	-do-
13	1,978.34	Marquise Spence	Marquise Spence	185,963.96	-do-
14	2,524.94	Errol Campbell	Errol Campbell	237,344.36	-do-
15	935.36	St. James Parish Council	St. James Parish Council	87,923.84	-do-
16	2,965.21	Martin Kellier	Martin Kellier	278,729.74	-do-
17	1,052.54	Lascelle	Lascelle	98,938.76	-do-



<i>Lot Number</i>	<i>Lot Size</i>	<i>Name of Occupant</i>	<i>Name of Purchaser</i>	<i>Purchase Price/Agreed Sale Price (\$US)</i>	<i>Means by which the Purchase Price was determined</i>
		<i>Grizzle</i>	<i>Grizzle</i>		
<i>18</i>	<i>918.46</i>	<i>*</i>	<i>*</i>	<i>86,335.24</i>	<i>-do-</i>
<i>19</i>	<i>1,137.38</i>	<i>Garth Nelson</i>	<i>Garth Nelson</i>	<i>106,913.72</i>	<i>-do-</i>
<i>20</i>	<i>1,336.90</i>	<i>Aubrey Minto</i>	<i>Aubrey Minto</i>	<i>125,668.60</i>	<i>-do-</i>
<i>21</i>	<i>2,229.37</i>	<i>Imhopet Lamumba</i>	<i>Imhopet Lamumba</i>	<i>209,560.78</i>	<i>-do-</i>
<i>22</i>	<i>2,998.57</i>	<i>Carlton Mahoney</i>	<i>Carlton Mahoney</i>	<i>281,865.58</i>	<i>-do-</i>
<i>23</i>	<i>743.33</i>	<i>Clasford Woolery</i>	<i>Clasford Woolery</i>	<i>69,873.02</i>	<i>-do-</i>
<i>24</i>	<i>1,797.83</i>	<i>Richard Downer</i>	<i>Richard Downer</i>	<i>168,996.02</i>	<i>-do-</i>
<i>25</i>	<i>1,407.35</i>	<i>Patrick McIntyre</i>	<i>Patrick McIntyre</i>	<i>132,290.90</i>	<i>-do-</i>
<i>26</i>	<i>3,219.16</i>	<i>Boyd Anslip</i>	<i>Boyd Anslip</i>	<i>302,601.04</i>	<i>-do-</i>
<i>TOTAL</i>	<i>44,303.40</i>	<i>-</i>	<i>-</i>	<i>4,164,519.60</i>	<i>-</i>

The OCG was also advised by Mr. Gerald Lee that “...*The Infrastructure Development Cost is presently being revised to reflect the finalized Subdivision design. The difference shown in Lot prizes [sic] as against previously submitted ones is due primarily to the modification of subdivision layout and hence size of each lot.*”³⁹

A copy of a document which bore the caption “**ST. JAMES PARISH COUNCIL BOGUE LANDS LAND-USE ACTIVITY ON PROPOSED SUBDIVISION LAYOUT**”, which was prepared by one “*T.O. Brown Superintendent Roads and Works, St. James*”, identified the activities which were being conducted on the illegally occupied lands at Bogue. The following were identified:

<i>“Lot No.1</i>	<i>Office/Construction Equipment</i>
<i>Lot No.2</i>	<i>Office/Construction Equipment</i>

³⁹ Response which was received from Mr. Gerald Lee, dated December 17, 2015. Response 6.

*The name of the occupant/purchaser was not provided to the OCG.



<i>Lot No.3</i>	<i>Office/Construction Equipment</i>
<i>Lot No.4</i>	<i>Unoccupied</i>
<i>Lot No.5</i>	<i>Unoccupied</i>
<i>Lot No.6</i>	<i>Restaurant/Bar</i>
<i>Lot No.7</i>	<i>Garage</i>
<i>Lot No.8</i>	<i>Garage</i>
<i>Lot No.9</i>	<i>Commercial</i>
<i>Lot No.10</i>	<i>Unoccupied</i>
<i>Lot No.11</i>	<i>Garage/Hardware</i>
<i>Lot No.12</i>	<i>Construction Office</i>
<i>Lot No.13</i>	<i>Construction Office</i>
<i>Lot No.14</i>	<i>Construction Office</i>
<i>Lot No.15</i>	<i>Contractor/Construction Office</i>
<i>Lot No.16</i>	<i>Auto Parts Shop</i>
<i>Lot No.17</i>	<i>Contractor/ Construction Office</i>
<i>Lot No.18</i>	<i>Unoccupied</i>
<i>Lot No.19</i>	<i>Commercial</i>
<i>Lot No.20</i>	<i>Commercial</i>
<i>Lot No.21</i>	<i>Commercial</i>
<i>Lot No.22</i>	<i>Commercial</i>
<i>Lot No.23</i>	<i>Unoccupied</i>
<i>Lot No.24</i>	<i>Garage</i>
<i>Lot No.25</i>	<i>Wrecking Service</i>
<i>Lot No.26</i>	<i>Garage”</i>

The OCG had also requested that the St. James Parish Council prepare and submit a list of all Parish Council fees and/or other relevant fees that are required in respect of the occupation of the referenced lands at Bogue. In this regard, the OCG was advised of the following:

“The Applicable Parish Council Fees and other applicable fees recommended for approval to be paid by occupiers include:

- 1. Building Application Fees (\$200.00 per m²) – based on size of property*
- 2. Inspection Fees for each structure (\$25,000.00)*
- 3. Property Taxes for the last seven (7) years.*
- 4. Advertisement Signs and Billboard Fees Based on Type and size of Sign(s) and Billboards*



5. *Any other relevant fess that may be determined based on type of business being operated on property or building.*
6. *Decision taken by Council to send recommendation to Cabinet to forego back rental payable on property as per previous submission to your office.*”⁴⁰

It is of significance to highlight that Mr. Gerald Lee also advised the OCG that “*No fees have been collected with regards to the occupation of the referenced lands at Bogue by the Council*”.⁴¹

Treatment of the Illegal Occupation of the Lands at Bogue by the St. James Parish Council

The OCG, by way of its statutory requisition which was dated October 15, 2015, sought to ascertain whether the St. James Parish Council had issued any Notices to the illegal occupants to cease and desist upon becoming aware of the illegal occupation of the referenced lands at Bogue. In this regard, the following was requested by the OCG, as well as documentary evidence supporting and/or substantiating the responses of the Council:

- “(a) *The date on which the Parish Council first became aware of the illegal occupation;*
- (b) *The date(s) on which the Parish Council issued and/or served the referenced Notices on the illegal occupants.*
- (c) *A copy of the Notices that were served in each instance;*
- (d) *Details of any other action(s) taken by the Parish Council upon becoming aware of the illegal occupation.*”⁴²

⁴⁰ Response which was received from Mr. Gerald Lee, which was dated December 17, 2015. Response 7.

⁴¹ Response which was received from Mr. Gerald Lee, which was dated December 17, 2015. Response 8.



Mr. Gerald Lee, by way of his response of December 17, 2015, indicated the following in relation to the aforementioned requisition:

“The Council has served numerous Notices (both stop and enforcement notices to cease and Desist, upon becoming aware of the illegal occupation as contained in the Commission of Enquiry Report previously submitted to your office. The dates and times of Notices served for all notices were not readily available for review and only those found in our records were copied and attached.”⁴³ (OCG Emphasis)

A copy of a letter which was dated July 11, 2002 was prepared by one “T.O Brown” of the St. James Parish Council, and highlighted certain observations which were made during a visit which was conducted at the lands at Bogue. The following references were made:

“On Tuesday, June 25, 2002, while on the Tour of areas within the city limits of Montego Bay, the attendees visited the Council’s land at Bogue Industrial Estate. This particular parcel of land is that comprised in the 10.5 Acres.

We observed what appears to be an enormous structure being constructed on a section of the property. Everyone was astonished at the sight. I was more-so astonished, because my last visit to the

⁴² OCG requisition which was sent to Mr. Gerald Lee, dated October 15, 2015. Question No. 11.

⁴³ Response which was received from Mr. Gerald Lee and dated December 17, 2015. Response 11.



site was on May 17, 2002, and that building was not there. From all indications the building went up at a rapid pace, as subsequent investigations revealed.

The contingent of Councillors on the site decided then and there that the matter should be investigated. You will recall that I gave a verbal report on the matter at the last Executive Management Committee held on the 1st July, 2002.

This seeks to confirm the verbal report given, as well as to seek policy directives pursuant to the actionable restraint required to mend this breach.

The site was re-visited by me on the 26th June 2002, and I was accompanied by my assistant Superintendent Orelle Whittley. On reaching the site, the land was completely fenced with chain-link metal and galvanized zinc sheets and a large metal gate at entrance which was fully secured with padlocks. I had great difficulty in entering the compound initially, as though workers were on the building looking me straight in the eye, they did not readily yield to my request to enter the compound to cause inspection of the building.

...

*I requested the approved plans for the building and was told that a plan was used but same was not on the site at the material time. **I immediately gave instructions for the site to be closed immediately.** I*



enquired of the gentleman as to the name of the Developer and or the Contractor. He did not know the name of anyone, and neither he nor any other worker was willing, to give their names.

I gave verbal notice again for the construction to be ceased immediately on two (2) grounds namely:-

- 1. that there were no plans on site to enable the veracity of an approval given for the development;***
- 2. that ownership of the land and or permission to develop the land needed to be established.***

I intimated to the gentleman that the building was being done on the Council's property and as far as I was aware no permission was given, hence the matter of trespass was quite evident.

Further investigation has now revealed that the Developer is one Patrick McIntyre, believed to be a Custom Officer. I gather that the building is intended to be a Custom Clearance Warehouse. The shape and appearance of the building seem to fit the classification given.

I have not met with Mr. McIntyre and indeed I have no intention of meeting him soon, as subsequent site visits to the site have revealed that works are continuing apace despite the instructions given and despite the fact that he is aware of my visits and



enquiry. Such action is deemed to be defiant and abrasive.

I have therefore prepared the appropriate “Stop Notice” for the signature of his Worship the Mayor. Thereafter, I intend to serve same appropriately within the provisions of the Town and Country Planning Act...⁴⁴

The OCG conducted a review of the Stop Notices which were enclosed with the Secretary Manager’s response of December 17, 2015 and made the following observations:

1. Only two(2) Stop Notices were submitted to the OCG;
2. A Stop Notice which was dated July 31, 2002, was prepared by the St. James Parish Council in relation to one Patrick McIntyre of Porto Bello, Montego Bay. The referenced Notice instructed that Mr. McIntyre should “...*IMMEDIATELY CEASE THE Construction of ...two (2) Floor concrete Building DEVELOPMENT*”. The Notice also indicated that the construction was unauthorized and “... *without the grant of planning permission*”.
3. A Stop Notice which was dated July 29, 2003, was prepared by the St. James Parish Council in relation to one Boyd Anslip of Bogue Industrial Estate. The referenced Notice instructed that Mr. Anslip should “...*IMMEDIATELY CEASE THE Construction of Building DEVELOPMENT*”. The referenced Notice also indicated that the construction was unauthorized and “...*without the grant of planning permission*”.
4. It was stated that both Notices took effect from the time of service and was for a period of ten (10) days and that “ *Failure to comply ...renders the ...[the occupant] liable to prosecution and if convicted, a minimum fine of Twenty-Five Thousand Dollars (\$25,000.00) or maximum fine of One Million Dollars (\$1,000,000.00) may be imposed.*

⁴⁴ Letter dated July 11, 2002, which was sent by ‘T.O. Brown’ to the Secretary Manager and which was submitted to the OCG by Mr. Gerald Lee as documentation substantiating his response of December 17, 2015.



A maximum of Six (6) months imprisonment may be imposed where there is default in paying”.

5. The Notices were stated to have been served by one ‘Tubal Brown’ of the St. James Parish Council.
6. The Notices were also stated to have been placed in a conspicuous place at the respective properties at Bogue Estate and the Montego Bay Post Office.
7. Specifically, as it relates to the Notice which was in relation to Mr. Boyd Anslip, it was stated that Mr. Tubal Brown had served the Notice on August 19, 2003 at 1:46 pm in the afternoon, and that the Original Notice was served on Mr. Boyd Anslip at Bogue Industrial Estate. Further, it was noted that a copy of the Notice was posted on August 19, 2003, in a conspicuous place on “*The ILLEGAL BUILDING*” at Bogue Industrial Estate and at Post Office No.1 Montego Bay.



The Propriety of the Procurement Process which was Undertaken by the St. James Parish Council

Given the expressed mandate of the Contractor General, as established by Section 4 of the Contractor General Act, the regularity, propriety and merit of the referenced process which was undertaken is of utmost significance. To this end, the OCG posed the following question to Mr. Gerald Lee, Secretary Manager, St. James Parish Council:

*“The OCG notes that in your response of October 29, 2014, you indicated that “...Cabinet Decision No. 37/05 dated December 19, 2005, is used as a precursor to enter into discussions with the occupiers as part of the regularization of the occupancy...” In this regard, kindly provide an executive summary comprehensively detailing **the step by step process** by which the Council has undertaken the sale of the referenced Land. Your response must include the applicable procurement methodology and/or the GOJ Policy or Regulation that has been utilized to effect the sale of the said Lands. Please also provide documentary evidence, where possible, to substantiate your responses and/or assertions.”⁴⁵*

⁴⁵ OCG requisition which was sent to Mr. Gerald Lee and which was dated January 27, 2015. Question No.5.



Having regard to the foregoing, the following response was provided by Mr. Gerald Lee, by way of his response which was dated March 5, 2015:

***“The Council is bounded by GOJ Land Divestment Policy and is fully aware that all decisions of the Council are actually recommendations to the Ministry of Local Government and Community Development seeking cabinet approval.*”**

- i. *The Council received approval for transfer of Lands from the Commissioner of Lands to the St. James Parish Council.*
- ii. *There have been discussions with and relating to occupiers of said lands at Bogue Industrial Estate.*
- iii. *Subdivision Layout drawings have been prepared and subsequently amended after meetings and discussion of Council.*
- iv. *Draft Lease Agreements have been prepared and reviewed by Council and referred to Occupiers for comments.*
- v. *Council agreed to seek approval for Sale of Lands as contained in the November 2014 Minutes of the Finance and Administration Committee Minutes of Council for meeting held”⁴⁶. (OCG Emphasis)*

The OCG was also advised by Mr. Gerald Lee, by way of his response of December 17, 2015, that the St. James Parish Council was “...still awaiting a response as it relates to recommendation sent to the Ministry of Local Government and Community Development seeking

⁴⁶ Response received from Mr. Gerald Lee which was dated March 5, 2015. Response No.5.



Cabinet Approval for the referenced lands to be sold as per decision taken by Council in November 2014.”⁴⁷

It is instructive to note that the ‘Draft Policy Framework and Procedure Manual for the Divestment of Government-Owned Lands’ has been in existence for several years, but only came into legal effect on March 27, 2015. Prior to this, public bodies have had to craft and rely largely upon their own internal procedures as it relates to the procedures which govern the divestment of government-owned lands. Notwithstanding, it is of great importance to highlight that Ministry Paper 34, Privatization Policy and Procedures, 1991, *hereinafter* referred to as Ministry Paper 34, provides a benchmark and established standards as it regards the GOJ’s policy position on privatization and creating structures and procedures geared toward engendering confidence in the stated process.

Having regard to the foregoing, the OCG now highlights the following pertinent principles stipulated in Ministry Paper 34:

“The following general principles will govern the conduct of the privatization process.

- *the selection of items to be privatized will be announced to the public by way of advertisements.*
- **the concept of market-economic valuation will apply in establishing the disposal price and more than one valuation must be obtained;**

⁴⁷ Response received from Mr. Gerald Lee which was dated December 17, 2015. Response No 1.



- *transactions are to be arms-length and equal opportunity will be given to all except where special foreign exchange requirements are a feature of privatization or where special arrangements are being made for employees;*
- **as far as possible, parties with likely conflicting interests will not be invited to assist the process in any way.**
- *public announcements will be made when an item is privatized.”⁴⁸ (OCG Emphasis)*

The OCG also makes reference to a letter which was dated July 3, 1996, which was sent on the behalf of then Permanent Secretary in the Ministry of Local Government and Works, to the Secretary Mangers of the 12 Parish Councils and the Town Clerk, KSAC. The letter bore the caption ‘Sale and Lease of Lands owned by the Kingston and St. Andrew Corporation and the Parish Councils’ and advised of “...a new policy for dealing with the sale and lease of lands owned by the Kingston and St. Andrew Corporation and the Parish Councils”, as per Cabinet Decision No. 19/96, which was dated May 27, 1996. The following, *inter alia*, was stated:

“This new policy has been adopted to ensure that the sale or lease of the Council lands is viewed by the public as fair, objective and transparent, and that such lands are disposed of at market value.
The following procedure is now to be observed in the sale and lease of lands owned by the Kingston

⁴⁸ Ministry Paper 34 pages 4 and 5.



and St. Andrew Corporation and the Parish Councils:-

- (i) All Council lands to be sold /leased must be valued by the Commissioner of Lands/ Commissioner of Valuations...
- (ii) Councils should obtain a second Valuation from a private valuator in cases where –
 - large tracts of land are being divested
 - land to be divested is located in a high value area
 - the land is to be used for significant commercial activity
- (iii) The valuation will be valid for one (1) year only, after which a new valuation must be done for application to the sale / lease transaction”.

The Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands 2015, “...seeks to provide the GoJ and the people of Jamaica with a strategic operational guide for the management of Jamaica’s most precious natural resource...” The Manual highlights as two (2) of its major policies that:

1. **“The land divestments process shall be based on a system of equity, accountability and transparency...”**
2. **“The Government of Jamaica shall seek to optimize income from the divestment process by divesting lands at current market value, except in certain instances where special considerations may apply.”**(OCG Emphasis)



The referenced Policy further specifies that in determining the price for the use or purchase of land, the over-arching goal is a fair return for the use or disposition of the land, based on market values. Section 2.2.7 of the mentioned Policy provides as follows:

***“The Government shall seek to optimize income
from the divestment process***

*a. All government-owned lands shall be
divested at current market value
EXCEPT where:*

- i. Government is
undertaking
special/social projects.*
- ii. Land is being divested for
use by government
agencies/statutory bodies.*
- iii. Land is being divested for
designated low income
housing.*
- iv. Land is being divested to
registered non-profit/
charitable organizations
for schools, churches,
community use,
recreational purposes,
etc.*
- v. Land is being divested for
strategic purposes as
determined by
government policy*



- vi. Land settlement lots with existing contractual obligations are being regularized. (Refer to Framework for Dealing with Regularization of Land Settlement Lots)⁴⁹

Having regard to the reference which was made to the Framework for Dealing with Regularization of Land Settlement Terms and Conditions, the OCG notes the following provisions under Section 5.3.5:

“The regularization of occupants in land settlement schemes is critical if government is to achieve its stated objectives of increasing the base of land ownership islandwide.

1. Where no Ministerial Approval was granted, and where regularization is required, the occupant, having been in occupation, shall be treated as an illegal occupier and he lot shall be sold at current market value, with the application of a penalty of 10% of the market value rolled into the price included in the payment. Consideration may be given to land settlement terms and conditions ...up to 25 years to pay. The Commissioner and/or the Land Divestment Advisory Committee may make a recommendation for the non-consideration of the 10% penalty based on the circumstances

⁴⁹ Section 2.2.7 Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands 2015



surrounding a particular case and the reasons for non-application of the penalty shall be clearly provided.⁵⁰ (OCG Emphasis)

The OCG also highlights that Section 2.2.7 of the Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands further requires that:

- (a) *“...lands to be divested shall be valued by the Commissioner of Land Valuations or by a Chartered Valuation Surveyor”.*
- (b) *“Consistent with the value threshold required for Cabinet’s approval, a minimum of valuations are required for divestment of properties above that threshold. The second valuation sought from the applicant will be at the sole cost of the applicant.”*
- (c) **“Valuations shall not be older than 12 months.”**⁵¹(OCG Emphasis)

Of significant import is the fact that Section 2.2.9 of the Policy provides that:

“Where applications are made for the regularization of illegal occupiers, a penalty of 10% of the current market value of the property may be applied to the price (purchase/lease) or a rental may be charged for the use of and

⁵⁰ Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands 2015, Section 5.3.

⁵¹ Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands 2015, Section 2.2.7.



*occupation of the land for the period of
occupation/ or such amount as recommended by
the Land Divestment Advisory Committee*⁵² (OCG
Emphasis)

⁵² Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands 2015. Section 2.2.9.



Allegations Concerning Conflict(s) of Interest in the Sale of the ‘Bogue Lands’

Allegations of a possible conflict of interest in the sale of the subject lands were brought to the attention of the OCG by way of a letter of complaint which was dated November 20, 2013 and further follow-up letters and/or responses which were dated, January 13, 2014 and December 19, 2014.

For ease of reference and for the purpose of clarity, the OCG reiterates, hereunder, the allegations which were made by the complainant concerning issues of a conflict of interest:

“6. The conflict of interest arises by the virtue of the fact that a Councillor, Martin Kellier whether directly or through a company in which he has interests occupies one of the lots. The Councillor is also the Chairman of one of the Committees of the Council, namely the Public Health Committee, and he also sits on the Finance Committee.

7. Further as chairman of a Committee, The Councillor sits on the Executive Management Committee of the council and it is possible that issues such as this relating to potential divestment of council’s property can be raised in Executive Management Committee Meetings.



8. Further that it is the practice of the respective councillors to hold private meetings called caucus which are confined to party members at which consensus can be arrived at which are then taken to committee or council meeting and are carried by a majority thereby establishing council's position. It maybe possible that in a caucus of the majority side of Council that this issue could be raised." ⁵³

(OCG Emphasis)

Having regard to the referenced allegations, the OCG by way of its statutory requisition which was dated June 17, 2014, required that responses be provided by Mr. Gerald Lee, Secretary Manager, St. James Parish Council, to the following questions:

"The OCG has received an allegation that a "...sitting Councillor from the majority side in the St. James Parish Council...", has an interest in the said "Bogue Lands"? Please provide a comprehensive statement responding to this allegation and provide documentary evidence, where possible, to substantiate your assertions/responses. Your statement should include:

⁵³ Response that was received from Mr. Charles Sinclair dated January 13, 2014.



- (a) *The name and title of the referenced Councillor; and*
- (b) *Full particulars of the extent of the said Councillor's interest in the subject property.*⁵⁴

Mr. Lee, by way of his response which was dated July 16, 2014, responded as follows:

*“When the Commission of Enquiry report was carried out and investigations conducted Mr. Martin Kellier had occupied sections of the property. Mr. Martin Kellier was subsequently elected as Parish Council for the Welcome Hall Division in the March 2012 Local Government Elections and is still the sitting Councillor for the Welcome Hall Division.”*⁵⁵

Mr. Lee substantiated his response to the OCG by providing a copy of the Minutes of meetings which were convened by the St. James Parish Council with the occupiers of the subject lands and which were dated February 26, 2009 and March 10, 2009. Of note, the Minutes of the meeting of March 10, 2009, did, in fact, indicate that Mr. Martin Kellier was an occupier of the lands in question.

Having regard to the aforementioned response, the OCG posed the following follow-up questions to Mr. Gerald Lee, by way of its requisition which was dated October 13, 2014:

⁵⁴ OCG statutory requisition which was dated June 17, 2014, that was sent to Mr. Gerald Lee. Question No. 2.

⁵⁵ Response which was received from Mr. Gerald Lee dated July 16, 2014.



“Kindly provide an Executive Summary, detailing full particulars of Mr. Martin Kellier’s tenure as a Councillor and/or representative of the St. James Parish Council. The summary should include:

- i. The date on which Mr. Martin Kellier became a Councillor in the St. James Parish Council;*
- ii. A list of all Committees and Sub-Committees of the St. James Parish Council that Mr. Kellier is and/or has been a member of, or to which he has been invited.*
- iii. A list of all Committees and Sub-Committees of the St. James Parish Council for which Mr. Kellier is or has been the Chairperson or has held any executive or administrative functions.”⁵⁶*

“As it regards Mr. Kellier’s occupation of a subdivision of the subject Lands, which are owned by the St. James Parish Council, kindly provide responses to the following:

⁵⁶ OCG statutory requisition which was dated October 13, 2014. Question No. 4



- i. *The date on which the St. James Parish Council became aware of Mr. Kellier's occupation of the Land.*
- ii. *A timeline of events outlining the actions taken by the Parish Council upon becoming aware of same.*⁵⁷

“Against the background that Mr. Kellier, is a sitting Councillor in the St. James Parish Council, kindly indicate whether the Council was provided with a declaration of his interest in the said Lands or part thereof. If yes, respond to the following:

- i. *The date on which the disclosure /declaration was made.*
- ii. *The medium through which same was made.*
- iii. *The representative of the St. James Parish Council to whom the disclosure was made.*
- iv. *Details of any and all actions taken by the Parish Council to safeguard the interest of the St. James Parish Council upon becoming aware of the disclosure.*

⁵⁷ OCG statutory requisition which was dated October 13, 2014. Questions No. 6.



- v. *In the event that your answer is “No”, please also provide details of any and all actions taken by the Parish Council to safeguard the interest of the St. James Parish Council upon becoming aware of the disclosure.”⁵⁸*

Mr. Gerald Lee, by way of his response which was dated October 29, 2014, informed the OCG as follows:

“Mr. Martin Kellier was elected as Parish Councillor for the Welcome Hall Division in the Local Government Elections of March 26, 2012 and has been the sitting Councillor for the said Division at the St. James Parish Council from that date.

Please see list of all Committees and Sub-Committees of the St. James Parish Council that Mr. Kellier has been a member of or had been invited to:

- i. *Executive Management- Comprised of All Committee Chairmen*
- ii. *Council- Comprised of All Committee Councillors*
- iii. *Infrastructure Development & Maintenance - Comprised of All Councillors*

⁵⁸ OCG statutory requisition which was dated October 13, 2014. Question No. 6



- iv. *Public Health - Comprised of All Councillors*
- v. *Finance and Administration- Comprised of All Councillors*
- vi. *Physical Planning & Environment- Comprised of All Councillors*
- vii. *Disaster Preparedness and Emergency Management- Comprised of All Councillors*
- viii. *Civic and Community Affairs – Member*
- ix. *Poor Relief- Member*

Additionally, Mr. Martin Kellier is the Chairman of the Public Health Committee and the Vice Chairman of the Disaster Preparedness and Emergency Management Committee of the St. James Parish Council.

Mr. Martin Kellier has been invited to all meetings that the Council has had with occupiers the Bogue Lands Property to discuss the regularization (in his capacity as an occupier and not as a Councillor). Mr. Kellier has not moved any motion or seconded any motion at Council relating to said lands nor has he voted on any decision of the Council, relating to the regularization process of said lands; since becoming a Councillor of the St. James



Parish Council on March 26, 2012.⁵⁹(OCG Emphasis)

“Mr. Martin Kellier by letter dated September 6, 2001 indicated that he had been occupying the Council’s land located at Bogue Industrial Estate for over eight (8) years as contained on Page 19, Paragraph enumerated as 47 in the “Report on the Status of Lands belonging to the St. James Parish Council at Bogue Industrial Estate, Montego Bay” dated March 1, 2004.

July 31, 2000 -

Council was advised by Superintendent of Roads and Works the names of occupiers of the Council’s Lands at Bogue Industrial Estate including Mr. Martin Kellier.

July 11, 2001-

Finance and Administration Committee of Council directed that the administration proceed to serve notice on the illegal occupants of the property at Bogue Industrial Estate; which was served on all occupiers, including Mr. Martin Kellier.⁶⁰

September 6, 2001-

Mr. Martin Kellier, by letter dated September 6, 2001 protested that “I have

⁵⁹ Response which was received from Mr. Gerald Lee, that was dated October, 29, 2014. Response #4.

⁶⁰ The St. James Parish Council provided the OCG with only two (2) Notices which were served on the illegal occupants of the referenced lands and did not include any Notice served on Mr. Martin Kellier.



been occupying the Council's Land at Bogue Industrial Estates for over eight (8) years unmolested” and proposed to the Council that “you commission a survey and valuation to establish the market price of the area that I presently occupy, so that payment can be made accordingly” (Page 19 of the “Report on the Status of Lands belonging to the St. James Parish Council at Bogue Industrial Estate, Montego Bay” dated March 1, 2004 ...

May 29, 2002 -

Mr. Martin Kellier wrote to the Council with reference to a letter of evacuation No. P35/5 requested that consideration be given for a lease for fifty (50) years at a rate agreeable to both parties ...

June 1, 2006 -

Mr. Martin Kellier by letter dated June 1, 2006 advised the Council that “I Martin Kellier who now occupies Land at Bogue Industrial Estate, Montego Bay, St. James, is interested in purchase of the land. Mr. Kellier also provided the Council with the following relevant information that the Council had requested as under:

NAME: MARTIN KELLIER



**ADDRESS: SPRINGFIELD
WELCOME HALL P.O. ST.
JAMES**

**I HAVE OCCUPIED THE LAND
FOR THIRTEEN YEARS.**

YES THERE IS A BUILDING

**YES, I AM INTERESTED IN
ACQUIRING THE LAND**

*The Council has been in on-going collective discussions with all occupiers, in an effort to have the regularization process finalized subject to Cabinet Approval for Lease and Sale of Property.*⁶¹

- i. *“As stated in previous answer (5), Mr. Kellier by letters dated September 6, 2001, May 29, 2002 and June 1, 2006 had indicated his interest in the property he occupied at Bogue Industrial Estate owned by the St. James Parish Council.*
- ii. *The medium used to indicate his interest were letters.*
- iii. *The letters were addressed to the Secretary/ Manager of the Council.*

⁶¹ Response which was provided by Mr. Gerald Lee that was dated October 29, 2014. Response 5.



- iv. *The Council in safeguarding the interest of the St. James Parish Council has ensured that Councillor Martin Kellier has not voted upon any decisions to be taken by the Council or acts to be carried out, relating to the regularization of said Bogue lands. Additionally, Mr. Martin Kellier has not had or benefitted from any preferential treatment in the regularization process to date.*

Please be advised that prior to the election of said Councillor to the St. James Parish Council on March 26, 2012 Mr. Martin Kellier had been invited to meetings to discuss the regularization of the occupancy of the lands at caption and he has attended in some instances.

Subsequent to being elected as the Councillor for the Welcome Hall Division at the St. James Parish Council during the Local Government Elections held on March 26, 2012 Mr Martin Kellier has been invited and attended meetings with other occupiers as an occupier and not in his capacity as a Councillor.”⁶² (OCG Emphasis)

⁶² Response which was received from Mr. Gerald Lee dated October 29, 2014. Response No.6.



It is instructive to note that the St. James Parish Council provided the OCG with a copy of the letter of June 1, 2006, which was addressed to the St. James Parish Council by Mr. Martin Kellier, and which advised of the fact that he was in occupation of the subject land as well as his interest in purchasing the said parcel of land. Further, the OCG was also provided with a copy of a previous letter which was dated May 29, 2002, and which was also addressed to the St. James Parish Council by Mr. Martin Kellier. The letter made reference to a letter of evacuation, 'No. P.35/5', and stated, *inter alia*, as follows:

*“Once again we must emphasize that we have been operating a **legitimate business on the said property for over (10) years, creating jobs for more than twenty (20) persons.** We are therefore requesting a lease for the next fifty (50) years at a rate agreeable to both parties.”*⁶³

Of note, the OCG sought by way of its requisition which was dated January 27, 2015, to ascertain the perspective of Mr. Martin Kellier in respect of the subject matter. In this regard, the following questions were posed by the OCG:

“Please indicate whether you, or any entity or person affiliated to you; currently occupy or have occupied the lands regarded “part of Bogue Estate”, in Montego Bay St. James. Please provide a comprehensive statement to this question and provide documentary evidence, where possible, to substantiate your assertions/responses. Your statement should also include:

⁶³ Letter dated May 29, 2002, which was signed by Mr. Martin Kellier, Managing Director, M&K Heavy Equipment Hireage Co Ltd. addressed to the attention of Mr. Christopher Powell, St. James Parish Council.



- (a) *The date on which your occupation of the said lands commenced.*
- (b) *The means and/or process (es) through which you or your affiliate occupied the said lands.*
- (c) *A copy of all Agreements entered into with the St. James Parish Council, as it regards the referenced lands.*
- (d) *A copy of all communique between yourself and the St. James Parish Council, as it regards the referenced lands.”⁶⁴*

Having regard to the foregoing, the following responses were provided by Mr. Kellier:

“I hereby wish to indicate that I currently occupy lands regarded “part of Bogue Estates”, in Montego Bay St. James.

- (a) **The date on which my occupation of the said lands commenced was in the year of 1998.**
- (b) **The process by which I had occupied the said land is through capturing.**
- (c) *A copy of all Agreements entered into with the St. James Parish Council is submitted.*
- (d) *A copy of all communique between myself and the St. James Parish Council is submitted.”⁶⁵ (OCG Emphasis)*

⁶⁴ OCG Requisition which was dated January 27, 2015, which was sent to Mr. Martin Kellier. Question No.1.

⁶⁵ Response which was received from Mr. Martin Kellier which was dated February 10, 2015. Response No.1



Mr. Kellier also informed the OCG that the date on which he became a Councillor in the St. James Parish Council was March 29, 2012. In relation to the OCG's question of whether Mr. Kellier had made any disclosure and/or declaration of interest in the said Lands or part thereof, upon becoming elected as Councillor in the St. James Parish Council, the OCG required specific responses to the following:

- i. *The date on which the disclosure /declaration was made.*
- ii. *The medium through which same was made.*
- iii. *The representative(s) of the St. James Parish Council or any other person to whom the disclosure was made.*
- iv. *Any additional information which may be relevant to this disclosure/declaration.*
- v. *In the event that your answer is "No", please provide a justification for same.*"⁶⁶

In respect of the foregoing, Mr. Martin Kellier responded in the following manner:

"I have not disclosed or declared my interest in the Bogue Lands Estate to any representative in the St. James Parish Council. I have been excused at all meetings whenever the matter rose. My interest in the lands has been before I was appointed Councillor."⁶⁷(OCG Emphasis)

⁶⁶ OCG Requisition dated January 27, 2015, which was sent to Mr. Martin Kellier. Question No3.

⁶⁷ Response of Mr. Martin Kellier which was dated February 10, 2015. Response No.3



Mr. Kellier also advised the OCG of the Committee and Sub Committee Meetings that he has attended as well as the role(s) performed by him. The following, *inter alia*, was stated:

1. Public Health- Chairman;
2. Disaster Preparedness- Vice Chairman;
3. Executive Management Planning Committee- (Committee comprises of all Heads of Department and Chairpersons of Sub-Committees)
4. Physical Planning;
5. Infrastructure;
6. Council; and
7. Civic and Community Affairs.

The OCG is also in receipt of a signed Lease Agreement which was entered into on May 16, 2003, between the St. James Parish Council and Mr. Martin Kellier. The OCG found the following clauses of the referenced Agreement to be of significance:

1. **“That Martin Kellier, will occupy Lot #12 of said Property under a lease to sell agreement for Two (2) years from the 1st day of April 2003 at a rental of One Hundred and Eighty Thousand Dollars (\$180,000.00) per year, payable in full or in two equal payments, one in April and other in September.”**
2. *“The Lessee Agrees that the objectives herein may continue throughout the terms hereby created with the Lessor as follows:*
 - (a) *To pay rent hereby reserved on the day and in the manner aforesaid.*



- (b) The Lessee is responsible for all expenses incurred for the said Property.*
- (c) To use the said property for Commercial purposes.*
- (d) To keep and maintain the property in good and tenable repair and condition to the satisfaction of the Lessor, except resulting from fair wear and tear or an Act of God.*
- (e) To be responsible for the disposal of all refuse accumulated on said property as a result of the use thereof during the term hereby created and otherwise to conform with Regulations under the Public Health Law affecting the use and occupation of said property.*
- (g) If said lot contains a structure/s, all building plans must be submitted and respective Fees paid to the Lessor, **within Thirty (30) days of signing, or lease will absolutely cease.***
- (h) As discussed at meeting held on March 4th 2003, when lessor completes survey, lots will be advertised and sold at market value in keeping with the government's land policy, and lessee will be allocated a lot, based only on the area where existing structure/s are, and if there is no structure/s on said property said lots will be sold in (1/4 acre) sizes.* (OCG Emphasis)

Of note the mentioned Lease Agreement was signed by the then Mayor and the former Secretary Manager. A signature was also affixed on behalf of Mr. Martin Kellier and the document notarized by Ms. Doreen C. James, Justice of the Peace, St. James.



Mr. Martin Kellier also provided the OCG with copies of St. James Parish Council receipts which served to corroborate payments that were stated to have been made by him, or on his behalf, in respect of the referenced property. The following representations reflect the OCG's observations subsequent to its review of the receipts which were submitted by Mr. Kellier:

Payment Received From	Receipt Number	Receipt Date	Receipt Amount	Details on Receipt
Mr. Martin Kellier	529825	May 16, 2003	\$210,000.00	"Payment for Lot #12 Bogue Industrial Estate for 1 year \$18,000.00. April 2003- March 2004 and part payment of \$30,000 for 2004- 2005."
M & K Heavy Equipment Hireage	531107	July 15, 2003	\$23,000.00	"Payment ...Commercial Bldg at Bogue Industrial Estate"

In relation to the entity the M & K Heavy Equipment Hireage Company Limited, the OCG conducted a search of the Companies of Jamaica's website which revealed, *inter alia*, that Mr. Martin Kellier is a Director and the majority shareholder.

The OCG reiterates, at this juncture, the fact that the Ministry Paper 34, outlines as one of the general principles governing the conduct of the privatization process, inclusive of the sale of government land, that "... as far as possible, parties with likely conflicting interests will not be



invited to assist the process in any way”⁶⁸. The current Policy Framework and Procedures Manual for the Divestment of Government –Owned Lands , 2015, also holds as a fundamental tenet, that the “...*land divestment process shall be based on a system of equity, accountability and transparency ...*”⁶⁹

As a point of reference, the OCG highlights that the Black’s Law Dictionary, 2009, defines a conflict of interest as a “... *real or seeming incompatibility between one’s private interests and one’s public or fiduciary duties.*”⁷⁰ Further, the GOJ Staff Orders, 2004, outlines the following circumstances wherein which a conflict of interest may arise:

- a. *Engagement in private activity similar to official functions;*
- b. *Using information and/or any material gained from official position for private gain;*
- c. *Exploiting the status and privilege of one’s position for private gain;*
- d. *Soliciting and/or accepting payment and/or any other consideration relating to the performance of or neglect of official duties;*
- e. *Conducting private business during work hours and/or on government property;*
- f. *Engaging in transactions with relatives or family members, or an organization in which relatives or family members have interest.*
- g. *Ownership of investment or shares in any company or undertaking.*

⁶⁸ Ministry Paper No.34.

⁶⁹ Policy Framework and Procedures Manual for the Divestment of Government –Owned Lands , 2015, page v.

⁷⁰ Black’s Law Dictionary, Ninth Edition, 2009.



*h. Acting as auditors or directors of companies or societies.*⁷¹

It is further provided that “...*In order to address the potential for conflict of interest, officers should in all instances inform the appropriate authority of any such undertaking, seek clarification and get permission. Any such permission would be subject to periodic review*”.⁷²

It is also being highlighted that the Parish Council Act, provides that “*Notwithstanding anything in section 98 or in section 99, no councillor of any Parish Council shall have any vote on any question relating to any contract with such Council if he is directly or indirectly pecuniary or otherwise interested in such contract.*”⁷³

Having regard to issues concerning alleged and/or perceived conflict of interest, the OCG by way of its statutory requisition which was dated January 27, 2015, requested that Mr. Gerald Lee provide responses to the following question:

“You stated in your response of October 29, 2014, that Mr. Martin Kellier, Councilor in the St. James Parish Council, was a member of the following Committees:

- (a) Executive Management;*
- (b) Council;*
- (c) Infrastructure Development & Maintenance;*
- (d) Public Health;*
- (e) Finance and Administration;*
- (f) Physical Planning & Environment;*

⁷¹ Staff Orders for the Public Service Government of Jamaica 2004, 4.2.9 pg. 11.

⁷² Staff Orders for the Public Service Government of Jamaica 2004, 4.2.9 pg. 11.

⁷³ Section 100 Parish Council Act.



- (g) Disaster Preparedness and Emergency Management;*
- (h) Civic and Community Affairs; and*
- (i) Poor Relief.*

Please indicate whether matters relating to (a) the process for the sale of the lands or (b) decisions taken in relation to the sale of the lands are discussed at any of the above listed [Committees]. Your response should include the following:

- i. All Minutes of Committee meetings at which discussions relevant to the sale of the referenced lands were discussed;*
- ii. A detailed description of the Terms of Reference of each of the Committees indicated above;*
- iii. All Minutes of the Executive Management Committee and the Physical Planning & Environment Committee held during the period November 2013 to present.”⁷⁴*

In respect of the foregoing, Mr. Lee provided the OCG with a copy of the Minutes of the following Committees of the St. James Parish Council:

1. Asset Management Committee for November 2013 and February 2014;
2. Finance and Administration Committee for the period December 2013 to December 2014;
3. Executive Management Committee for the period November 2013 to January 2015; and
4. Physical Planning and Environment Committee for the period February 2014 to December 2014.

⁷⁴ OCG Requisition which was sent to Mr. Gerald Lee, dated January 27, 2015. Question No. 7.



The OCG was also provided with a copy of a document detailing the specific Terms of Reference for each Committee of the St. James Parish Council.

The OCG conducted a review of the aforementioned Minutes of the St. James Parish Council and notes, hereunder, the following observations:

1. The Minutes of the Finance and Administration Committee which was dated November 12, 2014, recorded that the proposed sale of the Council's Lands at Bogue Industrial Estate was discussed. **It was stated that the Chairman enquired of the status of the matter and that at this stage Councillor Martin Kellier was asked to leave the meeting room before the discussion ensued.**

2. It was recorded as follows:

"His Worship the Mayor informed that this matter was going on for many years, therefore the Council need to reach an amicable solution. He stated that the infrastructural cost has to be taken into consideration when the land is being sold. He also stated that the Council should have dealt with the sale of the land years ago but because the Council's name was not on the title it hindered sale. In light of this, he recommended that the land be sold at the 2009 valuation in addition to the infrastructural cost. He also recommended to the Committee that the Council forego the six (6) years back rental of the property.

...

The Secretary/Manager and Director of Administration explained to the Committee that



legal consultation was sought from the Council's Lawyer and they were advised that it was not the best offer as the interest of the Council and the people of the parish would not benefit from agreement.

The Chairman pointed out that the Committee need to agree on a position so that the Ministry could be notified of the decision; in order for final Cabinet approval to be sought.

After a long deliberation, the Committee on the motion of Councillor Jason Cummings seconded by Councillor Kenneth Vincent, took a final decision that:

- *The Bogue Lands be sold at the 2009 Valuation; plus present infrastructure cost. Fifteen percent (15%) of the Sale Price be deposited upon signing and occupiers would be required to pay up Property Taxes for the area of property occupied, in relation to submitting building plans for the structures.*
- *The Council foregoes the six (6) years back rental.*

The motion was further put to a Vote as under:

11 voted for; 1 against and 1 abstention.⁷⁵(OCG Emphasis)

⁷⁵ Minutes of the Meeting of the Finance and Administration Committee dated November 12, 2014.



3. The Minutes of the Meeting of the Finance and Administrative Committee which was held on October 8, 2014, recorded discussions held on the proposed sale of the Council's land at Bogue Estate. The Minutes also recorded that Mr. Martin Kellier, in the capacity of Councillor in the St. James Parish Council, was present for this meeting.
4. The following verbatim extracts of the Finance and Administrative Committee Meeting which was held on October 8, 2014 are, hereunder, stated:

"At the meeting held October 8, 2014 the Chairman informed that a meeting with occupiers was held on September 17, 2014 to come to a [sic] amicable decision regarding them acquiring the land at Bogue ...It was noted however that there were persons wanting to accept the Council's agreement.

The Committee noted this and directed that the Council's Attorney be asked to write the individual occupants giving them 14 days Notice in which to accept the agreement.

The Mayor added that efforts were being made to setup a meeting with the Contractor General to finalize the sales agreement."

5. The Minutes of the Meeting of the Finance and Administrative Committee which was held on July 9, 2014, recorded discussions held on the proposed sale of the Council's land at Bogue Estate. The Minutes also recorded that Mr. Martin Kellier, in the capacity of Councillor in the St. James Parish Council, was present for this meeting.



The following verbatim extracts of the Finance and Administrative Committee Meeting which was held on July 9, 2014 are, hereunder, stated:

“At the meeting held on July 9, 2014 the Superintendent informed that a site visit was done to identify the boundaries and there were minor changes identified which the Council could remedy. He added that the adjustments would be done to the drawing.

The Clerk read letter from the Office of the Contractor General dated June 17, 2014 regarding the sale of lands situated at Bogue Estate by the St. James Parish Council ...”

6. The Minutes of the Meeting of the Finance and Administrative Committee which was held on March 12, 2014, recorded discussions held on the proposed sale of the Council’s land at Bogue Estate. The Minutes also recorded that Mr. Martin Kellier, in the capacity of Councillor in the St. James Parish Council, was present at the meeting.
7. The following verbatim extracts of the Finance and Administrative Committee Meeting which was held on March 12, 2014 are hereunder stated:

“At the meeting held on March 11, 2014 the Chairman informed that the Finance and Administration Committee had approved for the six years back rental to be collected.”



CONCLUSIONS

Based upon the documents which have been reviewed, as well as the written statements that have been received from the St. James Parish Council and Mr. Martin Kellier, the OCG has arrived at the following considered Conclusions:

1. The recommendation which was made by the St. James Parish Council for the sale of the lands at Bogue Estate to the illegal occupants at a cost determined by a 2009 valuation was in breach of the then applicable provisions of Ministry Paper 34 and the current Policy Framework and Procedures Manual for the Divestment of Government-owned Lands (2015).

Ministry Paper 34, which provides a benchmark and established standards as it regards the GOJ's policy position on privatization stipulates that **the concept of market-economic valuation will apply in establishing the disposal price of government-owned assets**. It also requires that **more than one valuation must be obtained**.

Further, the Policy Framework and Procedures Manual for the Divestment of Government-owned Lands (2015), mandates that the “...**Government of Jamaica shall seek to optimize income from the divestment process by divesting lands at current market value, except in certain instances where special considerations may apply.**”

In more specific terms the mentioned policy stipulates that, in circumstances where the regularization of occupants are being considered **“...the occupant, having been in occupation, shall be treated as an illegal occupier and the lot shall be sold at current market value, with the application of a penalty of 10% of the market value rolled into the price included in the payment.”** In addition the Policy makes it abundantly clear that **“Valuations shall not be older than 12 months.”**



2. The recommendation by the St. James Parish Council for the sale of the lands at Bogue Estate based on a 2009 Valuation was not in keeping with Mr. Dennis Morrison's March 1, 2004 recommendation in relation to the sale of the referenced lands.

Mr. Morrison's recommendation, which was contained in the 'Report on the Status of Lands belonging to the St. James Parish Council at Bogue Industrial Estate, Montego Bay' was as follows:

"... I would recommend that the best approach to the problem at this time ... is as follows:

...

*(xi) To obtain **current valuations** by the Commissioner of Lands and independent private valuations with respect to each lot occupied.*

To negotiate sales of the said lots to each occupant, based upon the average of the valuations obtained".

Having regard to the foregoing, it is the OCG's considered conclusion that the spirit in which the above recommendation was made was that the lands be sold at current market value.

3. The recommendation made by the St. James Parish Council to utilize a 2009 Valuation for the sale of the subject lands will not result in value for money being obtained by the Council and by extension the people and taxpayers of Jamaica. The failure to secure value for money in this transaction would in effect violate the ethic and spirit of the GoJ divestment policy.
4. The recommendation for the sale of the subject lands at Bogue based on a valuation which was obtained over eight (8) years ago is irregular and in breach of the current Divestment policy.



5. The circumstances surrounding the sale of the lot occupied by Mr. Martin Kellier and/or M & K Heavy Equipment Hireage Company Ltd. present a perception of a conflict of interest. This is based upon the fact that the referenced lot has been illegally occupied by Mr. Martin Kellier, a Councillor in the St. James Parish Council, since 1998. The sale of the subject land is also being negotiated between the St. James Parish Council and Mr. Martin Kellier. Notwithstanding the fact that Mr. Kellier has been in occupation of the referenced land prior to being elected as the Councillor for the Welcome Hall Division in St. James, the process which has been undertaken for the “regularization” and/or sale of the subject lot was being contemplated during Mr. Kellier’s tenure as a Councillor in the St. James Parish Council.

Further, the contemplation and discussions relating to the sale and/or regularization of the referenced lands are also facilitated by Committees of the St. James Parish Council of which Mr. Kellier is a member.

Whereas the Secretary Manager of the St. James Parish Council has indicated that Mr. Kellier has “...**not moved ... seconded any motion at Council relating to said lands nor has he voted on any decision of the Council, relating to the regularization process of said lands; since becoming a Councillor of the St. James Parish Council on March 26, 2012**” the perception of a conflict of interest is not abated. This is especially having regard to the position held by Mr. Kellier within the St. James Parish Council and the potential influence which any such position may bear upon the credibility of the process.

In addition, the OCG’s review of the Minutes of Meetings of the Finance and Administration Committee revealed, that though Mr. Kellier may not have voted or seconded any motion relating to the said lands, Mr. Kellier attended meetings of the referenced Committee and was privy to the discussions which ensued as it regards (a) the price at which the lands were to be sold, and (b) the payment of rental in relation to the lands.



It is the OCG's considered view that Mr. Kellier's mere attendance was sufficient to undermine the credibility of the process. Further, Mr. Kellier's position as an illegal occupant of the subject lands cannot be divorced from his position as Councillor.

6. The OCG concludes that Mr. Kellier's interest in the subject lands was disclosed to the Council from as early as September 6, 2001. However, upon Mr. Kellier being elected as Councillor for the Welcome Hall Division, St. James Parish Council, in March 26, 2012; and given his membership and involvement in various Committees and Sub-committees of the Council, which are integral to discussions relating to the sale and regularization process, **adequate steps were not taken by the Council to ensure that Mr. Kellier was removed entirely from the process.**



RECOMMENDATIONS

Section 20 (1) of the Contractor General Act mandates that “*after conducting an Investigation under this Act, a Contractor-General shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefore of the result of that Investigation and make such Recommendations as he considers necessary in respect of the matter which was investigated.*” (OCG’s Emphasis)

1. The OCG in no way challenges the fact that the cost to obtain a valuation may be of significant cost. Nonetheless, the OCG recommends that where there is a likely opportunity to maximise the potential gains from the sale of a State asset, due care and diligence must be exercised in an objective, open and transparent manner by the divesting entity to ensure that this is undertaken. Accordingly, it is the recommendation of the OCG that when Public Bodies are divesting State assets, a thorough analysis of the value of the asset and of all of the factors which are likely to impact the possible proceeds of its sale, should be considered so as to ensure the realization of maximum gains.

Having regard to the foregoing, the OCG strongly recommends that the subject lands be sold based on current market value.

2. The OCG recommends that the St. James Parish Council utilize a current valuation in determining the sale price for the subject lands at Bogue, and as the Council seeks to regularize the current illegal occupation of the mentioned lands. The St. James Parish Council must, therefore, undertake the necessary steps to cause a valuation of the subject lands at Bogue to be conducted, and in keeping with the provisions of Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands’.
3. The OCG strongly recommends that the Accounting and Accountable Officers of the St. James Parish Council ensure scrupulous compliance with the provisions of the Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands’.



with a view to ensuring that the sale of government lands are divested in a manner which is consistent with the full application of the stated Policy and that the requisite processes are employed to guard against unnecessary delays and to ensure, *inter alia*, efficacy.

4. The OCG recommends that the St. James Parish Council employs practices and procedures which are fair, impartial and devoid of irregularity and/or impropriety, pursuant to Section 4 of the Contractor General Act.
5. It is being recommended that the St. James Parish Council undertakes an immediate and robust verification process to ascertain the state of affairs concerning lands with which the Council has an interest and/or is the legal owner.
6. Having regard to the findings of this Report which revealed that Mr. Martin Kellier, a sitting Councilor and an illegal occupant of the lands at Bogue was also a member of several committees of the Parish Council at which matters pertaining to the sale of the subject lands were considered and discussed is of grave concern.

The OCG is of the considered view that, although the Parish Council has indicated that Mr. Kellier has not “... *voted on any decisions of the Council relating to the regularization process* ...” the fact that he continues to attend meetings of the Council, at which, the sale and/or ‘regularization process’ for the subject lands is contemplated is sufficient to cause undue influence and /or the perception of a conflict of interest.

7. In this regard, the OCG strongly recommends that in instances where a Public Official/Officer finds himself/herself in a probable conflict of interest scenario, it is recommended that the individual not only makes the necessary and principled disclosures with the intent to remove himself/herself from the conflict of interest situation, **but also withdraws himself/herself entirely from the process.**



8. Heads of Ministries, Departments, Agencies and Parish Councils who are aware that a Public Officer/Official is in a conflict of interest situation are strongly recommended to take the necessary action, in accordance with applicable administrative procedures, **to remove such an officer from the situation. Such an action will ensure the credibility and legitimacy of the process; as well as negative any perception of a conflict of interest.**





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Lease No. 2615 dated the 28th of May and registered on the 13th of July 1965 from the above-named The Commissioner of Lands to Stephen a Hew of No. 5 Strand Street, Montego Bay, Saint James of the land being the Lot numbered eight as shown on the Subdivision Plan Examination No. 73485 of Bogue Estate lodged in the Office of Titles on the 10th April 1965 with Miscellaneous 28579 comprised in this Certificate for a term of twenty years from the 1st day of May 1965 at the clear yearly rental of One Hundred and Seventy Eight Pounds Ten Shillings payable quarterly in advance subject to the terms and conditions set out in the Lease.

[Signature]
Actg. Registrar of Titles.

No. 2616 Lease dated the 10th of June and registered on the 13th of July 1965 from the above-named The Commissioner of Lands to Northern Industrial Garage Limited a limited liability company incorporated under the Companies Law of Jamaica with registered office situate at No. 28 Union Street, Montego Bay, Saint James of the land being Lots 19 and 21 as shown on the Sub-Division Plan bearing Examination No. 73485 of Bogue Estate lodged in the Office of Titles on the 10th April 1965 with Miscellaneous No. 28579 comprised in this Certificate for a term of twenty years from the 1st day of January 1965 at the clear yearly rental of Three Hundred and Thirty Pounds payable quarterly in advance, subject to the clauses and conditions set out in the said Lease.

[Signature]
Actg. Registrar of Titles.

Lease No. 2625 dated the 10th of September, and registered on the 10th of October, 1965 from the above-named The Commissioner of Lands to Milton Chin of 18 Market Street, Montego Bay, Saint James of part of the land comprised in this Certificate being the Lot numbered 5 as shown on the Subdivision Plan of Bogue Estate, bearing Examination No. 73485, lodged in the Office of Titles with Miscellaneous No. 28579 on the 10th day of April, 1965 for a term of Twenty Years from the 1st of May 1965 at the clear yearly rental of One Hundred and Ninety-five Pounds payable quarterly in advance.

[Signature]
Actg. Registrar of Titles.

Lease No. 2677 dated the 30th of August, and registered on the 15th of September, 1966 from the above-named The Commissioner of Lands to Asphalt Distributors Limited of 15 Constant Spring Road, Saint Andrew, of part of the land comprised in this Certificate being the Lots Numbered 3 and 4 on the Sub-division Plan lodged in the Office of Titles on the 10th of April 1965 for a term of Twenty Years from the 1st of April 1966 at the clear yearly rental of One Hundred and Sixty One Pounds Fifteen Shillings payable quarterly in advance.

[Signature]
Actg. Registrar of Titles.

ALLOTMENT	DATE PAID	GRANTEE'S NAME	GRANT NO.	DATE	REMARKS
209259	2.12.64	17	£2,630.0.0	1031 296	20/10/65 Conditions
213299	25.2.65	27	£4,460.0.0	1031 297	20/10/65
214971	—	32	£1,700.0.0	1031 298	20/10/65
217702	—	13	£1,970.0.0	1031 299	20/10/65
218670	—	16	£2,030.0.0	1031 300	20/10/65



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Lease No. 2693 dated the 8th of December, 1966 and registered on the 7th February, 1967 from the abovenamed The Commissioner of Lands to The Sharpe Construction Company Limited of Lot No. 11, Bogue Industrial Estate, Montego Bay, Saint James, of part of the land comprised in this Certificate being the Lot numbered 11 on the Sub-Division Plan of Bogue Estate bearing Examination No. 73485 lodged in the Office of Titles on the 10th day of April, 1965 for a term of Twenty years from the 1st of December, 1965 at the clear yearly rental of One Hundred and Sixty-eight pounds payable quarterly in advance.

Actg. Registrar of Titles



PLAN No.	PRICE PAID	GRANTOR'S NAME	GRANTEE'S NAME	DATE OF REGISTRATION	REMARKS
207770	£1,960.00	The Sharpe Construction Company Limited	1033	60	207770 on Conditions
222396	£1,520.00	Sharpe Construction Company Limited	1033	61	222396 on Conditions

Lease No. 2707 dated 13th March 1967 and registered on the 4th of August 1967 from the abovenamed Commissioner of Lands to Northern Industrial Garage Limited No. 28 Union Street, Montego Bay, for a period of twenty years from the 1st June 1966 at a clear yearly rental of One Hundred and Eighty-three Pounds Fifteen Shillings payable quarterly in advance and subject to the clauses and conditions set out in the Lease.

Actg. Registrar of Titles



PLAN No.	PRICE PAID	GRANTOR'S NAME	GRANTEE'S NAME	DATE OF REGISTRATION	REMARKS
231810	£4,189.00	Lord George and Gladys Limited	1033	235	231810 on Conditions
231811	£1,580.00	Opportunity Limited	1033	198	231811 on Conditions
224711	£4,050.00	M. L. Shaw Ltd	1033	470	224711 on Conditions

Miscellaneous No. 34781 registered 9th May, 1968 whereby the registered proprietor abovenamed re-entered the Lots Numbered 3 and 4 mentioned in Lease No. 2677 abovementioned as a result of a breach of covenant under the said Lease having been committed.

Actg. Dep. Registrar of Titles



Lease No. 2760 registered on the 11th of May, 1968 of part of the land comprised in this Certificate being Lot 2 on the plan Ex.No. 73485 lodged with Miscellaneous No. 28579 to Meat and Poultry Products Limited of 2 Lawrence Lane, Montego Bay, Saint James for twenty years from 1st January, 1965 at One Hundred and Eleven Pounds Fifteen Shillings per annum.

Actg. Dep. Registrar of Titles



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Lease No. 2761 dated the 6th of May and registered on the 4th of July, 1968 from the abovenamed Commissioner of Lands to Associated Manufacturers Limited of 38^A Harbour Street, Kingston of ~~part~~ of the land comprised in this Certificate being the Lot numbered 12 on the sub-division plan deposited in Office of Titles on the 10th of April, 1965 for a term of ~~twenty years~~ from the 1st of June, 1967 at the clearly yearly rental of One Hundred and Sixty-one Pounds Five Shillings payable quarterly in advance and subject to the other terms and conditions set out in the said lease.

[Signature]
JAN 20 1969
Registrar of Titles.

Lease No. 2762 dated the 13th of May and registered on the 4th of July, 1968 from the abovenamed Commissioner of Lands to Sinclair's Garage Limited of No. 11 Lower Killeen Road Kingston of part of the land comprised in this Certificate being the Lots numbered 3 and 4 on the sub-division plan deposited in the Office of Titles 10th of April, 1965 for a term of twenty years from the 1st day of April, 1968 at the clear yearly rental of One Hundred and Sixty-one Pounds Five Shillings payable quarterly in advance subject to the terms and conditions set out in the said lease.

[Signature]
JAN 20 1969
Registrar of Titles.

TRANSFER No.	DATE TO GO.	AREA OR LOT No.	PRICE PAID	GRANTER'S NAME	CHARTER TITLE	REGISTRAR'S SIGNATURE	REMARKS
239707	2.7.68	8	£2450.00	S. G. Hew	1051/244	<i>[Signature]</i>	Conditions
240180	14.10.68	14	£1880	Imperial Geo. Co. Ltd.	1052/957	<i>[Signature]</i>	
240180	14.10.68						
248852	7.3.69	12	£2,100.00	Imperial Geo. Co. Ltd.	1052/342	<i>[Signature]</i>	Conditions

Lease No. 3790 dated the 3rd of February and registered on the 7th of March, 1969 from the abovenamed Commissioner of Lands to Northshore Dairies Limited of No. 32 Market Street, Montego Bay, in the Parish of Saint James, of part of the land comprised in this Certificate being the Lots numbered 28, 29 and 30 on the sub-division Plan deposited in the Office of Titles on the 10th of April, 1965 for a term of twenty years from the 1st of September, 1966 at the clear yearly rental of Three Hundred and Thirty Seven Pounds ten Shillings payable quarterly in advance and subject to the other terms and conditions set out in the said lease.

[Signature]
JAN 20 1969
Registrar of Titles.

The above figure shaded red represents

of land

in the parish of

This is the plan referred to in the annexed.....

Certificate registered in the name of

in Volume

Folio

Register of Titles



1016125

Generated on 17:41, 20 August 2015

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Title Report for Volume:955 Folio:440

Lease No. 3800 dated the 18th of July and registered on the 8th of August 1969 from the abovenamed THE COMMISSIONER OF LANDS to ADVANCED BUILDING and CONSTRUCTION LIMITED of 26 St. James' St., Montego Bay St. James of part of the land comprised in this Certificate being the Lot No. 35 on the sub-division plan deposited in the office of Titles on the 10th of April 1965 for a term of twenty years from the 1st day of July 1969 at the clear yearly rental of Seventy Eight Pounds, Fifteen Shillings payable quarterly in advance and subject to the terms and conditions set out in the Lease.

Actg. Dep. Registrar of Titles.



25 654	29.10.69	10	519.10	R.C. Hooper	1064 270	Lease	conditions
262246	16.6.69	1	1546.00	Meat and Poultry Products Limited	1064 484	Lease	conditions
266258	28.9.70	5	5,200.00	H. Cherv	1064 115	Lease	conditions
256535	5.3.70	3 and 4	54,361.00	J. Williams & Son Ltd.	1071 338	Lease	conditions
273275	30.4.71	2	5,755.30	Meat and Poultry Products Limited	1082 290	Lease	conditions
269686	3.12.71	3	46,392.00	H. B. Ford	1082 771	Lease	conditions
275044	4.4.72	11	5,586.77	A.S. Sherriff Ltd	1094 344	Lease	conditions
301322	11.9.73	35	36,300.00	Advanced Building Construction Ltd	1094 613	Lease	conditions
388161	20.5.85	3	12,500.00	Advanced Building Construction Ltd	1191 740	Lease	conditions
382100	11.7.85	1	10,492.00	C.E. Francis Ltd	1191 935	Lease	conditions
382163	21.7.85	2	10,492.00	C.E. Francis Ltd	1191 935	Lease	conditions
435804		19, 21	88,800	Northern Industrial Group Limited	1192 10	Lease	conditions
435803		20, 22, 23, 24	117,360	Northern Industrial Group Limited	1192 11	Lease	conditions
435804		18	84,900	Samuel Hart and Son Limited	1192 12	Lease	conditions

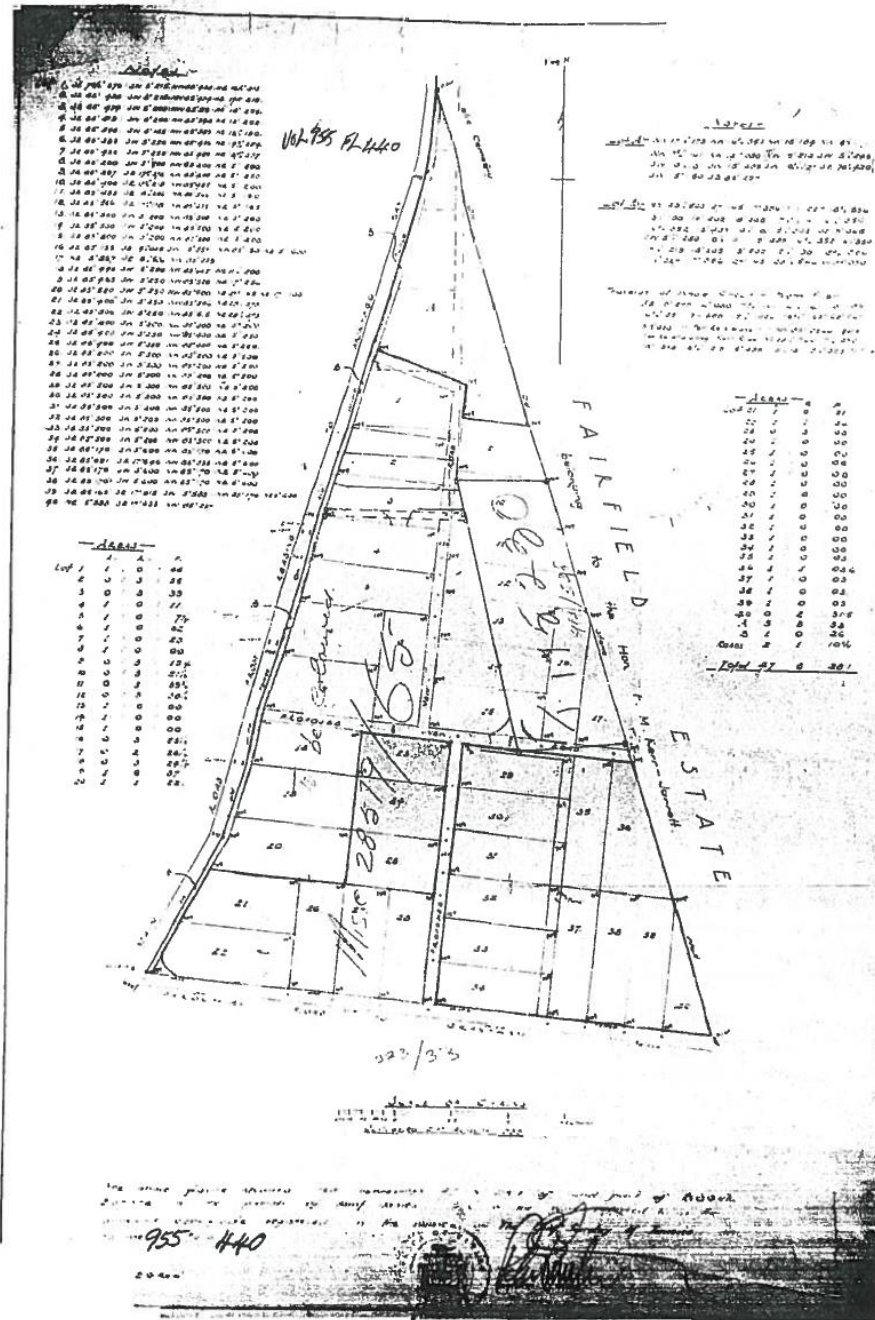
Miscellaneous No. 1521410 this Certificate of Title is hereby cancelled the duplicate thereof having been lost and a new Certificate in duplicate therefore is registered at Volume 1420 Folio 171. Entered hereon on the 25th day of April, 2008.



1016125



Title Report for Volume:955 Folio:440



1016125



APPENDIX 2



Title Report for Volume:1420 Folio:171

REGISTER BOOK	FOLIO
VOLUME	171
1420	

Challenge Seal of Office
As Registrar of Titles

JAMAICA
Certificate of Title under the Registration of Titles Act

ORIGINAL
NOT TO BE
REMOVED FROM
TITLES OFFICE
DO NOT FOLD

Misc. 1521410

THE COMMISSIONER OF LANDS is now the proprietor of an estate in fee simple subject to the incumbrances notified hereunder in ALL THAT parcel of land part of BOGUE ESTATE situate in the parish of SAINT JAMES containing by survey Forty-seven Acres Three Roods Twenty-eight Perches and One-tenth of a Perch of the shape and dimensions and butting as appears by the plan thereof hereunto annexed and being the land formerly comprised in Certificate of Title registered at Volume 955 Folio 440. SAVE AND EXCEPT the portions transferred by Transfer No. 175230 (4A, 3R, 39P.) 209259 (Lot 17), 213395 (Lots 25, 26 and 27/214971 (Lot 32), 217702 (Lot 13, 218670 (Lot 16), 207770 (Lot 10, 222385 (Lot 33), 231810 (Lots 6 and 7), 231811 (Lot 36) 229711 (Lot 34), 239707 (Lot 8), 240180 (Lot 4) and 248832 (Lot 12), 256364 (Lot 15), 252246 (Lot 1), 260058 (Lot 5), 256535 (Lots 3 and 4), 273275 (Lot 2), 269686 (Lot 31), 270044 (Lot 11), 301522 (Lot 35), 435802 (Lot 19 and 21), 435803 (Lots 20, 22, 23 and 24) and 435804 (Lot 18).

DATED this 25th day of April, Two Thousand and Eight.

for Registrar of Titles

Incumbrances above referred to:

Miscellaneous No. 1709152
THIS CERTIFICATE OF TITLE IS HEREBY CANCELLED
THE DUPLICATE THEREOF HAVING BEEN LOST AND
A NEW CERTIFICATE IN DUPLICATE THEREFOR IS
REGISTERED AT VOLUME 1452 FOLIO 18
ENTERED MERGON ON 17-8-11
BY REGISTRAR OF TITLES



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Page 1 of 2



The above figures shaded red represent 47A 38 28 1/P of land part of Regue Estele in the parish of Saint James. This is the plan referred to in the annexed Certificate registered in the name of The Commissioner of Lands, in Volume 1721





APPENDIX 3

REGISTER BOOK	Folio
Volume	518
1452	



A1018204

ORIGINAL
NOT TO BE REMOVED FROM TITLES OFFICE
DO NOT FOLD

JAMAICA

Certificate of Title under the Registration of Titles Act

LO 1708152
Date issued: 27th day of September, 2011
Parent Title(s): Volume 1420 Folio 171
Plan Annexed Yes

I. Registered Owner

COMMISSIONER OF LANDS a corporation sole established and existing under and by virtue of the provisions of the Crown property (vesting) Act at 20 North Street, Kingston is now the proprietor of an estate in fee simple subject to the incumbrances notified hereunder.

II. Description of Property

Parish:
Property Name:
Area:
Save and Except:

ST. JAMES
BOGUE ESTATE
193948.31 Sq. Metres
the portions transferred by Transfer No. 176230 (4A 3R 39P), 209259 (lot 17, 213396 (lots 25, 26 and 27), 214971 (lot 32), 217702 (lot 13), 218670 (lot 16), 207770 (lot 10), 222385 (lot 33), 231810 (lots 6 and 7), 231811 (lot 36), 229711 (lot 34), 239707 (lot 8), 240180 (lot 14), 248832 (lot 12), 250384 (lot 16), 252248 (lot 1), 268258 (lot 6), 268536 (lots 3 and 4), 273276 (lot 2), 269686 (lot 31), 270044 (lot 11), 301522 (lot 35), 435802 (lot 19 and 21), 435803 (lots 20, 22, 23 and 24) and 435804 (lot 18).


for Registrar of Titles



Transfer No. 1727744 by way of gift registered on the 12th day of October, 2011 to ST. JAMES PARISH COUNCIL, at 19A Union Street, Saint James.


for Registrar of Titles





APPENDIX 4

Subdivision of Lands- Part of Boque Industrial Estate, St. James Parish Council

Schedule of Cost for Properties at Boque Industrial Estate

The rate of exchange used for the conversion at the time of preparation of this document was: \$90.00 to US\$1.00

Cost of Lot per m ² (US\$)		Ja \$8,460.00	
Lot No.	Lot Size in SQ. M (m2)	Cost per Lot (US\$)	Cost per Lot (Ja\$)
1	1,893.68	178,005.92	16,020,532.80
2	1,547.53	145,467.82	13,092,103.80
3	1,298.27	122,037.38	10,983,364.20
4	1,981.68	186,277.92	16,765,012.80
5	2,372.99	223,061.06	20,075,495.40
6	2,213.91	208,107.54	18,729,678.60
7	1,996.38	187,659.72	16,889,374.80
8	2,310.13	217,152.22	19,543,699.80
9	1,589.43	149,406.42	13,446,577.80
10	1,414.43	132,956.42	11,966,077.80
11	1,899.59	178,561.46	16,070,531.40
12	2,537.37	238,512.78	21,466,150.20
13	1,548.82	145,589.08	13,103,017.20
14	2,001.56	188,146.64	16,933,197.60
15	1,093.13	102,754.22	9,247,879.80
16	1,219.84	114,664.96	10,319,846.40
17	1,081.36	101,647.84	9,148,305.60
18	960.61	90,297.34	8,126,760.60
19	767.12	72,109.28	6,489,835.20
20	1,205.12	113,281.28	10,195,315.20
21	2,143.90	201,526.60	18,137,394.00
22	2,259.86	212,426.84	19,118,415.60
23	1,123.60	105,618.40	9,505,656.00
24	1,146.83	107,802.02	9,702,181.80
25	1,533.91	144,187.54	12,976,878.60
26	1,393.33	130,973.02	11,787,571.80

Date Prepared: 6-Mar-09



APPENDIX 5

