

## **ALLIED DEVELOPMENT PARTNERS LTD. PRESS RELEASE- 8<sup>th</sup> MARCH 2018**

This press release is to correct matters stated regarding the protracted legal dispute between Allied Development Partners Ltd. & The Government of Bermuda and to provide the public with an update on the status of the legal dispute regarding the voiding of the waterfront lease.

### **Minister of Home Affairs, MP Walton Brown's Statement**

On November 9<sup>th</sup> 2017, Minister Brown made the following statement live on the Sherri J radio show:

*'Around 2015/2016, Mr. Maclean approached me about addressing that issue with the waterfront; we agreed that I would represent him on that matter and anything further I won't comment on because the entire issue may well be subject to a criminal inquiry'.*

Eight days later, on November 17<sup>th</sup> 2017, Minister Brown, in response to a parliamentary question asked by then Opposition Leader, Hon. Pat Gordon Pamplin, denied having any dialogue, discussions, or any sort of negotiations regarding the matter with me; he stated:

*'I was not involved in any dialogue, or any sort of negotiation with Mr. MacLean on that matter'.*

I have been duly informed by the Bermuda Police Service that a complaint has been made by Minister Brown alleging extortion. This complaint is no more than a dishonest strategy manoeuvre by Minister Brown to avoid having to address the substantive issues. Not only is the nature of his complaint blatantly contradicted by his own revelations made on 9<sup>th</sup> November 2017 while on the Sherri J radio show where he said there was an *'agreement that I would represent him with respect to that matter'* but I have evidence of communications between myself and Minister Brown and witness evidence which shows that it was in fact Minister Brown who approached me and offered to assist in settling the waterfront matter.

It is noteworthy that Minister Brown has not taken any civil legal action alleging slander or libel in relation to my disclosures; however, I take great exception to my character and reputation being attacked and I will be taking action against Minister Brown. I can indicate that a legal letter before action is being preparing and will be served on Minister Brown shortly.

On November 17<sup>th</sup> 2017, outside of the House of Assembly, Minister of Home Affairs, Walton Brown Jr. made the following statement to the media:

*'The waterfront lease was voided, we opposed it in parliament at that time; Mr. MacLean was given, in part, as compensation for the voiding, the right to develop the Par-La-Ville hotel along with an 18-million guarantee. That 18-million disappeared into luxury items; it was a complete and colossal waste of funds; it was used to purchase two homes in the United Kingdom, an Aston Martin, and an engagement ring for the person who received the funds. We are trying a way to resolve the matter in a way that addresses the legitimate concerns of someone who had a contract voided along with maintaining proper and judicial control over the public purse.'*

The statement by MP Brown that I received compensation for the voiding of the waterfront lease by virtue of the awarding of the Par-La-Ville hotel contract to Par-La-Ville Hotel & Residences Ltd and the Cooperation of Hamilton \$18 million guarantee is simply untrue.

I wish to make it abundantly clear that at no time have I, on behalf of Allied Development Partners Ltd. (ADPL) received any compensation for the voiding of the waterfront lease.

The former OBA administration, through correspondence labelled 'without prejudice' made an offer for settlement which did not include the terms as stated by Minister Brown, the offer was for a sum that was wholly unreasonable in the circumstances and did not reflect the losses suffered as a result of the voiding of the contract. It is the view of ADPL that this offer was only made with the sole purpose of being able to say that one was made but it was not a serious attempt to resolve the matter and as such it was refused.

### **Premier, Hon. David E. Burt's Statement**

On March 2<sup>nd</sup> 2018, Premier. Hon. David E. Burt, in response to being asked by a member of local media regarding his change of stance since being in Opposition regarding the waterfront matter said:

*'I think some of the things that have been released inside the public domain, which was stated by The Minister of Home Affairs- we remember the whole issue with the missing \$18 million and the fact that some of this \$18 million went to buy cars and houses, and wedding rings, and things of that nature. This is part of the law and fact- this is not a question of allegedly. That wasn't Mr. Maclean. What I'm saying is that this part of the deal, the financier which was tied in--so there's a lot of aspects to this case which are not as simple and so from that perspective we are continuing to address the issue and move the issue forward.'*

Our now Premier, during his time as deputy opposition leader, personally met with me at my office on many occasions prior to the Municipalities bill, which retroactively voided the waterfront lease, being debated and passed. Together, we perused documents and I provided him with pertinent information that he and his party used to condemn the previous administration's actions. We maintained contact even after the PLP's landslide general election victory and so it is very surprising, most unfortunate, and deeply saddening that he and his cabinet have disregarded their pre-election position regarding this matter and continue to promulgate false and misleading innuendo.

### **Former OBA Government Offer to Cover Consequential Loss Suffered**

On 15<sup>th</sup> April, 2014, Former Minister Michael Fahy indicated, by way of written correspondence to my former attorneys, in what amounts to the government's acceptance of liability with respect to the voiding of the lease, states, that the Government of Bermuda were aware of the *'immediate losses as a result of the voiding of the Waterfront Agreements'* and *'as a show of good faith and to assist in mitigating your client's immediate losses, we are prepared to make an interim settlement payment reflective of your client's immediate losses, we are prepared to make an interim settlement payment reflective of your client's actual expenses to date. Such items could include but are not limited to: 1) Any legal fees incurred 2) Architectural fees 3) Consulting fees. We believe this to be fair start that would allow your client to become 'whole' in as far as immediate losses experienced. This offer should not preclude further settlement discussions on an expedited bases and we look forward to further fruitful discussions'*.

For the avoidance of doubt, the government failed to honour their undertaking, which ADP legitimately relied upon, to cover expenses as stated in the letter from Sen. Fahy. The 15<sup>th</sup> April 2014 letter, which is a matter of public record (it has been included in court filings) has been attached to this statement.

### **Par-La-Ville Hotel Guarantee**

The waterfront lease and the Par-La-Ville Hotel lease are two separate and distinct matters; however, it has become clear to me that it is the intention of some, as a result of matters beyond my involvement or control, to intertwine the two matters, in what amounts to a carefully orchestrated, targeted attempt to besmirch my character and avoid having to address the constitutionally enshrined compensatory aspect of the voiding of the waterfront lease. I am deeply saddened by the morally wrong and indefensible attempts to besmirch my reputation and character and the great emotional harm and stress that this protracted five-year ordeal has caused to my family.

Over two years ago, on January 26<sup>th</sup> 2016, I was arrested in relation to what the police then dubbed a 'criminal investigation into an allegation of misappropriation of funds amounting to approximately \$18 million'. Prior to my arrest, I was in communication with the police and had provided them with various documents and statements in a transparent effort to assist them in their investigation. When arrested, I waived my right to legal counsel and voluntarily engaged in a 196-minute interview where I provided the police with a full account of everything that occurred to the best of my knowledge in the circumstances. During that interview, the officers described me as a 'cooperative witness'; since then, more than two years have elapsed and the police have not asked to interview me again nor have they laid any criminal charges against me.

The police and the government are now both well aware that Mr. Robert McKellar, of Argyle UAE Ltd, is before the England High Court in relation to funds which were transferred to him for the purposes of arranging financing for the Par-La-Ville hotel project. It was revealed in those proceedings that he, Mr. Robert McKellar, used the funds transferred to him, to purchase an Aston Martin car, two luxury homes and an engagement ring.

I personally did not, nor did any entities that I have an interest in, have any knowledge of, or involvement in, Mr. McKellar's use of the monies on those items. At no stage during those civil proceedings in the U.K, or in any proceedings at all, has it been intimated or alleged that I, Michael MacLean or any entities that I have an interest in, had any involvement, knowledge of, or connection to the use of the funds on those items.

The England High Court has rejected Mr McKellar's defence to the allegations of "unjust enrichment" and has ruled that he has no real prospect of successfully defending the claim.

### **Status of Legal Dispute- Voiding of Waterfront Lease**

On July 18<sup>th</sup> 2017, the date of last year's general election, in what can only be described as a last-ditch attempt to put the proverbial 'nail in the coffin' and ensure that ADPL did not receive compensation for the voiding of the waterfront lease, the former OBA government filed an application with The Bermuda Supreme Court to strike-out the arbitration proceedings which had been set.

It has always been the view of ADPL that the government were never serious about advancing the arbitration proceedings to see to it that the matter could be resolved; indeed, former Minister Fahy conceded in his 15th April 2014 letter to ADPL's former attorneys that the government wanted to avoid an arbitration process.

During the arbitration, the government claimed that ADPL were only entitled to a nominal sum of \$1 for the voiding of the waterfront lease. This ridiculous contention is contrary to the government's

position stated in their letter of 15th April 2014, where they acknowledged ADPL's consequential losses and undertook to cover those losses (which to date amount to close to \$4 million dollars). Having specific regard to the failure of the government to honour their undertaking, which ADPL legitimately relied upon, we remained in an impecunious position and were unable to prosecute the arbitration proceedings.

On November 17<sup>th</sup> 2017, the PLP government, represented by the same attorneys as the former OBA administration, continued with the application to strike-out the arbitration. ADPL stated to the court that it did not at that time have the resources to prosecute the arbitration.

During that hearing, Chief Justice Kawaley confirmed that any order made, would not, without more, extinguish ADPL's rights under the outstanding limb of our constitutional application in relation to the voiding of the waterfront lease. In those circumstances, having specific regard to the preservation of the constitutional application, an application for an adjournment was not sought by ADPL and we did not contest the government's application.

The Chief Justice terminated the arbitration pursuant to s. 39(3)(a) of the Arbitration Act 1989; however, he declined the government's request to grant the termination on the basis of prejudice which was available under s. 39(3)(b) as he deemed that limb not to have been made out. As such, contrary to reports by some who are stating otherwise, the latest ruling of the Supreme Court of Bermuda does not bring finality to the legal debacle as ADPL still have a right to pursue constitutional relief regarding the voiding of the waterfront lease.

Allied Development Partners Ltd. appreciates that the PLP government did not cause this debacle, however they were elected to lead and address the issues they inherited. During their time in Opposition they spoke vociferously against the actions of the OBA administration; we invite the public to view the Hansard transcripts of 2nd October 2013 which have been attached to this statement.

ADPL have made several attempts to resolve this matter swiftly and amicably to avoid further expense to the public purse with further litigation; ADPL have sent over six (6) formal pieces of written correspondence to The Government of Bermuda (The Premier, The Attorney General, & The Minister of Home Affairs) in an attempt to arrange a meeting with the purpose of amicably resolving this matter. To date, there has been absolutely no response forthcoming regarding the matter despite the Premier and Minister of Home Affairs' indication to the public that they *'continue to move the issue forward' 'in a way that addresses the legitimate concerns of someone who had a contract voided along with maintaining proper and judicial control over the public purse.'*

As a result of this government's refusal to engage in settlement discussions, ADPL have been left with no choice but to launch our constitutional case against The Government of Bermuda regarding the voiding of the waterfront lease. A summons will be filed in short order.

Michael R. MacLean

**Allied Development Partners Ltd.**