
**National Roads Authority
Minutes of the Two Hundred & Eighteenth (E.O.) Meeting
of the Board of Directors
held in
NRA Conference Room,
370 North Sound Road, George Town, Grand Cayman
Wednesday 05th April, 2017 at 9:30 a.m.**

In attendance were:

Donovan Ebanks	Chairman
Gary Clarke	Deputy Chairman
David Arch	Director
Stanley Panton	Director
Dane Walton	Director
Kenross Connolly	Director
Paul Bodden Jr (Andy)	Director
Paul Parchment	Managing Director – NRA
Edward Howard	Deputy Managing Director – NRA
Lois A. Hall	Executive Secretary

Invitees:

Dawn Lewis	Senior Crown Counsel
Mark Scotland	Special Projects Manager – NRA
Jon Hall	Chief Valuation Officer – Lands & Survey Dept.
Ruth Massarella	Senior Valuation Officer – Lands & Survey Dept.

Absent:

Tristan Hydes	Director Designate of Chief Officer, Ministry PLAH&I
Charles Brown	Observer - Ministry PLAH&I

1. Call to Order

The Chairman called the meeting to order at 9:39am.

The Chairman invited Ms Dawn Lewis, Crown Counsel, to bring the Board up to date as to what had transpired in the Grand Court on 30th March 2017 and where the NRA now stood legally.

Ms Lewis stated that the Judge had lifted the injunction granted to Tstolen Tyme Holdings Ltd (TTHL) on 27 November 2001. However, the application for judicial review remained in place as requested by TTHL although the remedy being sought in those proceedings was now irrelevant. The 13 March 2017 application for leave to seek a further judicial review had not been dealt with. The court made no award for costs.

The net effect of these was that the Board could now make a recommendation to the Cabinet for the gazetting of Phase 2. An undertaking had been given to TTHL that if Cabinet was decided to issuing a notice under s.3 of the Roads Law as per the alignment currently being proposed by the NRA, and which would impact the properties of TTHL, the section 6 notice authorizing entry to the land would not be issued in less than twenty-one (21) days

after the section 3 notice to allow TTHL ample time to take any recourse, including legal, they wished.

The expectation is that if a s.3 notice is issued, TTHL will immediately seek to amend their most recent application for leave to seek judicial review to incorporate the new s.3 notice as the object of their judicial review. While there is little current relevance in the 2001 grounds and the 2016/2017 administrative actions should be resilient to challenge, it should be expected that TTHL will try to draw out as long as possible any new proceedings which they initiate.

The Board discussed two courses of possible action:

1. Approaching TTHL 'Without Prejudice' to Negotiate Form and Terms of Compensation

TTHL could either decline or engage. Either response would be to the NRA's favour in the event of likely future litigation. The prerequisites to negotiations include:

- As access has never been restricted, the NRA must identify potential access/egress for Equestrian Centre traffic;
- Request copy of Equestrian Centre planning approval to ensure that planning requirements are not compromised;
- Identify and engage architect/planner competent in design of equestrian facilities to review any proposals made by TTHL for reconfiguration of their facilities;
- Financial records if any business impact is to be considered.

2. Ascertain from the Minister the Disposition of the Cabinet to Making a s.3 Declaration

There was discussion as to whether a s.3 declaration without a s.6 would allow claims for compensation. Notwithstanding whether it would, based on the behaviour of TTHL and in keeping with the spirit of the twenty-one (21) days offered as the period between a s.3 and s.6 declaration, it is to be expected that a s.3 declaration will trigger a revised application for judicial review of that decision. Ms Lewis indicated that it could also yield another injunction as the Court could be minded to seek to preserve the *status quo* pending the judicial review.

The Chair undertook to speak to the Minister and seek to obtain the attitude of the Cabinet to a s.3 declaration in the near term.

The meeting adjourned 10:30am.

Signature _____
Chairman of the Board
Confirmation of minutes:
Date:

10 May '17

Signature _____
Executive Secretary
Seconded: Confirmation of minutes
Date: 10th May 2017