



TRINIDAD AND TOBAGO GAZETTE (EXTRAORDINARY)

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1328

APPOINTMENT OF THE COMMISSION OF ENQUIRY INTO ALL ASPECTS OF THE MANAGEMENT OF THE LAND ACQUISITION PROCESS BY THE NATIONAL INFRASTRUCTURE DEVELOPMENT COMPANY LIMITED FOR THE CONSTRUCTION OF THE SOLOMON HOCOY HIGHWAY EXTENSION TO POINT FORTIN

(The Commissions of Enquiry Act, Chap. 19:01)

IN ACCORDANCE with section 15 of the Commissions of Enquiry Act, Chap. 19:01, of the Laws of the Republic of Trinidad and Tobago, notice is hereby given that on the 16th day of July, 2019, Her Excellency, Paula-Mae Weekes, O.R.T.T., S.C., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces, in the exercise of the powers vested in her under section 2 of the said Act, issued the following Commission:

COMMISSION

REPUBLIC OF TRINIDAD AND TOBAGO

By her Excellency PAULA-MAE WEEKES, O.R.T.T., S.C.,
President of the Republic of Trinidad and Tobago and
Commander-in-Chief of the Armed Forces.

PAULA-MAE WEEKES O.R.T.T., S.C.,
President

To: MR. JUSTICE SEBASTIAN VENTOUR, (Retired)
Mr. GREGORY DELZIN, Esquire

WHEREAS by section 2 of the Commissions of Enquiry Act, Chap. 19:01 (hereinafter referred to as 'the Act') it is provided, *inter alia*, that the President may whenever he deems it advisable, issue a Commission appointing one or more Commissioners, and authorising such Commissioners, or any quorum of them to enquire into any matter in which an enquiry would in the opinion of the President be for the public welfare;

AND WHEREAS the President on the advice of Cabinet has deemed it advisable and for the public welfare that Commissioners be appointed to examine and enquire into all aspects of the management of the Land Acquisition Process by the National Infrastructure Development Company Limited (NIDCO) for the construction of the Solomon Hochoy Highway Extension to Point Fortin (SHHEPF Project);

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AND WHEREAS the Commissioners are appointed to enquire into the following Terms of Reference being matters set out hereunder and to make such findings, observations and recommendations arising out of its deliberations, as may be deemed appropriate, viz.:

I. To enquire into:

- (i) the actions of and on behalf of the State in acquiring and taking steps to acquire properties and structures in respect of the construction of the extension of the Solomon Hochoy Highway Extension to Point Fortin (hereinafter referred to as “the SHHEPF Project”)
- (ii) Whether the Cabinet appointed Ministerial Oversight Committee which comprised-
 1. Hon. Kamla Persad-Bissessar - Prime Minister (Chairman)
 2. Hon. Stephen Cadiz - Minister of Trade and Industry
 3. Hon. Winston Dookeran - Minister of Finance
 4. Hon. Dr. Roodal Moonilal - Minister of Housing and the Environment
 5. Hon. Chandresh Sharma - Minister of Local Government
 6. Hon. Jack Warner - Minister of Works and Infrastructure
 7. Senator the Hon. Emmanuel George - Minister of Public Utilities
 8. Senator the Hon. Kevin Ramnarine - Minister of Energy and Energy Affairs
 9. Senator the Hon. Bhoendradatt Tewarie - Minister of Planning and the Economy; and
 10. Hon. Stacy Roopnarine - Minister of State in the Ministry of Works and Infrastructure

fulfilled its mandate-

- (a) To act as a policy guidance mechanism for the implementation of the SHHEPF Project providing advice, as required, to the Cabinet on key areas of decision making and review as the SHHEPF Project progressed;
- (b) To act as a mechanism to ensure that all approvals were efficiently obtained to allow for adherence to the SHHEPF Project timelines and quality standards;
- (c) To oversee the implementation of the SHHEPF Project as it related to funding, quality metrics and time;
- (d) To spearhead: -
 1. The public outreach aspect of the SHHEPF Project to ensure that the general public is kept informed as to the implications, impacts and benefits of the project to the country as a whole

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2. The Community Outreach programme and the management of impacts to the affected stakeholders;

(e) To ensure:-

1. that the proper monitoring and evaluation was undertaken and that the country received value for money output
2. the local construction industry benefitted from the implementation of the SHHEPF Project and that there was a transfer of knowledge to the extent possible in the implementation of the project;

(f) To establish guidelines for the relocation and compensation of affected persons;

- (iii) The decision of the National Infrastructure Development Company Limited (hereinafter referred to as “NIDCO”) to reduce the right of way for the SHHEPF Project and to consider whether and what account was taken of the potential legal and financial implications to the State and property owners who were served with Section 3 Notices and Section 4 Orders under the Land Acquisition Act Chapter 58:01
- (iv) The circumstances which resulted in the State either acquiring or having taken steps to acquire properties that are no longer required for the construction of the SHHEPF Project
- (v) The compensation or non-compensation of persons who were served land acquisition Notice and Orders and/or who incurred expenses in submitting claims for compensation and/or whose properties are no longer required for the construction of the SHHEPF Project
- (vi) The processes which were utilized by the State and/or NIDCO for approving the payment of compensation to persons affected by the land acquisition process for the SHHEPF Project
- (vii) The process utilized by NIDCO and the Office of the Commissioner of State Lands (hereinafter referred to as “the COSL”) for the allocation of lands to the persons affected by the land acquisition process for the SHHEPF Project including:
 - (a) Those situated at Petit Morne and Golconda to persons with good title;
 - (b) Those situated at Cedar Hill, Phase II to Squatters; and
 - (c) Farmers

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- (viii) The process utilised by the State and/or NIDCO and/or Trinidad and Tobago Housing Development Corporation for the relocation of persons including elderly/sick persons who were affected by the land acquisition process for the SHHEPF Project
- (ix) Whether persons who were allocated State lands and/or housing units from the Trinidad and Tobago Housing Development Corporation arising out of the land acquisition for the SHHEPF Project were eligible to receive same in accordance with the Cabinet approved compensation policy
- (x) Whether NIDCO and the COSL exercised due diligence in the allocation of State lands and/or housing units from the Trinidad and Tobago Housing Development Corporation
- (xi) Whether and what payments were made by persons in consideration of their being allocated State lands and/or housing units from the Trinidad and Tobago Housing Development Corporation under the Cabinet approved compensation policy
- (xii) The valuation methodology utilised by NIDCO and COSL for the assessment and payment of compensation for the lands which were to be acquired by the State for the construction of the SHHEPF Project and the steps taken to ensure the integrity of the valuation process
- (xiii) Whether there were any conflicts of interest or other elements of impropriety on the part of the officials of the Valuation Division in the Ministry of Finance involved in the assessment of compensation for any of the properties which were subject to the land acquisition process for the SHHEPF Project and if so, the circumstances giving rise to same and the manner in which they were handled and/or addressed
- (xiv) The circumstances leading to legal claims being filed against the State and NIDCO arising out of the land acquisition process for the SHHEPF Project
- (xv) Whether there was an appropriate compensation policy in place on March 4th 2011 when NIDCO engaged the Design-Build Contractor, Construtora OAS Ltd (hereinafter referred to as “OAS”) to complete design and construction works on the SHHEPF Project
- (xvi) The facts and circumstances surrounding the compensation policy which was in fact adopted by the State for the acquisition of land for the construction of the SHHEPF Project
- (xvii) Whether the Government’s land acquisition compensation policy that was utilised for the acquisition of lands in respect of the construction of the SHHEPF Project was undertaken with appropriate due diligence and oversight and in a manner sufficient to ensure value for money and the absence of impropriety

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- (xviii) The facts and circumstances surrounding the hiring by NIDCO of private attorneys/negotiating consultants and valuers by NIDCO to assist in its management of its Land Acquisition Portfolio for the acquisition of lands by the State for the SHHEPF Project
 - (xix) Whether the Board of NIDCO and/or the executive management of NIDCO fulfilled and complied with the responsibilities and duties imposed upon them by law and by good corporate governance and practice in managing the Land Acquisition portfolio for the acquisition of lands by the State for the construction of the SHHEPF Project
 - (xx) The identities of the officials, if any, who have failed in their duties or such other persons whose conduct may have been against the best interest of the State in the land acquisition process for the SHHEPF Project; and
- II. To make such findings, observations and recommendations arising out of its deliberations, as may be deemed appropriate, in relation to-
- (i) Whether there has been any breach of duty by any persons or entities
 - (ii) Whether there are any grounds for any criminal and civil proceedings to be initiated against any persons or entities
 - (iii) Whether criminal proceedings should be recommended to the Director of Public Prosecutions for his consideration
 - (iv) Whether civil proceedings should be recommended to the Attorney General for his consideration
 - (v) The appropriate best practice to be utilised by the State for the acquisition of land required for public purposes; and
 - (vi) Any other recommendations that may be deemed necessary in the circumstances.

NOW THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 2 of the Act do hereby issue this my Commission appointing **MR. JUSTICE SEBASTIAN VENTOUR** and **MR. GREGORY DELZIN**, Commissioners to hold the enquiry into the matters aforesaid;

AND I DIRECT that you, Mr. Justice Sebastian Ventour shall be the Chairman of the said Commission;

AND I DIRECT that you, Mr. Justice Sebastian Ventour and Mr. Gregory Delzin, forthwith proceed at such places and times as may be convenient with due diligence and dispatch to enquire into the matters aforesaid and to report to me in writing upon the said matters within a period of six (6) months of the first sitting of the Commission and to give your findings, observations and recommendations thereon and to furnish me separately with a full statement of the proceedings of the Commission and the reasons leading to the conclusions at which you may have arrived;

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AND I FURTHER DIRECT that the said enquiry shall be held in public but that you the Commissioners may from time to time sit in private, and that you shall be entitled to exclude any particular person or persons from your sittings for the preservation of order, for the due conduct of the enquiry or for any other reason;

AND I FURTHER DIRECT the Commissioner of Police to detail police officers to attend upon the Commissioners to keep them safe and to preserve order during the proceedings of the Commission, to serve summonses on witnesses and to perform such duties as the Commissioners shall direct;

AND I CHARGE AND COMMAND all public officers and all loyal citizens of the Republic of Trinidad and Tobago in their several places and according to their several powers and abilities that they be abiding and assist you the Commissioners without fear in the execution of this your Commission;

AND this my Commission shall be continued subject to any alteration or revocation thereof until you have finally reported.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 16th day of *July*, 2019.

Dated this 16th day of *July*, 2019


Secretary to Cabinet