



Any reply or subsequent reference to this communication should be addressed to the Contractor-General and the following reference quoted:-

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URGENT

January 22, 2007

Mr. Garfield Grandison
Editor-in-Chief
The Gleaner Company Limited
7 North Street
Kingston

Dear Mr. Grandison:

Re: Article by Gleaner Columnist, Ms. Dawn Ritch, entitled "Mulberry Bush Meanderings"

Your columnist, Ms. Dawn Ritch, in an article which was published in the Sunday, January 21, 2007 edition of your newspaper, has disputed the legal authority of the Contractor General to conduct its recently concluded investigation into the Sandals Whitehouse Hotel Project. In actuality, Ms. Ritch has accused me of acting illegally.

Ms. Ritch wrote as follows: "... I must point out to the Contractor General that he cannot on his own initiative investigate Sandals Whitehouse, because he has absolutely no standing in the matter. None whatsoever ... The action of Greg Christie as Contractor General in investigating Sandals Whitehouse last year ... is a clear violation of every principle of justice and law. It makes him an arrogant, unguided missile".

In arriving at her mis-informed positions, Ms. Ritch has alluded to the 1999 amendment to the Contractor General Act (1983) which established the National Contracts Commission (NCC). As is well known, the NCC is an independent Commission which, at law, is separate and distinct from the Commission of the Contractor General.

Ms. Ritch appears to have mistakenly conditioned the legitimacy of the exercise of the power of the Contractor General to conduct investigations upon the timing of the commencement of the NCC's operations. Regrettably, however, the one has nothing to do with the other.

The power of the Contractor General to conduct an investigation into the award of the Sandals Whitehouse contracts was one which was lawfully exercisable irrespective of whether the subject contracts were awarded before or after the NCC and its Sector Committees were established.

The NCC regime merely added a new set of rules (replacing the Government Contracts Committee rules) which had to be complied with by Public Body procuring entities, in this case by Ackendown Newtown and by the Urban Development Corporation (UDC). More importantly, the Contractor General Act had also previously imposed, and still continues to impose, its own set of rules.

In point of fact, it is instructive to note that the power of the Contractor General to lawfully conduct investigations into the award of Government contracts, etc., is a discretionary and independent statutory power which predates the gestation of the NCC and the award of the Sandals contracts by as much as 16 to 18 years. Indeed, it goes back to the very promulgation of the Contractor General Act in 1983.



(2)

This pre-existing power is derived from Sections 15 and 16 of the Act. Had Ms. Ritch read the OCG's Report of Investigation, she would have discovered these simple foundation facts in the first two (2) lines of the Report. What, therefore, does Sections 15 (1) and 16 state?

Section 15 (1) of the Contractor General Act (1983) provides, *inter alia*, that "... 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; and (d) the implementation of the terms of any government contract".

Section 16 of the Act puts the matter beyond doubt. In fact, it collides directly with Ms. Ritch's misguided pronouncements. It provides simply that "an investigation pursuant to Section 15 may be undertaken by a Contractor General on his own initiative ... if in his opinion such investigation is warranted".

In the circumstances, I would be very grateful if you could publish my letter in an effort to correct the misleading and unfortunate comments which Ms. Ritch has widely conveyed through the medium of your newspaper.

With many kind regards.

Very respectfully yours,

Greg Christie (Signed)

Greg Christie
Contractor General