



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

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September 25, 2006

Mr. Audley Shaw M.P.  
Chairman  
Public Accounts Committee of the House of Representatives  
Houses of Parliament  
Gordon House  
81 Duke Street,  
P.O. Box 636  
Kingston

Dear Mr. Shaw:

Re: Report of Investigation into the Sandals Whitehouse Hotel Project - Meeting of the Public Accounts Committee (PAC) of September 19, 2006 - Matters Arising

I write in respect of the captioned.

First, please allow me to thank you for the opportunity which your Committee has afforded to me to appear before it to clarify certain questions which are related to the captioned Report.

There were a number of issues and requests which arose during the Committee's Sitting of the 19<sup>th</sup>. I would be grateful if you would allow me the privilege of using this opportunity to formally address them and to place them upon the PAC's record.

**1. Requests of the PAC - Addendum to the Report of Investigation - Matters to be Addressed**

As was disclosed at the Committee's Sitting of the 19<sup>th</sup>, it is the intention of the Office of the Contractor General (OCG) to produce an Addendum to the captioned Report. The decision to do this was taken after documents which were previously not made available to the OCG were submitted to the OCG on July 25 and July 27, after the Report was tabled in Parliament. The documents in question were submitted respectively by the Urban Development Corporation and by DunnCox, the attorneys for Gorstew Ltd.

As you are aware, the UDC's submission included certain minutes of Project site meetings, copies of which the UDC conceded were previously requested by the OCG but which were never produced. The Dunn Cox letter of July 27, on the other hand, has challenged a number of the conclusions and/or statements which have been made in the OCG's Report. DunnCox has attempted to substantiate these claims in its letter.

We believe that the interest of the public would be best served if we were to review these documents, record our views thereon and submit an Addendum Report encompassing same, to Parliament, pursuant to the provisions of Section 20 and Section 28 of the Contractor General Act.



(2)

The sole objectives of this Addendum will therefore be as follows:

- (a) to say whether and to what extent the UDC and DunnCox information has impacted the Findings and Conclusions which are now contained in the Report; and
- (b) to substantiate and/or to clarify certain statements which were made in our Report which may have raised the following questions or issues within or without the public domain:
  - a. Whether the OCG interviewed representatives of Gorstew;
  - b. Whether Beaches Negril was the benchmark for the Sandals Whitehouse Hotel design;
  - c. Whether Beaches Negril was used as the basis for the development of the budget for the Whitehouse project;
  - d. Whether the change in the design of the hotel from a “Beaches” to a “Sandals concept contributed to a change in the project’s scope of works and/or to the overruns in the costs of the project;
  - e. Whether there was a reasonable expectation that some amount of overrun was to be expected because the budget was based upon approximate quantities;
  - f. The lack of knowledge of the magnitude of the cost overruns as was alleged by one of the NEWTOWN participants;
  - g. The intended meaning of the statement as to “value” which appears on page #13 of the Report;
  - h. The award of contracts to Appliance Traders Limited;

In the interim, the OCG, as an Independent Commission, will stand fully and completely by its Report. As we have indicated in the Report itself and elsewhere, and as is the case with all other Reports, the OCG’s Report was based upon the investigations which it conducted and the information which was made available to it at the time that the Report was written. The Report, it should also be remembered, has been submitted subject to the Recommendations which are contained therein.

The fact that we have communicated our intention to develop the referenced Addendum is therefore not intended in any way to suggest that we have submitted an “incomplete Report”, as was inaccurately suggested by two (2) Government Members of the PAC during its Sitting of the 19th.

We would also like to categorically state that it should not suggest, either, that we are, at this time, aware of any compelling reason which would lead us to materially revise any of the Findings, Conclusions and/or Recommendations which are now outlined in the subject Report.

## **2. Answers to Questions Asked by Member Mr. Joseph Hibbert, M.P.**

During the Committee’s Sitting of the 19<sup>th</sup>, Member Mr. Joseph Hibbert raised a number of questions for the OCG’s response. We have reproduced, hereunder, the questions as we understood them together with our answers thereon. Please note that the OCG had requested from the UDC, all files which were related to the Project. In response to this request, 28 files were produced by the UDC, at its Offices, for inspection.

- (a) Question: Whether Site Diaries were requested or inspected by the OCG during the period of investigation?
  - Answer: All documents related to the Project were requested. Despite this, the Diaries were not produced.



(3)

(b) Question: Whether copies of the Payment Certificates were requested or inspected?

- Answer: All documents related to the Project were requested. Despite this, the Payment Certificates were not produced.

It should be noted that the OCG did specifically request statements of the Monthly Expenditures over the Project's duration. They were received in part.

(c) Question: What is the Contract start date and duration?

- Answer: The OCG's file documentation on this matter reveals that the Project/Construction was commenced on November 1, 2001 and was scheduled to be completed over a period of 24 months.

(d) Question: Were the 'As Built' Drawings inspected?

- Answer: No. The 'As Built' Drawings were not among the documents which were submitted by the UDC following after the OCG's request for all Project files to be provided.

### 3. Requests of the PAC - OCG Requisitions made of the UDC which have not been complied with

The captioned information was requested by the Committee.

As was previously advised, the OCG had asked the UDC to provide to it, for inspection, all files which were associated with the Sandals Whitehouse Hotel Project. This was never done. The objective was to secure an opportunity for the OCG to peruse all documents/information which were relevant to the Project's implementation and execution.

It must be noted that the OCG's very first written communication to the UDC, dated May 27, 2005, was addressed to its Chairman, Dr. Vin Lawrence, and to the attention of its General Manager, Ms. Marjorie Campbell. The letter expressly directed the attention of the UDC to the provisions of the Contractor General Act and to the authority of the Contractor General "to have access to all books, records, documents, etc. belonging to Government whether in the possession of any officer of a public body or a contractor or other person".

Upon the OCG's first visit to the UDC's Head Office on June 15, 2005, a number of files were presented. They were disjointed and disorganized. They lacked no particular or chronological order that would have facilitated the tracking of a logical development or sequence in the Project, its scope of work and its costs. The files contained very little information regarding increased project costs. No information was provided about the procurement procedures which were adopted for the project.

Upon the OCG's second visit to the UDC's Office on July 26, 2005, a total of 28 files, which were stored in carton boxes, were produced. These files were not properly organized, indexed, ordered or bound, thus making it possible for documents to be removed without any indication that they had been so removed. The OCG's inspectors formed the view that the files which were submitted for their examination were not comprehensive or complete in substance, or in content, nor were they representative of all of the Project's files.



(4)

The OCG marked certain files from among the 28 for copying by the UDC. However, when the copies were presented by the UDC, one week later, it was discovered that several marked files were not copied. The OCG had to review the files again to re-identify the missing documents for further copying, which was done.

During the course of the OCG's subsequent investigative activities, which included approx. 6 more visits to the UDC, certain written requests were made to the UDC to provide specific documents and pieces of information. On August 2, 2005, for example, a specific requisition for the following information was made in writing:

- (a) List of Sub-contractors
- (b) Sub-contractors scope of work
- (c) Subs. Contract sums (original and revised)
- (d) Method of selection of Subs.
- (e) Contract start date and end date
- (f) Revised start up and end date
- (g) Original budget/actual budget to date
- (h) List of consultants employed
- (i) Minutes of all site meetings
- (j) List of cheques disbursed on behalf of the project
- (k) Monthly expenditure for project duration
- (l) Original and revised cash flow

A repeated and follow-up request was made in writing on August 30, 2005, to the UDC's designated OCG Liaison Officer, Mr. Richard Clarke, with copy to the General Manager. Following this further request, all of the documents which are listed above were delivered to the OCG, on October 6, 2005, with the exception of the following:

- (a) Revised Sub-Contract Sums
- (b) Minutes of all Site Meetings
- (c) Original and Revised Cash Flow

Some of the provided information was, however, lacking in detail. In this regard, it is very important that we highlight the obstacles and the further difficulties which the OCG faced in obtaining, from the UDC, additional information about the Original Budget/Actual Budget to Date item.

The need for the OCG to secure detailed information about the Project's increased budget and costs was clearly evident. The matter was brought directly to the personal attention of the UDC Chairman and its General Manager twice between November 2005 and January 2006, after the ending of the monthly NCC/UDC Sector Committee Meetings. The matter was raised by one of the OCG's Senior Inspectors.

The verbal response which was received by the Senior Inspector was that the increase in the Project's costs was to be attributed primarily to the increase in steel prices and that relevant documentation would be forwarded to the OCG on the matter. Several follow-up telephone calls were made, by the Senior Inspector, during the period, to the UDC's General Manager.

However, none of the calls were returned. Eventually, on March 15, 2006, a 2-page, 5 paragraph extract which was taken from the New York Times Newspaper, dated April 13, 2005, with a UDC Complimentary Slip attached, and narrating the subject "Rising Steel Prices Changes in Construction Plan" was hand-delivered to the OCG.



(5)

There was no covering letter attached to this document nor was there any reference whatsoever to the subject matter of the Sandals Whitehouse Project. The OCG viewed the UDC's response as a further example of the contempt and lack of respect that the UDC held for the OCG and the discharge of its statutory mandate.

By no stretch of the imagination could a market fluctuation in the price of steel or a 2 page extract from the New York Times newspaper be seriously considered to qualify as a comprehensive explanation for the Sandals Whitehouse budget increase. Yet, that was the response which was given to the OCG by the Chairman and General Manager of the UDC and that was the response that the OCG was expected to accept.

With this, the OCG had to rely solely upon the Project's Quantity Surveyor to secure the relevant details which it had requested of the UDC. It should also be mentioned that the Monthly Expenditure for Project Duration data, which the OCG had specifically requested from the UDC, was also deemed to be incomplete.

As to the other outstanding items, namely the Site Meeting Minutes and the Revised Cash Flow, these were finally submitted to the OCG, under cover of letter which was dated July 24, 2006. However, this was done only after the OCG's Sandals Whitehouse Investigation Report was published in the media. To date, and despite a follow-up email to the UDC's OCG Liaison Officer, dated April 6, 2006, the UDC has still not completed its submission of the Sub-Contract Sums to the OCG.

On April 18, 2006, the OCG requested, in writing, the following particulars in respect of the 24 Consultants who were engaged on the project:

- (a) the scope of work undertaken by each consultant listed;
- (b) the date of the engagement of each consultant;
- (c) the original vs. the revised contract amount paid to each consultant; and
- (d) a statement as to the reason for any revised contract sum paid.

The requested information was submitted by the UDC, to the OCG, on May 24, 2006. However, there were noticeable and inexplicable voids in the information which was provided. For example, no information was provided for Art Inc. and there was no contract sum indicated for Charsal Marketing. Additionally, to date, no information has been provided by the UDC in respect of the Appliance Traders Limited contract/contracts.

One Government Member of the PAC, at the Sitting of the 19<sup>th</sup>, upon hearing evidence of some of the foregoing, expressed the opinion that the OCG had "*fallen down on the job*" in not asking again, or pressing further, for the subject information.

This very unfortunate and unfair statement, which attracted extensive media coverage, was as misguided as it was ill-informed. The real point to have been made was that the UDC, by failing to comply, in the first place, with the requisitions of the Contractor General, had, *prima facie*, committed a criminal offence under the very laws which have been promulgated by the Parliament of Jamaica.

However, the Member in question sought to ignore this patent fact.



(6)

Section 29 of the Contractor General Act provides as follows:

**"Every person who –**

- (a) *willfully makes any false statement to mislead or misleads or attempts to mislead a Contractor General or any other person in the execution of his functions under this Act; or*
- (b) *without lawful justification or excuse –*
  - (I) *obstructs, hinders or resists a Contractor General or any other person in the execution of his functions under this Act; or*
  - (II) **fails to comply with any lawful requirement of a Contractor General or any other person under this Act ...**

**shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.** (My emphasis).

The UDC's deliberate conduct in failing to provide the requested information to the OCG, despite several and repeated requests to do so, is not an isolated event. In point of fact, the records of past Annual Reports of the Contractor General will show that this sort of behavior is symptomatic of what has been a long standing and pervasive attitude among several Public Sector agencies. The problem is systemic.

It is vitally imperative, therefore, that Public Bodies and Public Officers are held to book. All State organs, inclusive of the Cabinet, the Government, Parliament and Parliamentarians, should publicly give unequivocal support to this endeavour.

Indeed, the time may have come when the full force of the law should be brought to bear upon delinquent Public Bodies and Public Officers who, with flagrant impunity, persist in ignoring the lawful requisitions of the Contractor General.

Very respectfully yours,

Greg Christie (Signed)

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Greg Christie  
Contractor General