



OMBUDSMAN FOR BERMUDA

December 13, 2013

TO ALL MEDIA

Hamilton, Bermuda: Further to her March 20 announcement of an own motion Systemic Investigation into the Corporation of Hamilton (“CoH”) in the public interest, this morning the Ombudsman for Bermuda, Arlene Brock, issued her report into governance generally at the CoH and the Waterfront Development in particular.

Ms. Brock said: “The Waterfront Development seems to illustrate the general allegations of poor governance. The report title: “4x6=262” refers to the fact that the Request for Proposal (“RFP”) to select a development partner for the Waterfront Development consisted entirely of a 4 inch by 6 inch advertisement. This ultimately led to the CoH and the chosen developer signing a 262 year ground lease.

Ms. Brock said: “The advertisement, 4” by 6”, constituted the entire RFP. There were no supporting specifications, guidance or other scope, parameters and documents that would typically accompany an RFP. The CoH’s decision not to follow their own Tendering and Quotes Policy, their failure to invite the technical staff to provide input into the RFP process as well as the absence of materials such as submission guidelines, evaluation criteria and parameters of the project created an environment for arbitrariness, non-transparency and abuse of power. Not only was the RFP advertisement wholly inadequate, but the submission process was unclear and the evaluation process was unfair. If one page of the report could capture the inadequacy of the RFP process it would be Appendix III.

Ms. Brock said “with respect to the RFP, the most problematic issue is that there is no credible evidence that all of the conditions that the CoH resolved should be fulfilled prior to entering into contracts were actually fulfilled. Further, the CoH’s own legal obligation to consult with an existing tenant prior to assigning rights to third parties was never complied with”.

Ms. Brock said: “If there were only three or four mishaps in governance or just a few technical gaps in the Waterfront Development process, then everyone would readily forgive normal human failings, ignorance, lapses and misconceptions. However, the maladministration that permeated the Outerbridge Administration – especially as reflected in the Waterfront Development – seem to have crept up at every corner in a dazzling, infinite, relentless variety and willfulness of ways.

With this RFP process the CoH effectively asked responders to enter a game in which not only were the rules of the game not explained to them, but the rules were not created until the game had already begun. In such circumstances, observers cannot help but suspect that the rules were being created to ensure that a certain participant wins. Transparency, accountability and fairness do not seem to be the CoH's strongest suits."

Prior to tabling this report, all persons about whom there were adverse or other comments were given the opportunity to view extracts related to them and to provide written feedback. They also had the due process opportunity to be heard in a meeting with the Ombudsman (and to be represented by a lawyer or other person) in accordance with s.17 of the Act. Eleven persons, of whom four were members of the CoH submitted written responses. Two persons, one of whom was a member of the CoH, requested oral hearings. Ms. Brock said: "most of the members of the CoH therefore waived their statutory opportunity to respond and to have their concerns about this report reflected (either as corrections or restatements)".

A limited number of copies of "4x6 = 262" can be obtained in the Office of the Ombudsman for Bermuda, 14 Dundonald St., Hamilton. The report is posted to www.ombudsman.bm.

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Editor's Notes:

- The Ombudsman for Bermuda is an independent Officer of the Constitution.
- Section 5(2)(b) of the *Ombudsman Act 2004* provides for the Ombudsman to conduct investigations on her "*own motion, notwithstanding that no complaint has been made to her, where she is satisfied that there are reasonable grounds to carry out an investigation in the public interest*".
- Systemic investigations are conducted in the public interest when issues are broad; affect many people; are highly sensitive; involve several Ministries; or are not conducive to simple or informal resolution.
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