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By Hand
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Dear Madam

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Land Title Registration Act 2011 ("the Act")

We refer to the letter dated the 20 November 2013 ("the Ministry's November Letter") relating to the Act that was directed to the Conveyancing Bar by Dr Derrick S. Binns on the behalf of the Ministry of Environment and Planning ("the Ministry") prior to the Cabinet reshuffle (a copy of which we attach for your ease of reference). We also refer to the correspondence that passed between the Ministry and members of the Conveyancing Bar during the course of 2013, (copies of which we also enclose) including:

(i) a letter dated the 18 January 2013 from Moniz & George to the Minister;

(ii) a letter dated the 25 February 2013 from the Minister to Moniz & George;

(iii) a letter dated the 2 April 2013 from Appleby to the Minister (inclusive of attachments) ("the Bar's April Letter");

(iv) a letter dated the 25 April 2013 from the Minister to Appleby ("the Ministry's April Letter"); and

(v) a letter dated the 31 May 2013 from Appleby to the Minister (inclusive of attachment) ("the Bar's May Letter").

You will note, on the basis of this correspondence that the Conveyancing Bar has identified three primary difficulties in respect of the Act (as currently drafted) namely, the fact that it incorporates an indicative, as opposed to a "fixed' or "legal" boundary system, the fact that it incorporates a potentially inequitable and unconstitutional title classification system and the fact that it incorporates guarantee (or indemnity) elements that are, based on the

surrounding facts, likely to expose Government and ultimately the public purse to unnecessary liability.

In addition to the attached correspondence, the Land Title Registry Office ("the LTRO") organized a presentation on the 18 September 2013, during which Mr Richard Fearnley of the UK Land Registry, being the individual whom we understand was responsible for drafting the Act, attempted to address our concerns. Regrettably, this presentation failed to do so and served instead to confirm one of the key points that had been raised in our previous correspondence, namely that the Act has clearly been drafted without fully taking into account Bermuda's existing legislation, its unique land law system and the liability and risk issues that affect day to day land related transactions.

The Act has also been drafted without meaningful consultation with members of the Conveyancing Bar and by implication, without the benefit of local practice experience. This approach was of course, entirely consistent with the prior Government's publicly stated approach in respect of legislative and policy reform involving land, which was to generally avoid engaging in such consultation with our members. Additionally, the Act has been drafted without meaningful consultation with other key stakeholders, such as surveyors. Assuming that the Act is implemented in its present form, it will therefore, necessarily have a destabilizing effect on the Bermuda's property market, which of course, is already suffering from any number of challenges.

Since the Act is on the basis of the above, necessarily ill-considered and since it fails to satisfy its key objectives (as expressed in section 2 thereof), the ideal approach at this juncture would be to step back and to consider other registration options, such as the deeds registration system that was described in our letter dated 1st August, 2001 (see item "i" of the Bar's April Letter). Such an option would (for example) cause the complicated guarantee and risk issues that currently affect the Act to completely fall away. However, if the prospect of exploring other options is not viable at this stage, then the primary difficulties associated with the Act ought, at a minimum, to be addressed without delay in order to avoid doing both local landowners and taxpayers a huge disservice.

Please find below our response to the Ministry's November Letter (adopting the headings that are specified therein).

(A) <u>The Definitive Boundary/Indicative Boundary Issue</u>

(a) Sadly, item 1 [A] of the Ministry's November Letter (see page 2 thereof) simply reiterates the conclusion that was reached in the Ministry's previous correspondence, namely that a registration system that is based on fixed or legal boundaries is "inappropriate for Bermuda". Interestingly however, the Ministry's

November Letter also concludes that a fixed boundary system would, notwithstanding Bermuda's "mature state of development" and notwithstanding the precise surveying and land defining information that is currently available, somehow serve to replace the existing system with a "newly minted, system of fixed boundaries." It also concludes that the related process would somehow be unwelcome to landowners because it would necessitate "the imposition on landowners of a Government controlled authority empowered to fix the position of their legal boundaries and take away from them the role that they themselves currently have."

Needless to say, the Conveyancing Bar disagrees with the above mentioned conclusions. Our position is that the implementation of a system of fixed boundaries that is wholly consistent with existing legislation and gives full and proper legal effect to existing surveying and title related information, would not constitute a "newly minted system," at all, but rather a logical progression, or evolutionary step in respect of the current system. While we acknowledge that the introduction of a system of fixed boundaries would be likely to necessitate additional surveying requirements, objection procedures that are more complex than those that are currently included in the Act (and the rules), and the introduction of an equitable title classification system that includes a comprehensive and fair appeals procedure, the end result would be far superior and wholly consistent with local expectations. This is because both a landowner's title and the extent of his land would come to be definitively confirmed and permanently protected upon the grant of a classification result. The crystalization of both "title and extent" in this manner would be warmly welcomed by Bermuda landowners, especially if it is buttressed by a Government guarantee. Landowners would, upon receiving a positive classification result, no longer need to be concerned about having their boundaries confirmed and re-confirmed on a transaction by transaction basis (as is the currently the practice), or otherwise determined by the Courts. A system that affords a definitive result would ultimately provide both landowners and taxpayers with maximum value for money.

The fact of the matter is that unlike the landowners who are described in the quote from the 1862 Royal Commission Report that is referenced in the Ministry's November Letter (see paragraph 3 on page 2), most local landowners are already extremely focused on their boundary lines and lot sizes and they are also concerned about protecting them. This is because of the relative scarcity of land in Bermuda, and also because of the long standing development and planning, corporate land holding, immigration and other laws, rules and regulations that hinge on both "title and extent." Local landowners are for example, already acutely aware that most Government land related applications, as well as most private land

driven transactions and land valuation steps require that both title and extent be confirmed in as exact terms as possible.

By virtue of the locally crafted bespoke laws, rules, regulations and procedures that have helped shape our system during the course of the last four centuries, Bermuda's system has come to possess extremely unique characteristics. Accordingly, comparing our system to the unregistered system that existed in England and Wales at the time when the UK Land Registry Act 1862 was implemented ("the 1862 UK System"), is both illogical and extremely unhelpful, especially within the context of attempting to justify the implementation of an indicative boundary system here.

The 1862 UK System is likely to have failed because it was inconsistent with conveyancing and surveying practices, as well as market expectations in England and Wales at that time (as indicated in the said quote). Further, it is our understanding that the 1862 UK System was not, like Bermuda's current system, based on precise property descriptions and precise survey plans specifying finite metes, bounds and lot sizes, nor, by implication, did the 1862 UK System include long established development control, subdivision, land holding and land valuation elements that hinged on this information. In other words, a fixed boundary system is likely to have failed within the context of the 1862 UK System on the basis of being inappropriate, in the same manner as an indicative boundary system is likely to fail in Bermuda for the same reason.

(b) We have distilled below, for ease of reference, the points that appear on page 3 of the Ministry's November Letter, as well as the points that appear in the Ministry's April Letter relating to the indicative/fixed boundary issue.

(i) **"The boundaries shown on the LTRIM for each registered parcel will be the most accurately plotted boundaries with the most up to date survey information yet known to Bermuda. The boundaries will be as exact as humanly and technologically possible. The area of the parcel will be shown on the register in square metres to at least two decimal places and the legal description will also be reflected on the Register."**

(ii) the LTRO's register will, owing to the fact that it incorporates historical surveying and title information submitted upon first registration, be **"precisely as accurate"** as the current system.

(iii) **"Once a parcel of land is registered, there will be no ongoing survey expenses for the land owner unless they wish to subdivide their parcel."** Further **"If an owner of a registered estate wishes to sell or mortgage the property all the relevant information will be on the register and LTRIM with no further expense in any of the potential actions above."**

(iv) **"All the relevant statutory requirements ..... will not just be satisfied by the information and accuracy of the LTRIM, but wholly exceeded."**

(v) The LTRIM will not **"define fixed or legal boundaries"** and will only show their **"general extent subject to the indicative boundaries principle."**

(vi) **"Where absolute title is granted, the class of title will extend to all of the land that is actually in the title as it is registered,"** but only to the extent that this may be supported **"through obtaining a decision of the Courts."** Therefore, in order to establish precise legal boundaries, a landowner will need to do this **"in the same way as he would under the under the unregistered system"**, namely on the basis of historical tile information enforced by Court action.

(vii) Indicative boundaries will be **"sufficiently accurate for most purposes"** in Bermuda.

As a preliminary matter, notwithstanding the LTRIM's revolutionary plotting accuracy as described in point (i) above and notwithstanding the fact that the information that will be available on its register will incorporate and carry forward historical title and surveying related information as described in point (ii) above, the fact that Court action will be required in order to determine the "fixed" or "legal" boundaries of a registered parcel (as per point (vi) above), will place a registered owner in a position that is no better in this regard, than the owner of an unregistered parcel. This is extremely unfortunate given the registration fees (as calculated at the proposed rate of .1% of value, or $1,000.00 per $1,000,000.00 of value) and other costs that the registered landowner will have incurred, in particular the costs that he will have incurred in respect of having his property professionally valued for registration purposes.

Further while it has been argued that the LTRO's register will, owing to the fact that it incorporates surveying and title information submitted upon first registration, be "precisely as accurate" as the current system and offer a result that is no less

definitive than a result that is available under the current system (see point (ii) above), this reasoning is incorrect. This is because a title opinion given to landowner under the current system focuses primarily on both title and extent, with one of the main objectives being to confirm, on the basis of information contained in his title deeds and also on the basis of available surveying information, whether or not he holds title to his entire parcel of land (as shown on his most recent deed plan). The resulting opinion conclusion is then offered within the context of whether or not it is likely to be upheld by the Courts in the event that the status of the landowner's boundary lines are subsequently challenged (the "Court Upholdable Standard"). Both the law firm in question and the surveying firm then effectively guarantee this position.

In contrast the LTRO's register will always be limited, on the basis of sections 15(4)(b) and 17 of the Act, by the indicative boundary principle. This principle will necessarily prevent Government's title guarantee from "extending to all of the land that is actually in the title as it is registered" (as confirmed in point (vi) above) and covering the full extent of a registered parcel. The overall value of Government's guarantee will be limited to general location. For this reason neither the LTRO's register (inclusive of any supporting information), or any certification that the LTRO may be inclined to offer from time to time, will be capable of being sensibly relied upon for the purpose of confirming title to a registered parcel of land in its entirety. A registered landowner will always need to engage a private law firm and in all likelihood a private surveying firm, for the purpose of confirming title to the full extent of his land (to a Court Upholdable Standard). He will also be required to pay all of the costs associated with the related due diligence process. It follows that the statements that are included in point (iii) above are false.

So, focusing on the running example that has been adopted in previous correspondence, where might Mr Smith find himself on the basis of the above (especially within the context of his substantial retaining wall), assuming:

- that he has been compelled, by virtue of having completed a legal mortgage, to spend thousands of dollars registering his land;
- that his land has been granted an absolute title designation;
- that his land was, for registration purposes valued at say $1,000,000.00; and
- that his retaining wall accounts for a rather significant say $250,000.00 portion of his property's total value, which could very easily be the case?

Once again if the registration fee is charged at .1% of his land's value, Mr Smith would have paid a $1,000.00 registration fee upon completing the registration step, as well as all related land valuation and other associated costs. Since these associated costs could have easily amounted to $2,000.00, his overall registration related costs could have reached $3,000.00.

If for example, Mr. Smith chooses (post registration) to sell his registered parcel to Mr. Jones, who in turn requires a mortgage loan for this purpose, both Mr. Jones and his intended mortgagee would be likely to be concerned about having title to the land upon which the retaining wall has been erected (meaning Mr. Smith's legal boundaries in this area), confirmed to the full extent possible, namely to a Court Upholdable Standard. Since the LTRO's register would not, by virtue of the indicative boundary principle, be capable of being relied upon for this purpose, Mr. Jones and/or his mortgagee would, at great expense, need to instruct a private law firm to investigate and opine upon title to this area. The fact that the information that appears on the LTRO's register may be supported by Mr. Smith's historical surveying and title related information, would not (as stated above) add any value to this procedure. This is because section 17 of the Act would effectively preclude Mr Jones (and his mortgagee) from receiving the benefit of a Government guarantee in respect of the subject area, in the event that they were inclined to rely (only) on the information filed at the LTRO. Further, by virtue of the "buyer beware" based liability structure that is already well enshrined in Bermuda's existing conveyancing system, it would be extremely unwise for Mr. Jones and/or his mortgagee to assume that the attorneys and surveyors who were responsible for producing Mr. Smith's historical title related documentation, in the form in which it has been filed at the LTRO, would somehow be liable to them in respect of any errors or omissions that may negatively affect this information.

In the event that the resulting private opinion is found to be acceptable, the transaction may well complete, but at an unreasonable overall cost level, especially taking into account the costs that would already have been incurred by Mr Smith in respect of the registration step. In the event that the opinion is found to be unacceptable and the purchase is aborted, the financial downside would be more dire. Mr Jones would in this instance be out of pocket in respect of his opinion related expenses, without having received any tangible benefit; meanwhile Mr Smith would have lost out on his sale proceeds and would no doubt find himself pondering whether or not the land registration step had afforded him any practical value. In either such event, the indicative boundary principle would have failed to offer much practical transactional value to the parties over and above that which would have been offered under the unregistered system (notwithstanding the additional cost outlay). Further, neither result would have been consistent with the

Act's key objectives, namely "providing certainty in ownership of registered land;"..."simplifying proof of ownership of registered land;" and facilitating "the economic and efficient execution of transactions affecting registered land."

Given Bermuda's terrain and development density, the reality is that there are numerous instances where structural features situated very close to boundary lines materially affect both the market value and the use value of parcels of land. These structures, include (in addition to retaining walls), tanks, cesspits, parking facilities and even structural load bearing walls that support buildings. In some instances a single parcel of land may include a number of these structures. Therefore, purchasers of such parcels and their mortgagees, are necessarily compelled to focus on both title and extent within the context of ensuring that their legal boundaries include these structures. Relying on the indicative boundary principle in such instances and ultimately a Government title guarantee that is limited to "general extent," as per the position expressed in point (v) above, would indeed by foolhardy.

The stakes would obviously be much higher in respect of major commercial, residential and hotel development sites, where structural walls are often situated very close to boundary lines and these walls support multi-million dollar buildings. In such instances the property value element could easily exceed $100,000,000.00, which would translate into a $100,000.00 registration fee. The landowner would also likely incur higher land valuation and other ancillary costs. Once again a purchaser or mortgagee of such a site (post registration) would necessary require that both title and extent (or legal boundaries) be confirmed to a Court Upholdable Standard and unfortunately, the cost associated with the resulting privately procured due diligence work would be expensive. Ultimately, the transaction would, like the transaction involving Mr Smith and Mr Jones, be characterized by the same unreasonable and inflated cost implications, but at a greatly elevated level. It is difficult to conceive of how such a result could be considered helpful by the foreign developers and investors whom Government is seeking to attract.

As stated in the Bar's April Letter, (see item 2. [A]), establishing fixed or legal boundaries to a Court Upholdable Standard is also crucial within the context of development activity. In this regard if Mr. Smith wished (for example) to effect an extension to his home, he would be required on the basis of section 16(2)(a) of the Development and Planning Act 1974 ("the Planning Act") to provide the Development Applications Board ("the Board") with a certificate stating in respect of his land, that he is the fee simple owner of "every part" thereof, being a requirement that clearly extends to both title and extent.

If Mr. Smith does not hold title to a "subdivided" parcel of land within meaning of Section 35 of the Planning Act, a further certificate would normally be required for the purpose of confirming that he holds title to an "existing lot" (as defined in Section 41 of the Planning Act) instead. Further the "minimum setback", "maximum site coverage," "maximum density," "minimum lot size" and other requirements imposed by section 7 of the current 2008 Planning Statement (which is made in accordance with the provisions of Part III of the Planning Act), would necessarily affect the development process and require boundary and lot size title confirmations to be provided to a Court Upholdable Standard.

The above mentioned development requirements, which have (historically) been fulfilled on the basis of up to date certification documentation provided by private law firms and private surveying firms, could not be properly fulfilled on the basis of information tendered on an indicative basis by the LTRO and ultimately on the basis of a Government title guarantee that is limited to general location. Accordingly, Mr. Smith would be required to procure private certifications in order to fully and properly comply with the Planning Act. While the Ministry has stated that the LTRIM will "exceed" all relevant statutory requirements and eliminate all ongoing surveying and legal expenses (see points (iii) and (iv) above), this will not in fact be the case.

Further even if members the Department of Planning are "delighted with the power and accuracy of the LTRIM" and keen to rely on information from the LTRO, as soon as same is available, this approach is likely to present difficulties because of indicative boundary limitations. In this regard in the absence of private up to date legal and surveying certification provided to a Court Upholdable Standard, the Planning Department could find itself in an extremely challenging position insofar as development related objections and appeals (commenced pursuant to Part IX of the Planning Act) are concerned.

Similar challenges are likely to apply within the context of adjudication applications that are submitted to the Tax Commissioner's Office pursuant to Section 22 of the Stamp Duties Act 1976 (as amended). In this regard if such applications are based exclusively on information obtained from the LTRO and they subsequently come to form the subject matter of a Supreme Court appeal, pursuant to Section 23 of this Act, the indicative status of the LTRO's information is likely to place government in a very interesting position during the resulting Court proceedings.

In terms of other key legislation, if, as stated in the Bar's April Letter, a corporate developer were to contract to purchase Mr Smith's land, it would, for the purpose of its land holding sanction and ultimately for the purpose of its memorandum of

association, need to have the full extent of his land confirmed with the greatest level of accuracy and to a Court Upholdable Standard (on the basis of privately procured legal and surveying confirmations). Effectively, Sections 7(1) and 120(1) of the Companies Act 1981 operate to establish legal requirements in this regard. Similar legal and surveying confirmations would apply in respect of a purchase by a restricted person. In this regard sections 84, 89, 98 and 102 of the Bermuda Immigration and Protection Act 1956 (as amended), together with the standard licence application forms that are required to be certified when submitting an application for a land licence in accordance with this Act, establish these requirements.

As stated in the Bar's April letter, the Act effectively ignores the above-mentioned legislative requirements and procedures, which means that it is necessarily ill-considered. Further, the combination of the indicative boundary principle coupled with the prospect of a limited Government guarantee, will not be sufficient for most practical purposes (as suggested in point (vii) above). The commencement of the Act (as drafted) will effectively create a duel and inefficient conveyancing system, whereby landowners will be forced to rely on LTRO certification for the purpose of showing the general location of their properties (only), while still having to procure private legal and surveying certification documentation for the purpose of confirming the actual extent of their land to a Court Upholdable Standard.

(B) Classes of Title – Absolute Title and Provisional Title

As stated in the Bar's May Letter, our main concerns in respect of the title classification process are as follows:

(i) the language that is included in section 28 of the Act is not capable of being construed in a manner that places the Registrar under a direct obligation to accept input from any other person before making a title classification determination and further, the loosely drafted language contained in this section, which the Ministry has chosen to cite for the purpose of mitigation or balancing analysis in earlier correspondence, fails to accomplish this objective;

(ii) the fact that the Act fails to incorporate a fair and equitable appeals procedure that allows the Registrar's sole classification determination to be challenged, (in a manner that is consistent with other comparable pieces of legislation that affect land values), is likely to cause section 28 to be rendered unconstitutional by the Courts;

(iii) since a successful judicial review application would simply operate to refer a challenged classification result back to the Registrar for reconsideration, (as confirmed during the meeting on the 18th September and in the Bar's May Letter), this remedy will not address the constitutional difficulties that are likely to affect section 28; and

(iv) since the Act does not provide that a maladministration finding issued by the Ombudsman is capable of reversing a negative classification result, this remedy would also prove to be of very limited value.

Given that item 2 [B] of the Ministry's November Letter states that the language contained in section 28(3) is "unexceptionable" within the context of the level of discretion that it confers upon the Registrar, we would appreciate being directed to any local legislation that enables either a Minister, or any Government body, to unilaterally reduce the value of an individual's land in the absence of a fair and equitable appeals procedure, especially in circumstances where the individual is compelled by law to submit the relevant application in the manner prescribed in the Act.

We have reached the conclusion that section 28 is likely to be rendered unconstitutional by the Courts, because this section enables the Registrar to unilaterally and with the stroke of a pen, materially reduce the value of an applicant's land upon granting a provisional title designation, in the absence of a fair and equitable appeals procedure. We take the view that this result is contrary to section 1(c) of Schedule 2 to the Bermuda Constitution Order 1968. One need look no further than section 13 of the same Schedule to support this reasoning. In this regard section 13 highlights the importance of including an appeals procedure in any compulsory acquisition step, which of course is analogous.

On a different note, upon receiving the Ministry's November Letter we were pleased to note, at long last, its tacit acknowledgement that the Act will not place individual law firms under an obligation to provide the LTRO with certificates of title when assisting clients with registration applications, as expressly argued in the Ministry's April Letter. This of course means that an individual law firm cannot be compelled to assume liability for "any error or omission" arising from such certification for "a period of six years, in line with the statutory limitation period," which was also argued in the Ministry's April Letter.

(C) Guarantees – Government Liability

While it may, as indicated in the Ministry's November Letter, have been perfectly reasonable for the land title registration system to have operated on the basis of receiving title certificates from individual law firms upon each initial registration, had such an approach been formulated through meaningful consultation with law firms, as well as with their individual insurers and other stakeholders, the fact that the Ministry saw fit to ignore this step has served to greatly diminish this possibility. Unfortunately, since the resulting risk and liability issues have not been addressed in the Act, law firms are unlikely to cooperate with Government in this regard. Further, even if some firms are inclined to do so and to assume (inter-alia) six years of liability to Government, their insurers are less likely to be accommodating.

While we agree (as indicated in the Ministry's November Letter), that title certification difficulties are indeed likely to "require the LTRO to duplicate internally the same process that has already been carried out externally," and that this result will necessarily lead to "built in inefficiency," the reality is that such difficulties could have been avoided through meaningful consultation with us before the Act was passed. Further, in addition to introducing built in inefficiency, an internal review process carried out by persons not possessing local practice experience, namely the LTRO's current team, as well as the six additional foreign applicants intended to be recruited for this purpose (as confirmed during the September meeting), will compound the liability issues associated with the grant of the Government title guarantees (as explained in both the Bar's April Letter and the Bar's May Letter). Once again the resulting liability is likely to negatively impact the public purse (or taxpayers).

The comments contained in the Ministry's November Letter relating to the title opinions (or certificates) that are currently issued illustrate a disturbing absence of understanding. In this regard the key point that appears to have been missed is that the liability or risk that is assumed by an individual law firm in any given transaction is linked directly to the value of that transaction. The Bar Scale Fees and other fees that are charged are therefore, largely risk based. The voluntary conveyance example that was included in the Bar's May Letter was intended to illustrate this point. In this regard, while a basic voluntary conveyance (attracting a $1,500.00 Bar Scale Fee) would not normally involve pecuniary consideration, or the issuance of a formal title certificate, if an ensuing registration step were to trigger the need for a formal title certificate, this requirement would materially alter the level of risk that the law firm would assume. This is because the certificate would need to cover the property's full market value . This in turn would justify

charging a higher fee based on the increased risk value. Thus, rather than calculating a legal fee by reference to paragraph 7 of the Bar Scale (being the $1,500.00 voluntary conveyance rate), the fee would be likely to be calculated by reference to paragraph 1 of the Bar Scale. If one assumes a $1,000,000.00 market value in this context than the $8,000.00 fee level that was mentioned in the Bar's May Letter would be appropriate.

Since day to day land transactions vary in nature, value and risk, fee considerations are not simply characterized in terms of either "examination of title" situations, or "non-examination of title" situations, as the Ministry's November Letter seems to assume. In this regard and by way of further example, if Mr Smith decided to execute a legal mortgage in respect of his property in the sum of $300,000.00, under the current system, the law firm acting for his mortgagee would need to examine title and to provide the mortgagee with a formal title certificate as a matter of course. The law firm would then assume liability to the mortgagee at this level and charge a Bar Scale fee that is calculated by reference to the $300,000.00 secured (being about $4,000.00.). If however, the mortgage triggers a first registration step, any resulting title certificate would need to be altered or re-evaluated to cover the total value of Mr Smith's property, namely $1,000,000.00. While the $4,000.00 fee level would not be appropriate for this result, the $8,000.00 fee level would (in the same manner as it would within the context of the voluntary conveyance example above).

(D) General

It is apparent on the basis of the Ministry's November Letter that its consultation with members of the Conveyancing Bar prior to putting the Act to Parliament, was limited to receiving verbal drafting input on an informal basis (only) from Harry Kessaram, circulating a draft of the bill on the 16 May 2011 and receiving a limited number of e-mail comments from Neil Molyneux (which we understand were relatively immaterial within a drafting context).

The above-mentioned acknowledgement is wholly inconsistent with the comments that appeared in the Ministry's April Letter, which included the following:

"From the time the LTRO was established in 2007, we have been in regular contact with numerous members of the Conveyancing Bar, right up to and beyond the debate in Parliament which resulted in the LTR Act. These attorneys have been material in framing policy and instrumental in many resulting sections of the Act. These attorneys include the Chairman of the Conveyancing Bar in 2007, who was most helpful in the initial stages of

the policy proposals and indeed throughout the whole drafting process right up to the debate in Parliament."....."We re-iterate that the Conveyancing Bar was consulted on numerous occasions, and very many of its number have contributed to the policy decisions and to the drafting of the Act. There is no question of being sidelined"....."We have details of input from numerous Attorneys, minutes of meetings and records of e-mails we could produce in support of this."

Given this disturbing level of inconsistency, we would appreciate receiving further clarification.

Notwithstanding the above, we remain optimistic that having now assumed responsibility for the LTRO, you will see fit to meet with us and to engage in meaningful discussions with a view to addressing the Act's deficiencies. In this regard please feel free to contact Mr E Scott Swainson at 298-3247 (direct line).

Yours faithfully

Appleby (Bermuda) Limited

Appleby (Bermuda) Limited

Encs

cc: The Hon. Mark Pettingill, JP, MP - Attorney General and Minister of Legal Affairs
Dr. The Hon. E. Grant Gibbons, JP, MP - Minister of Education and Economic Development
The Hon. Craig Cannonier, JP, MP - The Premier
Senator The Hon. Michael Fahy, JP - Minister of Home Affairs
Mr Shawn A McKee – President of the Bermuda Surveyor's Association
Mr Ian Truran – Chairman of the Bermuda Bankers Association