

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 320 OF 2011

BETWEEN:-

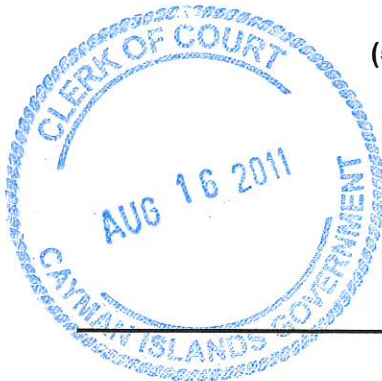
(1) ROBERT ASPINALL
(2) HALCYON PROPERTIES LIMITED
(3) MICHAEL JOSEPH
(4) DAMON AND NADIA HARDIE
(5) PROPRIETORS OF STRATA PLAN #582

PLAINTIFFS

-and-

(1) DENNY'S LIMITED
(2) DAVID ALLEN BODDEN

DEFENDANTS



ORIGINATING SUMMONS

LET THE PARTIES attend before a Judge in Chambers at the Law Courts, George Town, Grand Cayman on the day of 2011 at on the hearing of an application by the Plaintiffs for the following orders:-

1. Pursuant to Order 94, Rule 4, of the Grand Court Rules and Section 9 of the Strata Titles Registration Law (2005 Revision), Charterland Limited of P.O. Box 30612, Seven Mile Beach, Grand Cayman KY1-1203, be appointed Administrator of the Proprietors of Strata Plan 548, also known as "The Point" at Paradise Cove, Registration Section Prospect, Bock 22D, Parcel 317 ("the Strata");
2. The appointment of the Administrator be for an initial fixed period of 12 months from the date of this order;

3. The remuneration and expenses of the Administrator shall be an administrative expense, being paid collectively by the proprietors of the Strata;
4. The Administrator shall, to the exclusion of the Strata for 12 months following the date of this order, have the duties and powers of the Strata, exercising such duties and powers as deemed necessary, to the benefit of the Strata's proprietors and its common property;
5. The Administrator may, if considered necessary and for the benefit of the Strata's proprietors and its common property, amend the Strata's by-laws;
6. The Plaintiffs' costs of and occasioned by this application shall be paid by the Defendant, to be taxed if not agreed; and
7. Such further or other relief that this Honourable Court may deem appropriate.

AND TAKE FURTHER NOTICE that the grounds of this application are:-

1. The First, Second, Third and Fourth Plaintiffs are registered proprietors of property built within the Strata, whose respective ownership of property is as follows:-

Name of Owner	Description of Units
Robert Aspinall	Unit 8, Registration Section Prospect, Block 22D, Parcels 317H4H3 and 317H4H4.
Halcyon Properties Ltd	Unit 11, Registration Section Prospect, Block 22D, Parcels 317H6H1 and 317H6H2.
Michael Joseph	Unit 12, Registration Section Prospect, Block 22D, Parcels 317H6H3 and 317H6H4.

Damon & Nadia Hardie Unit 17, Registration Section Prospect, Block 22D,
Parcels 317H9H1 and 317H9H2.

2. The Fifth Plaintiff, as defined by its by-laws, is the registered proprietor of a subdivision of strata lots and the common property within the Strata, more particularly Registration Section Prospect, Block 22D, Parcels 317H6H1, 317H6H2, 317H6H3 and 317H6H4, also known as units 11 and 12 of "The Point" at Paradise Cove.
3. The First Defendant, is and was at all material times, an active company incorporated within the laws of the Cayman Islands, company registration number 111818, who was, and continues to be, the developer of property within the Strata and, pursuant to Clauses 2.1, 4.2 and 6.13 of the Strata by-laws, is the only entity entitled to call general meetings of the Strata or meetings of the executive committee.
4. The Second Defendant is and was at all material times a director, officer, agent and/or designee of the First Defendant. The Second Defendant has executed various documents throughout the history of this matter both as a director, officer, agent and/or designee of the First Defendant and in his own personal capacity.
5. The Defendants have failed (*inter alia*) to:
 - a. Produce financial statements at the Strata AGM held on 25 November 2010 ("the AGM") for consideration by the proprietors;
 - b. Report to proprietors at the AGM concerning their activities for and on behalf of the executive committee;
 - c. Keep books of accounts or records for inspection by Strata proprietors;
 - d. Prepare an annual budget for presentation to the proprietors at the AGM;

- e. Establish a bank account for the Strata's finances;
- f. Assess and collect from proprietors any strata fees to meet common expenses;
- g. Arrange insurance cover for the Strata;
- h. Enter into and continue maintenance and service contracts for the Strata's common property;
- i. Provide any information, records or other documentation concerning the operation and management of the Strata corporation;
- j. Respond substantively to communications from executive committee members concerning the management of the Strata;
- k. Keep the Strata's proprietors informed of developments regarding neighbouring land;
- l. Install an appropriate sign at the entrance to the Strata development;
- m. Install gates at the entrance to the Strata development;
- n. Complete the Strata's common property landscaping works;
- o. Install adequate and serviceable road lighting throughout the Strata's development; or
- p. Comply with their obligations under the Settlement Agreement dated 23 June 2010.

6. As a result of the Defendants' failure to take any of the aforementioned steps, the Plaintiffs are unable to co-ordinate the management, duties, control and powers of the Strata executive committee required to efficiently and effectively manage the physical and administrative matters relating to the day to day operation of the Strata.


7. In an attempt to compel the Defendants to comply with their obligations as both the developer and chairman of the Strata, the Plaintiffs initiated proceedings against the Defendants in a separate action under Cause Number of 247 of 2009.
8. On 23 June 2010 the respective parties in Cause Number 247 of 2009 entered into a Deed of Settlement and Release ("the Settlement Deed") where the Defendants agreed (*inter alia*) to fulfil and complete numerous acts and duties to the benefit of the Strata as a whole, as contained and referred within the Settlement Deed. Regrettably, the Defendants have failed to fulfil their obligations and remain in breach of the terms of the Deed of Settlement.
9. Since November 2010 the Plaintiffs have attempted to encourage the Defendants to convene a meeting of the Strata's executive committee so that the Strata's outstanding issues (including those listed in paragraph 5 above) might be addressed. The Defendants have been contacted personally in writing by the Plaintiffs on 22 December 2010, 26 January 2011, 8, 14, 23 & 28 February 2011. To date no substantive response has been received from the Defendants.
10. On 19 May 2011 and 26 July 2011, the Defendants were contacted by Appleby on behalf of the Plaintiffs, again reminding the Defendants of the outstanding issues and requested that the Defendants do call a meeting. No response has been received from the Defendants.
11. As a result of the Defendants' failure to discharge their duties, as developer of the Strata property and chairman of the executive committee, to manage the Strata properly or at all, the Plaintiffs seek the appointment of Charterland Limited of P.O. Box 30612, Seven Mile Beach, Grand Cayman KY1-1203, as

Administrator of the Strata pursuant to Order 94, Rule 4, of the Grand Court Rules and Section 9 of the Strata Titles Registration Law (2005 Revision), enabling the Strata's day to day interests to be managed for the benefit and interest of all proprietors.

12. In all the circumstances, the Defendants' conduct is unreasonable and contrary to the best interests of the Strata. As such the Plaintiffs are entitled to the relief sought.

AND LET THE DEFENDANTS within 14 days after service of this Summons on them, counting the day of service, return the accompanying Acknowledgement of Service to the Court's office.

Dated this 16th day of August 2011



Ogier
Attorneys for the Plaintiffs

To: The Clerk of the Court
And to: Denny's Ltd
And to : David Allen Bodden
Time estimate: The estimated length of the hearing of this Summons is 1 hour.

NOTES ON ADDRESS FOR SERVICE

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Endorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

**Ogier, (Ref:CRU/BJH/423845.00001)
89 Nexus Way
Camana Bay
Grand Cayman KY1-9007
Cayman Islands**

**Tel: 815 1899
Fax: 949 9877**

Endorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

NOTES:-

- (1) This Summons may not be served later 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with above date unless renewed by order of the Court.
- (2) If a defendant does not attend personally or by his attorney at the time and place above-mentioned such order will be made as the Court may think just and expedient.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form.

This Originating Summons is filed by Ogier, Attorneys-at-Law for the Plaintiffs, whose address for service is 89 Nexus Way, Camana Bay, Grand Cayman KY1-9007, Cayman islands (Reference: CRU/BJH/423845.00001)

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CAUSE NO. OF 2011

BETWEEN:-

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(2) HALCYON PROPERTIES LIMITED
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PLAINTIFFS

-and-

(1) DENNY'S LIMITED
(2) DAVID ALLEN BODDEN

DEFENDANTS

**ACKNOWLEDGEMENT OF SERVICE
OF ORIGINATING SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

1. State the full name of the Defendant by whom or on whose behalf the service of the Originating Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in the proceedings (*tick appropriate box*)

[] yes

[] no

Service of the Acknowledging Summons is acknowledged accordingly

(Signed).....

Address for service:

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING SUMMONS

The accompanying form of Acknowledgement of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person. After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them as far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgement of service.
3. For the purposes of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
4. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Originating Summons)".
5. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner" in the firm of (.....)" after his name.
6. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
7. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his behalf.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office