

Gt 426/2011

**CAYMAN ISLANDS
IN THE GRAND COURT**

IN THE MATTER OF THE ROADS LAW (2005 REVISION)

AND

IN THE MATTER OF THE LAND ACQUISITION LAW

IN THE MATTER OF A COMPENSATION CLAIM BY:

**ABSHIRE BODDEN and the Executors of the Estate of HAROLD
BODDEN, being GENE THOMPSON and ALFONZO WRIGHT:
Block 28C, Parcel 1**

**The Executors of the Estate of HAROLD BODDEN, being
GENE THOMPSON and ALFONZO WRIGHT: Block 28C,
Parcel 178**



BETWEEN

**THE NATIONAL ROADS' AUTHORITY
ACTING BY THE DIRECTOR OF LANDS
AND SURVEY**

AND

APPELLANT/RESPONDENT

**ABSHIRE BODDEN and the Executors of the Estate of HAROLD
BODDEN, being GENE THOMPSON and ALFONZO WRIGHT:
Block 28C, Parcel 1**

RESPONDENT/CLAIMANT

NOTICE OF APPEAL

TAKE NOTICE that the Grand Court will be moved so soon as Counsel can be heard on behalf of the above-named Appellant/Respondent on Appeal from the whole of the Order herein of the Roads Assessment Committee given at the hearing of the claim for compensation of the Respondent/Claimant herein on the 29th day of September 2011.

And further **TAKE NOTICE** that the grounds of this Appeal are:

1. Pursuant to paragraph 8 (1) (a) of schedule 2 of the Roads Law(2005 Revisions), the Appellant contends that the Roads Assessment Committee determined wrongly the extent of the interest of the Claimants in parcel 28C1 by deciding that there was a prescriptive easement benefiting the said parcel 28C1.
2. Further or alternatively, the Appellant contends pursuant to paragraph 8 (1) (b) of Schedule 2 of the Roads Law (2005 Revision) that the Roads Assessment Committee erred in law in deciding that there was a prescriptive easement benefiting the said parcel 28C1.
3. The Appellant contends pursuant to paragraph 8 (1) (b) of Schedule 2 of the Roads Law (2005 Revision) that the Roads Assessment Committee erred in law in deciding that the planning permission for low-density residential development would have been granted assuming that (i) the access to such development would have been over the land alleged to be the subject of the aforementioned easement and (ii) a second access was not required.

4. Further or alternatively, the Appellant contends pursuant to paragraph 8 (1) (b) of Schedule 2 of the Roads Law (2005 Revision) that, by reason of the aforementioned errors the Roads Assessment Committee erred in law in deciding that the land which was compulsorily acquired and the parts of parcel 28C1 which were retained should be valued (i)as though satisfactory access was available and (ii) as though planning permission for residential development would have been granted with access by means of the alleged easement.
5. The Appellant contends pursuant to paragraph 8 (1) (b) of Schedule 2 of the Roads Law that the Roads Assessment Committee erred in law in deciding that the Claimants retained land (being the remaining parts of parcel 28C1 after compulsory purchase) had not increased in value as a result of the new road to which access could be obtained from both parcels.

And further **TAKE NOTICE** that the Appellant seeks the following orders:

1. That the appeal be allowed on the grounds stated above;
2. That the compensation due to the Respondent/Claimant be determined by the Grand Court in the light of its decisions on the issues raised in the Grounds of Appeal;
3. That the Appellant/Respondent be awarded the costs of Roads Assessment Committee hearing;
4. Such consequential orders as the Grand Court may think fit;

5. That the costs of the appeal be paid by the Respondent/Claimant.

Dated the 18th day of October, 2011

Attorney General's Chambers
Attorney General's Chambers
Attorneys for the Appellant/Respondent

TO: The Clerk of the Court

AND TO: Abshire Bodden and the
Executors of the Estate of
Harold Bodden, being Gene Thompson
And Alfonzo Wright

This Notice of Appeal is filed by the Attorney General's Chambers whose address for service is Government Legal Department First Floor, dms House, Dr. Roy's Drive, George Town, Grand Cayman.