

ANTIGUA AND BARBUDA



PARADISE FOUND (PROJECT) ACT, 2015

No. 21 of 2015

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PARADISE FOUND (PROJECT) ACT, 2015

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[L.S.]



I Assent,

Rodney Williams,
Governor-General.

30th December, 2015.

ANTIGUA AND BARBUDA
PARADISE FOUND (PROJECT) ACT, 2015

No. 21 of 2015

AN ACT to provide for the approval of specified terms of an Agreement dated 3rd November 2014 between the Government of Antigua and Barbuda and Paradise Found LLC for a tourism development Project in Barbuda.

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. Short title and Commencement

This Act may be cited as the Paradise Found (Project) Act, 2015, and comes into operation on the day appointed by the Minister by notice published in the *Gazette*.

2. Interpretation

In this Act –

“ABST” has the same meaning as the meaning assigned to it in the Antigua and Barbuda Sales Tax Act 2006, No. 5 of 2006;

“Leased Land” means those parcels of land situate in Barbuda leased to Paradise Found LLC or its subsidiaries or affiliates for the Project more particularly described in Schedule 1 and includes all lands in Barbuda that may be leased to Paradise Found in the future for purposes of the Project

“Minister” means the Minister responsible for finance;

“Paradise Found” means Paradise Found LLC and any subsidiary or affiliate of that corporation;

“the Project” means the tourism and real estate development in on Barbuda by Paradise Found LLC on lands of the former K Club together with certain lands leased from the Crown pursuant to an agreement between the Government of Antigua and Barbuda and Paradise Found LLC dated 3rd November, 2014.

“the Resort” means the hotel resort to be built by Paradise Found as part of the Project.

3. Grant of leases

(1) Notwithstanding the provisions of the Barbuda Land Act, 2007, No. 23 of 2007 or any other law to the contrary, the Government leases to Paradise Found the Leased Land on the terms set out in Schedule 2.

(2) The Rent shall be prepayment and discharge of all Lessee’s financial obligations under the Lease, including rental for the first 99 years of the term.

(3) The provisions of the Barbuda Land Act, 2007 does not apply to the lease of the Leased Land pursuant to this Act.

4. Non-application of section 6 of Act No. 23 of 2007

Section 6 of the Barbuda Land Act, 2007 (which provides that the Barbuda Council may grant leases with the approval and on the advice of the Cabinet and the consent of a majority of the people of Barbuda) does not apply to the lease of the Leased Land pursuant to this Act; nor does the restriction of the term of the lease apply.

5. Non-application of section 17 of Act No. 23 of 2007

Section 17 of the Barbuda Land Act, 2007 shall not apply to the lease of the Leased Land by virtue of this Act; consequentially the procedure set out in that section is not applicable to the grant of the lease of the Leased Land under this Act.

6. Non-application of section 19 of Act No. 23. of 2007

Section 19 of the Barbuda Land Act, 2007 (time limits on development) shall not apply to the grant of lease of the Leased Land under this Act.

7. Registration of Leases

Notwithstanding the Barbuda Land Act, 2007, the lease of the Leased Land and subleases therefrom shall be registered as deeds under the Registration and Records Act [Cap 375] and no further filing or registration is necessary.

8. Obligations of the Paradise Found

In developing the Leased Land, Paradise Found shall —

- (a) commission an Environmental Impact Assessment (EIA) study to be undertaken for the Project and to make the EIA available to the Government;
- (b) construct and maintain a new public facility of sheltered buildings, bathrooms, changing areas and car parking on a beach front site in the proximity of and just north west of ‘Uncle Roddy’s’) (“the Beach Facilities”) This beach with public access and Beach Facilities will be named the Princess Diana Beach;
- (c) provide car parking and a walkway for public access to the beach between the Property and Coco Point. The car park and public access is not to be used for commercial purposes and particularly is not to be used for cruise ship visitors; and
- (d) maintain and illuminate all public access roads in the vicinity of the Resort.

9. Government Permissions

(1) Paradise Found is permitted —

- (a) to operate a desalination or similar plant and equipment to produce potable water and irrigation water for its own use and for sale to the public at reasonable price with the approval of the Antigua Public Utilities Authority;
- (b) to drill for and use water located on or under the Property;
- (c) to operate electricity generating or similar plant and equipment to produce electricity with the approval of the Antigua Public Utilities Authority;
- (d) to install renewable energy plants for the sole purpose of the Project with the approval of the Antigua Public Utilities Authority;
- (e) to install and operate a sewage treatment plant, waste management plant, re-usable grey water or similar plant and equipment for the disposal or reprocessing of effluent for the sole purpose of the Project;
- (f) to install and operate a television service for the sole purpose of the Project;

- (g) to operate an internet service including connecting to fiber optic or microwave services for the sole purpose of the Project with the approval of the Antigua Public Utilities Authority;
 - (h) to import and store oil, petro and gas for the sole purpose of the Project;
 - (i) to operate a garbage disposal, waste management and recycling facility for the sole purpose of the Project;
 - (j) to re-route the existing boundary road to the external perimeter of the Property at its own cost;
- (2) Subject to Development Control Authority approval, Paradise Found is permitted –
- (a) to build a main jetty or dock from the beach in front of the Resort for the sole use of the Resort and its guests and owners;
 - (b) to build small private individual docks in front of the villa sites;
 - (c) to install, at its cost, twelve water moorings points off the beach in front of the Resort for large and super yachts for the sole and exclusive use by the Resort;
 - (d) to construct buildings along the current setbacks already established by the K Club or closer to the sea, if permitted by the applicable building code;
 - (e) to build and maintain a helipad at the Resort, which in the event of an emergency on Barbuda will be available to assist.
- (3) Paradise Found is granted a waiver of the following —
- (a) Non-citizens landholding licence to hold the Leased Land;
 - (b) Vendor's and purchaser's stamp duty payable on land transfer to subsequent first sale only of properties/subleases to first time buyers;
 - (c) Non-citizen land holding licence fee (stamp duty) payable under the non-citizen Land Holding Regulation Act Cap. 293 on purchase of properties (leases/subleases by first time buyers of leases/properties within the Resort);
 - (d) licence to operate a casino on the Resort, subject to the gaming laws in force in Antigua and Barbuda.

10. CIP approval of the Project

The Project is confirmed as eligible for benefits under the Antigua and Barbuda Citizenship by Investment Act, 2013.

11. Exemption from personal income tax on employment income.

Subject to the approval of the Cabinet, all foreign employees on the Project, including foreign contractors, and consultants, are exempt from personal income tax on their employment income for five years from the commencement of this Act.

12. Exemption from import duty, revenue recovery charge and ABST.

(1) Paradise Found shall be entitled to import building materials, furniture, fixtures, fittings, furnishings, appliances, machinery, equipment, fittings, motor vehicles, boats, aircraft, furniture, office equipment, and any other mechanical, landscaping or construction material for the project, free from duty, revenue recovery charge, ABST or surcharges of any kind, but not including handling charges.

(2) Paradise Found shall not –

- (a) sell or dispose of any material which has been imported free of customs duties, taxes surcharges or other impost; or
- (b) use such items for the purpose other than in connection with an operation authorized by the Agreement, without the prior approval of the Government and the payment of the appropriate customs duties and other charges imposed by law.

(3) Where Paradise Found disposes of or uses any material brought into Antigua and Barbuda in contravention of subsection (2), Paradise Found shall pay to the Government any customs duties consumption taxes, customs service and surcharges which would have been payable on such material if it had been imported in the condition in which it was at the time of such improper disposition or use.

13. Foreign employees exempt from import duties

The employees of the Paradise Found who are required to move to Antigua and Barbuda to take up positions within the Project are exempted from the payment of import duties, taxes or levies for their personal belongings and household items.

14. Other import duties exemption

Paradise Found shall be exempt from payment of import duties, revenue recovery charge and ABST on the following items related to the Project –

- (a) fuel to run the generators until such time as Antigua Public Utilities Authority can provide electricity; and

- (b) two hundred golf carts or similar vehicles, ten motor vehicles, two aircraft, two helicopters and two boats related to the project.

15. Exemption from Taxes

Paradise Found shall for 25 years from the commencement of this Act be exempt from corporate income tax on its income or profits and shall be able to carry forward losses for 7 years for each tax year.

16. Withholding tax exemption

Paradise Found is exempt from withholding tax on remittance of interest paid or accrued by Paradise Found on any debt for the Project, for 25 years from the commencement of this Act.

17. Dividends exempt from tax

(1) Any income of Paradise Found derived from operation of Paradise Found and distributed as dividends to its shareholders shall be exempt from income tax payable by such shareholders of the Paradise Found out of the capital of the Paradise Found, its earnings or its retained earnings.

(2) Where otherwise applicable on repatriation of profits, dividends and capital, and on payment of royalties, technical and management fees, interest, rentals or amenities, Paradise Found shall be entitled to free repatriation thereof and is exempted from any withholding tax and any other taxes in connection therewith.

18. Stamp Duty waived

Stamp duty is waived on

- (a) all conveyances of interests in land between Paradise Found and any of its subsidiaries, joint venture partners and shareholders on all conveyances between them where such conveyances are in connection with the Resort.;
- (b) the acquisition of any interest in any further lands by Paradise Found related to the Project;
- (c) the subsequent first conveyance only of subleases to first time buyers
- (d) Non-citizens Landholding licence on any lease acquired in Barbuda by Paradise Found or its affiliates;

19. Property Tax

Property tax shall be waived on all property in the Project for 10 years from the commencement of this Act.

20. Work permit fees capped.

Work permit fees for employees of the Project shall be capped at a maximum of US\$1,500 per employee per annum for a period of five years after the commencement of this Act.

21. Reconciliation with other laws.

(1) Except as otherwise provided in this Act, no other law and no practice or procedure relating to taxes, stamp duty or other imposts shall apply to the Project so far as it is inconsistent with this Act.

(2) Notwithstanding subsection (1), the provisions of the Tourism and Business (Special Incentives) Act 2013 shall apply to the project where those provisions offer better incentives than those provided for in this Act.

Schedule 1

All those parcels of land consisting of the former lands held by Dream Company Limited (K Club), being 251 acres, and the lease of lands adjacent thereto, being Crown lease of 140 acres, and any lands leased in Barbuda by Paradise Found in the future for the Project with the approval of the Council.

Schedule 2

Terms of Lease of Demised Property

1. Parties— His Excellency Sir Rodney Williams, Governor General of Antigua and Barbuda on behalf of the Government of Antigua and Barbuda and Paradise Found LLC, its subsidiaries and affiliates.
2. Term— 99 years with an option for a further 50 years exercisable on completion of the Resort.
3. Rent— The sum of US\$5.2 million to the Government of Antigua and Barbuda on signing of the Lease and a further US\$1 million in respect of the Option years.
4. Option— An option for a further 50 years exercisable on completion of the Resort at the price payable at the then current market rate.
5. Performance— The Crown lease of 140 acres will revert to the Crown if construction of the Resort is not started within 36 months from the beginning of the lease term.

Passed the House of Representatives on
The 21st day of October, 2015.

Passed the Senate on the 18th day of
November, 2015.

Gerald Watt, Q.C.,
Speaker.

Alincia Williams-Grant,
President.

Ramona Small,
Clerk to the House of Representatives.

Ramona Small,
Clerk to the Senate.