

**HOTELS CONCESSION (FAIRMONT SOUTHAMPTON) ORDER  
2009**

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**BR 47/2009**

**HOTELS CONCESSION ACT 2000**

**2000 : 28**

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2009**

WHEREAS Westend Properties Ltd. has by application dated 9 May 2007 applied for a hotels concession order under section 3 of the Hotels Concession Act 2000 in respect of the Fairmont Southampton redevelopment;

WHEREAS the Minister responsible for Tourism, having considered the application, is satisfied that the hotel redevelopment is a substantial redevelopment and is in the national economic interest of Bermuda;

The Minister responsible for Tourism, with the agreement of the Minister of Finance, in exercise of the powers conferred by section 4 of the Hotels Concession Act 2000, makes the following Order:

**Short title**

1 This Order may be cited as the Hotels Concession (Fairmont Southampton) Order 2009.

**Interpretation**

2 In this Order—

"Act" means the Hotels Concession Act 2000;

"hotel" means the Fairmont Southampton as redeveloped by the hotel developer;

"hotel developer" means Westend Properties Ltd., a company incorporated in Bermuda on 30 April 1962;

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"hotel redevelopment" means the Fairmont Southampton redevelopment described in the hotel developer's application submitted under section 3 of the Act;

"opening date" means the date on which the hotel redevelopment is certified by the Minister to be complete.

**Concessions**

3 (1) Subject to section 4, the hotel developer shall in respect of the hotel redevelopment be entitled to the following concessions—

- (a) for a period beginning with the opening date and ending on the third anniversary of that date, partial exemption from land tax otherwise payable in respect of the hotel, up to an amount not exceeding \$51,000.00 in each year of assessment;
- (b) for a period beginning with the opening date and ending on the first anniversary of that date, partial exemption from hotel occupancy tax (Hotel Occupancy Tax I) otherwise payable in respect of the hotel, for an amount equal to the sum expended by the hotel developer on marketing the hotel redevelopment up to an amount not exceeding \$394,000.00 in the year of assessment;
- (c) for a period beginning with the opening date and ending on the third anniversary of that date, partial exemption from hotel occupancy tax (Hotel Occupancy Tax II) otherwise payable in respect of the hotel, for an amount equal to fifty per cent of the sum expended by the hotel on entertainment provided by Bermudian entertainers, up to an amount not exceeding \$280,000.00 in each year of assessment;
- (d) for a period beginning with the opening date and ending on the third anniversary of that date, partial exemption from the employer's share of the payroll tax otherwise payable in respect of persons employed by the hotel, for an amount equal to 100% of the sum expended by the hotel on training Bermudian employees of the hotel, up to an amount not exceeding \$315,000.00 in each year of assessment.

(2) For the purposes of subsection (1)(d), the employer's share of payroll tax means that portion of payroll tax which the employer is not entitled to deduct from an employee's wages under section 19 of the Payroll Tax Act 1995.

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### **Terms and conditions**

4 (1) To qualify for the partial exemption from hotel occupancy tax (Hotel Occupancy Tax I) under section 3(1)(b) the hotel developer must, for the relevant period—

- (a) show to the satisfaction of the Minister that sums equal to the amount of the exemption claimed have been expended by the hotel developer on the marketing of the hotel redevelopment;
- (b) comply with guidelines on the marketing of the hotel redevelopment issued by the Minister; and
- (c) provide an annual audited statement of accounts showing the amounts expended on such marketing.

(2) To qualify for the partial exemption from hotel occupancy tax (Hotel Occupancy Tax II) under section 3(1)(c) the hotel developer must, for the relevant period—

- (a) show to the satisfaction of the Minister that entertainment has been provided at the hotel by Bermudian entertainers in accordance with guidelines issued by the Minister; and
- (b) provide an annual audited statement of accounts showing the amounts expended on such entertainment.

(3) To qualify for the partial exemption from the employer's share of the payroll tax under section 3(1)(d) the hotel developer must, for the relevant period—

- (a) comply with guidelines on the training of Bermudian employees issued by the Minister;
- (b) satisfy the Minister that appropriate training has been provided in accordance with the guidelines; and
- (c) provide an annual audited statement of accounts showing the amounts expended on such training.

(4) The hotel developer must diligently proceed with the redevelopment and use its best endeavours to ensure that the redevelopment is complete within a period of twelve months from the date this Order is made (or such later time as the Minister may approve).

(5) In this section, "relevant period" means the period for which the exemption is claimed.

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By agreement dated this 13<sup>th</sup> day of July, 2009

Minister of Finance

Made this 13<sup>th</sup> day of July, 2009

Premier