COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

PUBLIC LAW DIVISION

2026/PUB/jrv/00004

IN THE MATTER of an application for leave to apply for Judicial Review

BETWEEN

RESORT HOLDINGS

LRA OBB LIMITED

Applicants

AND

THE TREASURER OF THE COMMONWEALTH OF THE BAHAMAS

CHIEF VALUATION OFFICER

Respondents

Before: The Honourable Mr. Justice Franklyn K M Williams KC

Appearances:

Mr. Michael Scott with him Ms. Marnique Knowles for Applicants

Mrs. Olivia Pratt-Nixon for the Respondents

Hearing dates: 2 March 2026; 6 March 2026

RULING

Williams J

Introduction and background

[1.] This is the Applicants' application for leave to apply for judicial review of the decision of the Chief Valuation Officer for the sale of its properties at West End, Grand Bahama one of the Islands of the Commonwealth of the Bahamas, which properties are as of this application the subject of proceedings before the Tax Appeal Commission. In particular, the applicant seeks leave to issue judicial review proceedings of the decision of the respondent's purported exercise of its power of sale over its property comprising 1142.63 acres and bearing for the purposes of tax assessment number 0230639.

[2.] Aggrieved by the decision of the Chief Valuation Officer to sell the property, the applicants seek the following reliefs, inter alia, which may be summarized:

a. An injunction to prevent the sale of the property during the pendency of these proceedings and before the determination of its appeal to the Tax Appeal Tribunal;
b. Certiorari to quash altogether the decision for sale of the property;
c. A declaration of statutory non compliance by the Respondents;
d. A declaration that the respondents had/have breached the legitimate expectation that no bids for sale would be had and accepted during the pendency of negotiations between the parties;
e. A declaration that the decision to sell the property in the circumstances is in breach of the constitutional guarantee against deprivation of property without due process
f. A declaration that the applicants' right to be treated fairly with due process and in accord with the rules of natural justice has been breached.

Factual and procedural background

[3.] The Registry of Records records INDENTURE OF CONVEYANCE between GINN-LA, WEST END LIMITED and G-LA RESORTS HOLDINGS(BAI-IAMAS), LIMITED, the applicant herein, the purchase price twenty five million seven hundred thousand thirty one three hundred twenty eight ($25,731,328) dollars. A fact not made in full and frank disclosure to the court by the applicant.

[4.] The Real Property Tax Act lays out the regime governing assessment and collection of real property taxes; the act also provides for the publication of assessment notices, the making of objection thereto and appeal thereof:

"7. (1) It shall be the duty of the Chief Valuation Officer to assess property liable to tax under this Act, and for this purpose to prepare lists (in this Act referred to as "assessment lists")_

(a) before the twenty — third day of November, 1973, in respect of the

year commencing on the first day of January 1974; and

(b) thereafter... before the fifteenth day of October in respect of every succeeding year commencing on the first day of January, in such form as may be prescribed.

(2) The Chief Valuation Officer shall—

(a)…

(b) thereafter in every succeeding year before the fifteenth day of October,

cause a notice in such form as may be prescribed and which shall state the matters specified in subsection (4) to be published in one issue of the Gazette and in one issue of a daily newspaper published and circulating in the Bahamas.

(3) Upon the expiration of five days after the publication in the Gazette of the notice referred to in subsection (2), a notice of assessment in such form as may be prescribed shall be deemed to have been served on every owner of property liable to tax under this Act.

(4) The notice referred to in subsection (2) shall state—

(a) that copies of the assessment lists are available as required by subsection

(b) that a notice of assessment addressed to each owner of property liable to tax under the Real Property Tax Act, (hereinafter in this subsection referred to as the Act) is available at the place or places to be specified in the notice and may be collected therefrom by or on behalf of the owner of such property during normal office hours;

(c)that pursuant to subsection (3) of section 7 of the Act, upon the expiration of five days after the publication of the notice referred to in subsection (2) a notice of assessment shall be deemed to have been served on every owner of property liable under the Act;

(d) that without prejudice to the provisions of subsection (3), the Chief Valuation Officer may at any time after the publication in the Gazette of the notice referred to in subsection (2) send by post a notice of assessment addressed to any owner of property liable to tax under the Act;

(6) Every assessment set forth in a notice of assessment shall, subject to the provisions of sections 11 to 16 (which relate to objections and appeals and of section 17 (which relates to amended and substitute notice of assessment) be final, binding and conclusive against the person assessed therein.

(7) One copy of the assessment lists for all property assessed pursuant to subsection (1) shall be provided for the public as soon as may be practicable after the preparation thereof and shall be kept available at -

(a) the Treasury;
(b)the office of the Chief Valuation Officer; and
(c) any such other place or places as may be prescribed, and any person shall be entitled to inspect any such copy free of charge during normal office hours and, upon demand, to be supplied with a copy for his own use on payment often dollars or such other sum as may be prescribed.

I l. (l) Any person aggrieved by a notice of assessment deemed to have been served under this Act may object thereto by serving on the Chief Valuation Officer within thirty days after the date on which the notice of assessment is deemed to have been served, a notice in writing of such objection stating the grounds upon which he relies.

(2) The notice of objection referred to in subsection (1) shall be served on the Chief Valuation Officer–

(a) within thirty days after the date on which the notice of assessment is deemed to have been served; or

(b) within such time not exceeding ninety days from the day on which the notice of assessment is deemed to have been served, as the Chief Valuation Officer may allow, if the person aggrieved satisfies the Chief Valuation Officer that, by reasons of his absence from the Bahamas or other reasonable cause, he was unable to serve a notice of objection on the Chief Valuation Officer, within the time specified in paragraph (a) of this subsection.

12. (1) The Chief Valuation Officer shall with all reasonable dispatch consider any such objection and may either allow it or disallow it either wholly or in part.

(2) Written notice of the decision of the Chief Valuation Officer shall be given to the objector.

(3) The Chief Valuation Officer shall dismiss any such objection unless the whole of the tax payable under the notice of assessment shall have been deposited with him or for good cause the Chief Valuation Officer determines that the objector shall be relieved of the requirements of this subsection in whole or in part and is satisfied that the objector has complied with any such determination which gives partial relief only.

13. (1) Any person aggrieved by the decision of the Chief Valuation Officer upon an objection may , within thirty days after the service of the notice of the decision, in writing require the Chief Valuation Officer to refer the decision to the Tribunal for review of the assessment on appeal

[5.] For years 2014 through 2023, the Department of Inland Revenue published on or before the fifteenth day of October in the Official Gazette, and for each succeeding year the tax assessment notices for 0230639. During that period, the Assessed Value of the property remained constant at twenty six ($26,000,000) million dollars. Further, neither objection to assessment value, nor payment of taxes levied, was made in respect of 0230639.

[6.] In respect of the Real Property Tax Notice for 0230639 for 2023, same was published in the Official Gazette on 5 October 2022.

[7.] On 10 March 2024, the applicant's agent, Mr. Daniel Butler filed a 2023 Real Property Tax Bill Taxpayer Inquiry Form in respect of 0230639. At the very top of the form is made plain the instruction and requirement:

> "Taxpayers who wish to file an inquiry about their Real Property Tax bill are required to complete this form. The form must be filled out completely and accurately and all required supporting documentation must be attached before the Department of Inland Revenue will review the Inquiry 2023 real property tax inquiries must be filed by March 31, 2023. "

[8.] The inquiry form in respect of 0230639 and several other parcels, was filed some eleven months and ten days past due date. On 3 October 2024, the applicant's agent submitted a valuation report in respect of 0230639 and 0233648 with a combined valuation twelve million six hundred and sixty ($ 12,660,000) dollars.

[9.] In October of 2023 and October 2024, Real Property Tax Notices of Assessment were published respectively for the years 2024 and 2025 in respect of 0230639. In particular, the Real Property Tax Notice for 2025 was published on 1 1 October 2024. The applicant, having been informed by those Notices of its right to object thereto, did not within the time limited so do.

[10.] Section 23 of the Real Property Tax Act is its enforcement provision:

"Where any tax due under this Act has remained unpaid for a period of thirty days after becoming due, the Treasurer may forthwith cause proceedings to be taken in the name of the Treasurer for the recovery of such tax against the owner concerned.

25A. (1) Notwithstanding section 23, where any real property tax relative to property not beneficially owned by a Bahamian is in arrears and unpaid the Treasurer may sell the said property in respect of which the tax is due and payable, for the recovery of such real property tax

(2) The power of sale in subsection (1) shall not be exercised unless the real property tax has been in arrears and unpaid for more than six months after the expiration of thirty days from becoming due.

(5) Every sale made under this section shall be by public auction and shall be conducted by the person named in that behalf in the warrant of sale and on the date and at the place thereby named and appointed.

(6) Notification of every sale shall be given to the owner as registered with the Chief Valuation Officer of the property referred to in subsection (l) by the Treasurer at least thirty days before the day appointed for sale_

(a) by an advertisement in a daily newspaper published in the Bahamas describing the property to be sold;"

[11.] Though not made clear when, sometime during mid 2024, the applicant through its agent, Daniel Butler initiated communication with DIR in respect of several of its West End properties, principally 0230639. For instance, a 12 June 2024 email from Butler to a William Davis agent of DIR, references an appraisal: "At long last, I think our appraiser almost has his report ready to issue. Would like to touch base with you and discuss next steps, as our commitment to resolving tax matters is sincere...”

[12.] On 26 September 2024, DIR placed 0230639 for sale by advertisement in the Nassau Guardian. The advertisement included the assessed valuation and brief description and location of the property. On 4 October 2024, the applicant again filed it's 2023 RPT 01 (Inquiry) Form now accompanied by its appraisal in respect of 0230639. On 25 October 2024, in response to request of Daniel Butler, Antonio Moxey, collections officer in the Revenue Enhancement Unit ("REU") in an email to Butler, indicated that the CVO would defer acceptance of bids from the power of sale exercise until re assessment of valuation:

"Good day Mr. Baker,

Please note that the Chief Valuation Officer have opted to defer acceptance of any bids submitted from the power of sale exercise until such time we have conducted a re — assessment of the subject property.

Further note that you must be prepared to settle all outstanding taxes once we have concluded the reassessment. "

[13.] In November 2024, DIR commissioned TR Associates to prepare a valuation report on the West End property, which report was produced on 16 January 2025. The valuation was undertaken, in part with input from Daniel Butler. The ultimate determination, if not the details, of the valuation by that report in respect of 0230639, was confirmed to Butler. Butler, expressing disappointment, nonetheless accepted that determination:

----- "Baker, Daniel" <dbaker@KWIResorts.com> wrote:---To: "ANTONIO MAYCOCK" <ANTONIOMAYCOCK@BAHAMAS.GOV.BS>

From: "Baker, Daniel" dbaker@KWIResorts.com

Date: 03/31/2025 05:08PM cc: "SHUNDA STRACHAN"
SHUNDASTRACHAN@BAHAMAS.GOV.BS
"Michael Scott" mrscott@scottlawbahamas.com

Subject: RE: Sur Mer Reassessment

Good afternoon Antonio,

At your request, I want to respond in a timely manner.

Admittedly, after having discussions for over a year, and having provided Inland Revenue with our appraisals in early October, to require a response in less than one business day is quiet (sic) surprising. While we are disappointed with Inland Revenue's consideration of reassessment, and since we were not provided any information to support the decision, we are somewhat only left with questions.

Nonetheless, as communicated consistently over the last year, we intend to demonstrate our corporate citizenship through settlement of the real property taxes..…

[14.] Thereafter, by series of emails and letter, Butler wrote to Antonio Maycock and the CVO, proposing first, conveyance of parcel at West End in exchange for withdrawal of payment demand in respect of 0230639, and subsequently, proposals for settlement in relation to ten (10) parcels at West End including 0230639.

[15.] During this period, while the acceptance of bids was being deferred, the exercise of the power of sale remained extant.

[16.] On 5 June 2025, Butler by email wrote the CVO again requesting consideration of its proffer of settlement terms. The proffer reads more like a demand in my view, underlined by insistence:

"Dear Mrs. Strachan,

We respectfully request the Department's consideration of the following settlement terms:

1. A full waiver of all surcharges
2. Waiver of any applicable penalties or fees
3. Application of a 35% settlement concession for tax years 2019 through 2025

    *35% of the assessed taxes on vacant land

    * 35% of the assessed taxes on improved commercial properties

(While this concession is no longer standard policy, we ask that it be considered in light of the project's national importance.)

4. Removal of all referenced assessments from the Power of Sale listings
5. Removal from assignment to private or internal debt collectors

Additionally, we respectfully submit objections under section 12(2) of the Real Property Tax Act for the following accounts based on valuation inconsistencies:

Assessment No.	Proposed Value (2019 - 2025)
0230639	$12,572,200

…. We ask that the Department accept these proposed valuations for the period 2019 — 2025 and conduct a formal reassessment beginning in 2026.

Should these terms be accepted, the total settlement would be $2,3 83873.47, and we are prepared to remit this sum by manager's cheque no later than Friday, June 13, 2025.

We appreciate your attention to this matter and your continued cooperation. Please do not hesitate to contact us should you require further clarification.

Sincerely,

Nathaniel Butler

Managing Director

Drewber Solutions Group Ltd.

Here for the first time is any objection made to valuation in respect of 0230639 for t years other than 2022 and 2023. Those objections come, respectively, more than seven, six, five, four, three, and two years, after service of each year's assessment notice.

[17.] The CVO responded to the applicant's agent:

DEPARTMENT OF INLAND REVENUE
Carmichael & Palmetto Roads
P. O. BOX N-13 NASSAU, N.P., THE BAHAMAS
Tel: (242) 604-8237/ 225-7280

Our Ref AN0230639/Et al

1 July 2025

Mr. Nathaniel Butler
Managing Director
Drewber Solutions Group Ltd
#9 Parkgate Road
New Providence, The Bahamas

Dear Mr. Butler,

<u>Re: Request for Settlement Offer — GINN Prolect Assessments</u>

Reference is made to both your fetters dated 4th Jung. your letter dated 23rd June 2025 and our meetings relative to the above subject

This confirms mat which has already been verbally conveyed to you. The Department of Inland Revenue is not minded to lower the assessed values of the properties. We have had many meetngs and emails with representatives of the propeny owners however they have made no attempt to settle their tax arrears. They requested reviews for the values of several properties and while we did not agree with their value claims we commissioned an independent appraisal. The findings of that report revealed that our assessed values were in fact significantly under market values.

We acknowfedge your statement regarding to the property owner's attempt to negotiate a Heads of Agreement (HEAs). Please be advised however that HEAs are not done retroactively hence that taxes up to the 2025 tax year must be settled.

Further, relative to your comment regarding the submission of a formal objection under Section 12(2) of

theReal Property Tax Act (the Act), please note that the fme for a formal objection has long passed. in accordance with Section 11(1) of the Act "Any person aggrieved by a notice of assessment deemed to have been served under this Act may object thereto by serving on the Chief Valuation Officer within thirty days after the date on which the notice of assessment is deemed to have been served, a notice in writing ofsuch objection stating the grounds upon which he relies." The Notice of Assessment for the 2025 tax year was gazetted on 11 Lh 2024, hence all property owners were deemed served on that date. The deadline for objecting to the 2025 Notice of Assessment expired prior to 30th November 2024. Your Objection Submission is therefore not accepted. Also, kindly be aware that even if your objection had been submitted in the requisite time, it would have been dismissed in accordance with Section 12(3) which reads: Gunless the whole of the tax payable under the notice of assessment shall have been deposited."

As you are aware, we have started exercising our power under Section 25A to sell the properties due to the failure of the owners to pay the Real Property Taxes. There is no reduction of taxes for accoune that have been advanced to Power of Sale. Bids for those properties advertised have been received and reviewed for buyer selectlon. To prevent the sale of the properties advertiged, the taxes must be paid In full, immediately. Those properties not previously advertised will be listed for sale in our upcoming notice if tie taxes are not settled fothwith.

Please be advised that the taxes due are as follows:

Assessment Number	TAX	SURCHARGES	COLLECTION FEE	TOTAL DUE	COMMENTS

			664.202.00	7,947.393.50	t-gst pmf. made 201 5, Advertised in POS 04 on Sept. 2024. Acceptable bWs received
0232451	144.770.97	19.03597	0.00	163,806.94	Last made in 2017
0232452	2,815.14	365.07	0.00		Last Pmt. made In 2018
0232453	58,203.02	7.649 92	0.00	65,852.94	Last Pmt, made in 2018
0232455	576,519.55	"4,929.27	0.00		Las* pmt. Made 2017.
0233351		5,477.75	0.00	47,165.36	Lagi pmt. Made in 2018
0233352	8,576.81	11122.88	0.00	9899.69	Last pmt made in 2018
0233353	115,358.53	32.190-21	0.00	147,546.74	Last prn. 2015 for 2012
	174,870.26		57,379.49	286897.44	last pmt. made 2015 for 2011. Advertised in POS 05 on tky2025
0233648	239,700.00	55,749.50	87,594.73	3831044.23	No tax payment ever made, Advertised in POS 01 on 22 Feb 2024 and pos 03 on June 2024
Total	**$6,989,679.89**	$1,947,179.76	$809,176.22	**$9,746,035.87**	

Again, we stress the impo

Again, we tress the importance of paying the total amount due of $9,746,035.87 immediately.

Yours sincerely,

Shunda Missiek Strachan
Chief Valuation Officer /
Chief Valu Ion Oficer
Contoller of Inland Revenue

The test for grant of leave

[15.1 Part 54.3 CPR provides that no application for judicial review shall be made unless the leave of the Court has been obtained. The purpose of the leave requirement or permission is to " ...protect the public administration against false, frivolous or tardy challenges to official action. " O'Reilly v Mackman [1983] 2 AC 237@280; put another way " ...to filter out challenges where the applicant either does not have the necessary interest to maintain the challenge, or in which the claim is inarguable, doomed to fail or subject to some legal or discretionary bar, " Rosetta Foster and another v The Attorney General and another [2020] BHS J No. 80@9

[16.1 In Jarol Investments Limited (Va Chances Games) v The Hon. Chester Cooper et al 2023/PUB/jrv/FP/0004, the Court noted, inter alia, that on an application for leave to apply for judicial review, the applicant has an "exceptionally low" threshold to meet. Further, the applicant must establish that (i) he has a sufficient interest in the matter to which the application relates ; (ii) the application was made promptly and in any event within six months from the date when the grounds for the application first arose (unless the Court considers that there is good reason for extending the period within which the application shall be made); (iii) there is an arguable case on one or more heads i.e. illegality, irrationality (Wednesbury unreasonableness), procedural impropriety with a reasonable prospect of success; and (iv) whether the applicant has, and has exhausted alternative remedy or remedies.

[17.] Lord Donaldson in R v Civil Service Appeal Board, ex parte Cunningham [1992] I.C.R. 310 observed:

"Those of us with experience of judicial review are very much aware the scope of the authority of decision makers can vary very widely and so long as that authority is not exceeded, it is not for the courts to intervene. They and not the courts are the decision makers in tams of policy. They and not the courts are the judges in the case of judicial or quasi judicial decisions which are lawful. The public law jurisdiction of the courts is supervisory and not appellate in character. All this is very much present in the minds of judges who are asked to give leave to apply for judicial review. Such leave will only be granted if the applicant makes out a prima facie case that something has gone wrong of a nature and extent which might call for the exercise of the judicial review jurisdiction. '›

[18.] While true that the initial threshold for leave was necessarily "exceptionally low", the test, evolved and now applied by English courts is more strict. The Privy Council in Sharma v Browne Antoine [2007] 1 WLR 780@787 articulated the test:

"The ordinary rule now is that the court will refuse leave to claim judicial review unless satisfied that there is an arguable ground for judicial review having a realistic prospect of success and not subject to a discretionary bar such as delay or alternative remedy". [.] It is not enough that a case is potentially arguable: an applicant cannot plead potential arguability to 'justify the grant of leave to issue proceedings upon a speculative basis which it is hoped the interlocutory processes of the court may strengthen' ."

[19.] Applying these principles in The Queen v The Attorney General and Ors, ex parte Rollins and another 2017/PUB/jrv/0003 in an inter partes hearing ,Winder J (as he then was), refused leave to the applicants to challenge the report of the Constituency Commission of the Bahamas on the ground, inter alia, that it was produced out of time:

"I remind myself that this is a leave application and that it is the duty of the applicants to satisfy me that there are arguable grounds with realistic prospects of success. The position is not as simple as counsel for the applicants have stated in his presentation, that he merely has to get past this filtering process and develop his case thereafter."

[20.] Part 54.4 provides that "(1) . ..an application for judicial review shall be made promptly and in any event within six months from the date when grounds for the application first arose unless the Court considers that there is good reason for extending the period within which the application shall be made

(2) Where the relief sought is an order of certiorari in respect of any judgement, order, conviction or other proceeding, the date when grounds for the application first arose shall be taken to be the date of that judgment, order, conviction or proceeding.

(3) The preceding paragraphs are without prejudice to any statutory provision which has the effect of limiting the time within which an application for judicial review may be made."

[21.] On this issue of whether application is made promptly, and whether being made within the objective six month period, the requirement of promptness is satisfied, the Court observed in Regina v Securities Commission of the Bahamas, Ex Parte Petroleum Products Ltd [2000] BHS J. No.30@18 - 19, . .the question arises whether or not 'the Court considers that there is good reason for extending the period'... the Court should take account of the time the impugned matter came to the knowledge of the applicant, it should consider whether the applicant, after acquiring such knowledge, made the application promptly, there being a greater need to act promptly the greater the period since the objective date of the grounds for the application. If the applicant did then apply promptly the period should be extended to that necessary to make the application timely.„

[22.] The effect of Part 54.4 is that even if an application is made within the six month period, a court has discretion to hold that it was not made promptly. It was held in Responsible Development of Abaco (RDA) Ltd et al v The Rt. Hon Hubert Ingraham et al SCCivApp.No.139 of 2010@24,28,30 "...if an application is not made promptly, or within the six month period prescribed, the court nevertheless has discretion to extend the time, if there is good reason for the delay. " Part 54.4 protects an applicant from "...being run out of court merely on the basis of undue delay, and allows the court to grant an extension of time when there are good reasons for the delay. " Prejudice to other parties and/or detriment to good administration are factors to consider when exercising the discretion whether to grant an extension.

Discussion and analysis

[23.1 This judicial review application was made ex parte. Because any decision would necessarily have implications for the conduct of the statutory duties of the Chief Valuation Officer, she opposed the grant of leave to issue judicial review. Mrs.

Pratt Nixon for the respondents, pointed to the extant appeal of the several acts taken by the respondents pursuant to the provisions of the Real Property Tax Act ("the Act"). I refused leave, as it was thought that the applicants, having exercised their right to appeal to the Real Property Tax Appeal Tribunal, must await the decision thereof, which itself might be the subject of judicial review ***Dwayne Woods et als v John Pinder et al*** [2020] Pub/jrv/21.

[24.1 A perusal of the applicants' case shows two distinct issues; the issue before the Tax Appeal Tribunal is that of an appeal against the valuation or assessment. The extant application concerns the exercise of the power of sale.

[25.] A useful starting point is the assessment notice and Tax Certificate for the year 2014; The Assessment Number/Location of number 0230639 WEST END GRAND BAHAMA comprising 1142.63 ACRES, the appraised value of which is indicated as twenty six million ($26,000,000) dollars. (In a 4 June 2025 email to CVO, Daniel Baker on behalf of the applicant acknowledges the appraised value of $26,000,00 as at 2012).

[26.] No objection was made to that assessed value, as was the applicant's right to so do; I find that the applicant is deemed to have accepted that valuation, and deemed to have accepted every exact assessed valuation of $26,000,000 for 0230639 for every succeeding year up to and including 2023,which year's assessment was at issue, no objection having been taken thereto until the 5 June 2025 e mail from Mr. Baker to the CVO.

[27.] It is a fundamental well settled principle established in ***Associated Provincial Picture Houses Ltd v Wednesbury Corporation***[1948] 1 KB 223 that a decision is only irrational if it so unreasonable that no reasonable authority could ever come to it.

[28.] The applicants claim illegality in that they were never served with the requisite notice of the exercise of the power of sale in compliance with sections 25A and 27(2) — (7) of the Real Property Tax Act, and that the exercise of the power of sale was itself irrational; they do not deny that in September 2024, they were in arrears of more than twelve months after the date on which the **Notice of Assessment for Real**

Property Tax for the year 2023. Further, the applicant does not argue that at that time the real property tax was not in arrears and unpaid for more than six months after the expiration of thirty days from becoming so due.

[29.] On 26 September 2024, DIR placed 0230639 for sale by auction by advertisement in the Nassau Guardian. The ad included the assessed valuation of $26,000,000 and a brief description and location of the property, thereby bringing it into compliance with section 25A(6) (a) RPTA. The advertisement specifically stated that it was being placed in compliance with section 25A and ended with a statement of notice to all the world (including, presumably, the applicants):

> "Property owners are duly notified through this advertisement that the referenced properties will be sold by public auction on 28 October 2024."

[30.] Assuming, arguendo, that there was non compliance with section 28(2) — (7), the applicants are deemed to have waived compliance when on 25 October 2024 in an email exchange they accepted the DIR's offer to defer acceptance of bids pending receipt of independent valuation on the property. I find that this conduct of the applicants indicated an intention to waive such compliance, and by extension any right held by the applicants in this regard. The decision to, and the exercise of the power of sale given the applicants conduct, their repeated and continuing failure to pay the taxes due, whilst concurrently making no objection to the yearly notices of assessment was not illegal, irrational or procedurally improper.

[31.] In that email exchange, Mr. Antonio Maycock agent of the DIR, writing to Mr. Daniel Baker, agent of the applicants:

> "Good day Mr. Baker,
>
> Please note that the Chief Valuation Officer have opted to defer acceptance of any bids submitted from the power of sale exercise until such time we have conducted a re — assessment of the subject property.
>
> Further note that you must be prepared to settle all outstanding taxes once we have concluded the re — assessment."

[32.] The lawful frustration of a legitimate expectation was dealt with in **Paponette et als v Attorney General of Trinidad and Tobago** [2010] UKPC 32:

> "The initial burden lies on an Applicant to prove the legitimacy ofhis expectation. This means that in a claim based on a promise, the Applicant must prove the promise and that it was clear and unambiguous and devoid of relevant qualification. If he wishes to reinforce his case by saying he relied on the promise to his detriment, then obviously he must prove that too. Once these elements have been proved by the Applicant, however, the onus shifts to the authority to justify the frustration of the legitimate expectation. It is for the authority to justify the frustration of the legitimate expectation. It will then be a matter for the court to weigh the requirements of fairness against that interest.„

[33.] It is clear that the deferral was conditional, that is ”... **until such time we have conducted a re — assessment of the subject property**. ". It is equally clear that the deferral referred to the acceptance, that is the preferring, or selection of any particular bid or bids, and not the exercise of the power of sale itself.

[34.] In an e mail exchange of 28 March 2025, Antonio Maycock informed Nathaniel Baker that the applicants' appraisal of $12,000,000 was not accepted. By that e mail, the applicants' were asked to settle their indebtedness in full or agree to a payment plan with a term not exceeding three (3) months.

[35.] E mail notwithstanding, DIR continued to "entertain proposals" proffered by the applicants, which proposals, in my view, wholly unmoored from the reality of the attendant circumstances, were ultimately rejected.

[36.] As late as Il July 2025, DIR confirmed that no bid had been preferred or selected, CVO Mrs. Shunda Strachan in a letter to Mr. Nathaniel Butler, he of the applicants:

"As you are aware, we have started exercising our power under Section 25A to sell the properties due to the failure of the owners to pay the Real Property Taxes. There is no reduction of taxes for accounts that have been advanced to Power of Sale. Bids for those properties advertised have been received and reviewed **for buyer selection. To prevent the sale of the properties advertised, the taxes must be paid in full immediately**. . . ."

Referring to the whole of the letter (above printed), the letter rehearses, in summary, the due process afforded the applicants, which I find to have been extraordinary, and extending beyond any statutory requirement, or the rudiments of natural justice.

[37.]In the premises, I find that the respondents were not required to recommence and re advertise the sale, and the applicants could apprehend no legitimate expectation. In my view, the respondents were entitled to review (any) bids made prior to its deferral, and or any received since, and to prefer and or select one of those bids.

[38.] The applicants do not come with clean hands. For ten years, they neither objected to assessment notices, nor paid the statutorily obligatory taxes. Their seeming disposition was, at the very least, one of studied indifference, at most willful refusal. At the time at which the respondent sought to exercise the power of sale, that year's tax was in arrears for more than six months after the expiration of thirty days from becoming so due, no objection having been made.

[39.] Further to this issue of clean hands, I take judicial notice of the fact, that the applicants' objection coming more than ninety days after the day on which the notice of assessment was deemed to have been served, was unaccompanied by explication or reasonable cause therefor, **and** the whole of the tax payable under the notice of assessment, the sine qua non for the consideration of the applicant's objection, had not been deposited with the respondents as required by the Act.

[40.] Section 25A is consistent with Article 27(1) and (2) of the Bahamas Constitution:

"27(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, ... -

(2) Nothing in this Article shall be construed as affecting the making or operation of any law so far as it provides for the taking of possession or acquisition of property_

(a) in satisfaction of any tax, rate or due;

[41.] In my view, given the attendant of circumstances here, there is no Wednesbury unreasonabless, no unconstitutional deprivation of property.

Delay in applying for judicial review

[42.] The issue of delay was canvassed neither by the applicants nor the respondents. In my view, it is dispositive of the claim.

[43.] There are two operative periods. On or about 24 September 2024, the exercise of the power of sale came to the applicants' attention. No application was made promptly, within six months or any at all. On or about 1 1 July 2025, the applicant's agent Baker was made aware, **in no uncertain terms**, that the exercise of the power of sale continued, but that the applicants could prevent the sale of the properties (including 0230639) by settling their indebtedness. No application was made promptly or within the six month limitation period.

[44.] Inishka Lloyd, in an affidavit attending the application, avers:

> "On 9 January 2026 the Applicants became aware that steps were being to proceed with the sale of the property represented by Assessment Number 0230659 and informed the Tax Appeal Commission accordingly.

[45.1 Plainly, this is not true, given 11 July 2025 letter.

[46.] Longley, JA writing for the court ***in Bahamas Hotel Catering & Allied Workers Union v The Attorney General and the Bahamas Hotel & Maintenance & Allied Workers Union; West Bay Management Limited v Bahamas Hotel Maintenance & Allied Workers Union*** [2010] 1 BHS 3 No.67:

"16. Applying the overriding principle of promptness, it seems to me that where the six month limitation period has expired the court must ask itself several questions. The first is: what is the decision the applicant seeks to impugn? Second, when did the applicant first become aware of the decision it seeks to impugn? Third, did it act promptly in seeking leave to make an application for judicial review once it became aware of the decision? Fourth, as an alternative to question three, if the applicant did not act promptly in making the application to challenge the decision it seeks to impugn has it otherwise proffered good reason for the entire period of delay?

17. There is undoubted overlap between questions three and four. It is only if the court concludes that the applicant acted promptly after becoming aware of the decision it seeks to impugn, or that it has proffered good reasons to explain the delay in making the application for judicial review, will time be extended on the basis that good reason exists."

26. However, for the purposes of Order 53 r. 4 of the RSC time begins to Run from the date when grounds for the application first arose."

[47.] The applicants give no reason for the delay.

[48.1 The Supreme Court of Judicature (House of Lords) in ***Caswell v Dairy Produce Quota Tribunal for England and Wales*** [1990] 2 AC 738 dismissed an appeal of judge's refusal to grant relief on a successful application for judicial review on the ground that the application was not made promptly or within three months as prescribed by RSC Ord 53, r 4(1) and would be detrimental to good administration. The Court held that the failure to apply for judicial review promptly and within the period required by r 4(1) of the Order amounted to undue delay under s 31(6) of the Supreme Court Act 1981. The Court could refuse leave unless there was a good reason for extending the time within which to apply. Even if leave is granted, the court could subsequently refuse substantive relief on the ground that to grant it would likely lead to hardship, cause prejudice or be detrimental to good administration.

[49.] Taking into consideration all of the circumstances of this case, no reason for the delay being given, I decline to extend the time within which to apply for judicial review. I decline to grant any of the reliefs sought on the grounds that to do so would prejudice the Inland Revenue in its statutory remit, be detrimental to good administration and inimical to the public interest. The applicants' application for leave to apply for judicial review is dismissed.

Williams J

31 July 2026