

Corrected pursuant to Part 43.10 of the Civil Proceeding Rules 1998 as amended this 12th day of October, 2018

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV2018-03616



BETWEEN

AFRA RAYMOND

Applicant/ Intended Claimant

AND

**PERMANENT SECRETARY TO THE PRIME MINISTER IN THE
OFFICE OF THE PRIME MINISTER OF THE REPUBLIC OF
TRINIDAD AND TOBAGO**

Respondent/ Intended Defendant

ORDER

Ex-parte

Before the **Honourable Mr Justice Frank Seepersad**
Dated the 11th October, 2018

UPON READING the Applicant's application for leave to make a claim for judicial review dated and filed on the 9th day of October, 2018 pursuant to Part 56.3 of the Civil Proceedings Rules, 1998 ("the said Application") of the following decisions of the Respondent:-

- a) The Respondent's continuing refusal by letters dated 22nd March, 2018 (received by the applicant on the 3rd April, 2018) and the 11th May, 2018 (received by the applicant on the 18th June, 2018) to provide the following information requested by the applicant in an application made pursuant to the Freedom of Information Act dated the 27th February, 2018 for "the Memorandum of Understanding with Sandals Resorts related to the proposed Tobago Sandals/Beaches Resort with appendices, supplements, maps, plans, projections, designs, conceptual drawings, layouts or other material." (*hereinafter referred to as "the said information"*) ("**The First Decision.**")

- b) The Respondent's refusal upon reconsideration by letter dated the 10th July, 2018 (but which said letter was received by the applicant on the 26th July, 2018) to provide the said information (**"The Second Decision."**)

- c) The Respondent's continuing failure and/or refusal to comply with the procedural requirements of Section 23 of the Freedom of Information Act in responding to the applicant's request for the said information.
("The Third Decision.")
(Collectively referred to hereinafter as "the impugned decisions.")

And Upon Reading the supporting affidavit of Afra Raymond sworn to and filed on the 9th October, 2018 in support of the said application as well as the submissions filed on the 10th October, 2018.

AND UPON HEARING Attorney at Law for the Applicant/ Intended Claimant.

It Is Hereby Ordered as follows:

1. The instant application was filed promptly and delay does not operate as a bar. Alternatively there exists good reasons for the extension of time having regard to the engagement between the parties between March 2018 to September 2018 and the variations in the position advanced by the Respondent further the grant of leave will not occasion prejudice to any third party nor would it be detrimental to good administration;

2. That the Applicant is hereby granted leave to make a claim for judicial review for the following reliefs:-
 - i. A declaration that the impugned decisions of the Respondent to refuse to provide the said information are illegal, irrational, in breach of procedural fairness and are null and void and or no effect
 - ii. A declaration that the Applicant is entitled to the said information.

- iii. An order of Mandamus compelling the Respondent to provide the said information.
- iv. Further and/or alternatively, a declaration that the continuing failure and/or refusal of the Respondent to comply with the procedural requirements of Section 23(1)(a) of the Freedom of Information Act when making its decision to refuse to provide the requested information is unlawful, null and void and of no legal effect.
- v. Costs.
- vi. Pursuant to section 8 of the Judicial Review Act 2000, such further orders and directions as the Court considers just and as the circumstances warrant.

IT IS FURTHER ORDERED

1. That the Applicant do file and serve such a claim on the Respondent and on the Solicitor General on or before 22nd October 2018;
2. That the **Case Management Conference** be set for **29th November 2018 at 9:15am** in Court Room **SF03**;
3. That leave be and is hereby granted to the Claimant to read and use the affidavit of AFRA RAYMOND filed ON THE 9TH OCTOBER, 2018 herein in support of the claim;



4. That the leave be and is hereby granted to the Claimant, if required, to file and serve in further support of the claim, in lieu of the affidavit prescribed by *Part 56.7(4) of the Civil Proceedings Rules, 1998* (“the CPR”), an affidavit: (i) stating the matters prescribed by *Part 56.7(4)(a), (b), (c), (d), (f) and (g) of the Civil Proceedings Rules, 1998*, and (ii) verifying and confirming the facts contained in the said affidavit of AFRA RAYMOND

/s/ **Kimberly Prescott**
Assistant Registrar and Deputy Marshal
Supreme Court of Trinidad and Tobago

IF YOU THE WITHIN-NAMED PERMANENT SECRETARY TO THE PRIME MINISTER IN THE OFFICE OF THE PRIME MINISTER OF THE REPUBLIC OF TRINIDAD AND TOBAGO NEGLECT TO OBEY THIS ORDER YOU WILL BE LIABLE TO PROCESS OF EXECUTION TO COMPEL YOU TO OBEY SAME AND WILL BE GUILTY OF CONTEMPT OF COURT AND MAY BE SENT TO PRISON OR FINED OR YOUR ASSETS MAY BE SEIZED.