

Paul G. Sabers
13-A ESTATE CAROLINA LLC.
13A Est Carolina, Coral Bay
St John, VI 00830

Attorney Yvonne Tharpes, Esq.
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
P.O. Box 1690
St Thomas, VI 00804

August 6, 2019

re: **CZM Major Water Permit CZJ-04-14(W) for the Summers End Group LLC**

Dear Attorney Tharpes,

I am writing to you about a CZM Major Water Permit that is before the Legislature and which involves land that I own in Coral Bay, St John. I, Paul Sabers, am the managing member of 13-A Estate Carolina LLC and 13-B Estate Carolina LLC, which own parcels 13A Carolina, Coral Bay, St John and 13B Carolina, Coral Bay, St John, respectively.

I understand that the Virgin Islands Legislature may be considering the ratification of "Coastal Zone Management Major Water Permit CZJ-04-14(W)" for a marina project proposed by the Summer's End Group, LLC, in Coral Bay Harbor, St John. This permit was approved by the St John Committee of the Virgin Islands CZM Commission about five years ago, on October 24, 2014. I also understand that Governor Bryan recently signed this permit, on April 4, 2019.

This permit, and an associated CZM Major Land permit, were appealed by the Moravian Conference and the Virgin Islands Conservation Society to the Board of Land Use Appeals ("BLUA") in November 2014. The appeals were heard by BLUA in May 2016, and the decision of BLUA was rendered in July 2016. The BLUA decision included an order that the two individual permits (land and water) be consolidated into a single permit application since they were, in fact, two aspects of a single project.

It is clear that further processing of the separate CZM water permit by the Virgin Islands Legislature is in direct contradiction to the order of the Board of Land Use Appeals. I respectfully submit that the Legislature must return this CZM Major Water Permit CZJ-04-14(W) to the applicant until a consolidated permit is approved by CZM, as ordered by BLUA.

However, of even greater concern to me is the fact that the scope of the permit currently being considered by the Legislature directly infringes on my property rights as the owner of parcels 13A Carolina and 13B Carolina. The water component of this project is described as follows on the first page of Major Coastal Zone Management Permit No. CZJ-04-14(W):

- 2. SCOPE** (a) This permit allows the construction of a 145 slip marina, a designated mooring field of up to 75 moorings, a pump-out station and a fuel station at and seaward of Plot Nos. 10-17, 10-18, 10-19, 10-41 Rem., 13A, 13B and 13 Rem. Estate Carolina, St. John, U. S. Virgin Islands.

The reference to Parcel 13A Carolina and Parcel 13B Carolina has never been authorized by me. As the owner of these two parcels I wish to inform you that I have no intention now or in the future of

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providing such authorization to the Summers End Group. I will not now, or in the future sell these parcels to the Summers End Group or an affiliated entity. This permit cannot, therefore, be approved or issued inasmuch as it grants authorization to the Summers End Group, LLC to perform development activities at and seaward of my privately owned land which they do not own or control.

Moreover, the associated CZM Major Land Permit CZJ-04-14(L), which BLUA ordered to be consolidated with the Major Water Permit, describes the scope of the land development as follows:

2. **SCOPE** This permit allows the redevelopment of seven contiguous properties in Estate Carolina, Coral Bay, St. John (in two phases) for the construction of various supporting facilities for the Coral Bay Marina. Phase 1 will enhance the existing commercial business sites at CoCo Loba, Shoreline Inn and Island Blues and renovate the "Voyages" restaurant building. Phase 1 redevelopment will include the following:

- 120 off street parking spaces
- A new 56 seat restaurant
- Customs and Border Protection office
- A Marina Office
- Marina Engineering
- Marina Security
- Fish and Farmers Market
- Crew shower and locker facilities
- Apartments to support marina management
- Proper solid, hazardous and liquid waste management
- Proper storm water management , and
- Proper fueling.

Phase 2 of the development (implemented strictly on demand) will include:

- Additional retail
- Restaurant
- Office space
- Commercial space and
- Six short-term rental units

The project is located on Parcel Nos. 10-17, 10-18, 10-19, 10-41 Rem., 13A, 13B and 13 Rem. Estate Carolina, St. John, U.S. Virgin Islands.

I would like to bring your attention to the following matters of extreme concern to me as the owner of property referenced in this permit:

1. The DPNR Commissioner, Mr. Jean-Pierre Oriol, has stated to me that the CZM Major Land permit for the Summers End Group will become effective if and when the CZM Major Water permit is ratified by the Legislature.
2. Parcels 13A Carolina and 13B Carolina are not only listed within the Scope of the Major Water Permit (as described earlier in this letter), but they are also within the Scope of the related Major Land Permit (as shown above). I have given no authority for the Summer's End Group, LLC, or its managing partner Ms. Chaliese Summers, to apply for permits or to utilize these parcels as part of this project, and I have no intention of doing so in the future. In the CZM permit application,

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Summers End Group, LLC and Ms. Chaliese Summers fraudulently misrepresented that they had the right to use these properties for the proposed project. They do not and I intend to take legal action against them for their fraudulent misrepresentation which, if the Legislature approves the CZM permit, will constitute a slander on my title to the property.

3. In addition, the Scope of the Major Land permit specifically states that the permit allows the applicant to "renovate the Voyages restaurant building". I own this building and I have given no authorization for the Summer's End Group to undertake any work whatsoever on this building.
4. Both the CZM Major Water Permit and the related CZM Major Land Permit incorporate a number of documents by reference. These documents are identified as follows:

4. DOCUMENTS INCORPORATED BY REFERENCE

- Exhibit A: CZM Permit Application dated April 4, 2014.
- Exhibit B: Site Plan and Drawings dated July 11, 2014
- Exhibit C: Environmental Assessment Report dated April 4, 2014

5. The referenced document identified above as "Exhibit B" entitled "Site Plan and Drawings dated July 11, 2014" indicates that many of the features in the scope of the project are located on Parcel 13A or Parcel 13B Carolina. The features located on Parcel 13A are identified within this document as follows:

PARCEL NO. 13-A

SEE DWG. NO. C203 FOR SITE PLAN

- REMOVE POOL, SELECTED STRUCTURES AND BUILDINGS
- RECONFIGURE PEDESTRIAN ACCESS TO BUILDINGS ALONG ROADWAY
- EXPAND AND IMPROVE OUTDOOR SEATING AREA AROUND BUILDING
- NEW PARKING AREAS FOR 8 SPACES AND 1 ADA VAN ACCESSIBLE SPACES
- NEW CONCRETE PAVED WALKWAY SYSTEM
- NEW DOMESTIC WATER TREATMENT PLANT
- NEW GENERATOR
- NEW RAISED PEDESTRIAN CROSSWALK CONNECTING UPLAND WITH MARINA BOAT SLIPS
- NEW TIMBER DECKING AND PERGOLA CONNECTING UPLAND WITH MARINA BOAT SLIPS
- NEW STORM WATER MANAGEMENT MEASURES
- NEW DRIVEWAY OPENING
- NEW PLAZA AREA
- UPGRADE SELECTED LANDSCAPED AREAS
- NEW SANITARY SEWER TREATMENT FACILITY WITH WATER RECYCLING/GREYWATER SYSTEM
- NEW WATER CISTERN – 4,000 GALLONS REUSE
- EXISTING CISTERNS TO REMAIN – 52,800 GALLONS POTABLE

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6. The features located on Parcel 13B are identified as:

PARCEL NO. 13-B
SEE DWG. NO. C203 FOR SITE PLAN

- REMOVE SELECTED STRUCTURES AND TREES
- NEW PARKING AREA FOR 17 SPACES
- NEW CONCRETE PAVED WALKWAY SYSTEM
- NEW WASTEWATER TREATMENT PLANT
- NEW STORM WATER MANAGEMENT MEASURES
- UPGRADE SELECTED LANDSCAPED AREAS
- NEW WATER CISTERN – 5,000 GALLONS REUSE

It should be readily apparent that a significant portion of the overall project, including parking, storm water management, sewage treatment, walkways and cisterns is located on Parcels 13A Carolina and 13B Carolina, both of which I own in their entirety. The Legislature has no authority to grant a permit for demolition, construction and occupancy of private land owned by me, against my express wishes.

I am writing to you today to inform you that if the Legislature were to undertake any action to ratify CZM Major Water Permit CZJ-04-14(W) then that action would take from me substantially all rights in my property and deprive me of the benefits I enjoy as the legal owner of the parcel under Virgin Islands law. I have been advised that such an action by the Legislature, the Governor and the CZM Board, under color of state law, taken against my express wishes, without my permission, is a clear violation of my rights under the Revised Organic Act, pursuant to 42 U.S.C. §1983, deprived me of rights, privileges or immunities governed under federal law and the U.S. Constitution, including but not limited to, my constitutional due process and property rights under the 5th and 14th Amendments.

It is my express intention to vigorously defend all of my rights as an owner of real estate in the United States Virgin Islands with all recourses available under Virgin Islands and US federal law. I have contacted Robert Fox (copied here), a well known environmental litigator (www.mankogold.com), to represent me to pursue any and all claims should the Legislature so act. I strongly urge you to either deny, or not to consider this permit due to the serious defects embodied in it, including the use of my property without my authority.

Respectfully yours,



Paul G. Sabers, Managing Member, 13A Estate Carolina LLC

phone: 561-329-6298
email: ps_13a_carolina_llc@yahoo.com

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cc: Senators of the 33rd Legislature of the USVI
Mr. Jean-Pierre Oriol, DPNR Commissioner
Mr. Marlon Hibbert, CZM Director
Attorney Vonetta Norman, CZM Legal Counsel
Robert D. Fox, Esquire