



# Notice of Termination

*Systemic Investigation  
into the process used  
to re-allocate parcels  
in Over the Bank.*



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## **Notice of Termination Investigation**

(Article 16 and 17 sub1c and sub 3 National Ordinance Ombudsman)

Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure (VROMI)

**Fao: Minister E. J. Doran**

Soualiga Road #1

Pond Island

Great Bay

Sint Maarten

Our ref.no.: 2021 OBM 11102021

**Subject: Systemic Investigation into the (re) allocation of parcels in the area known as “Over the Bank” / “Vineyard Heights”**

Philipsburg, 13 October 2022

Honorable Minister Doran,

This letter is to inform you that the Ombudsman refrains from further investigation in accordance with the National Ordinance Ombudsman (“*Landsverordening Ombudsman*”). Upon being notified by the Minister on 28 July 2022 that the Government of Sint Maarten had initiated court proceedings on 26 July 2022, the Ombudsman refrained from further investigating the process used to re-allocate parcels in the area known as Over the Bank (OTB). As such a Final Report (FR) is not drafted and the file will be closed by means of this notification of termination (NOT).

### **Summary of Complaint**

On 5 July 2019, a complaint was filed with the Ombudsman regarding the non-response to a request for a status update dated 4 June 2019 in connection with the finalization of the draft decree received in 2016. The investigation of the Ombudsman had established that Complainant was issued a draft decree by the Minister on 7 September 2016 for a parcel of land located in OTB<sup>1</sup>.

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<sup>1</sup> Area located in the region of Upper Princess Quarter.



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Complainant was informed in July 2019, via the intervention of the Ombudsman, that the Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure (VROMI) could not honor his request as the area does not have infrastructure to access the property. Through the investigation of the Ombudsman, it was established that based on the internal process<sup>2</sup> followed by the Ministry, infrastructure is not a legal requirement and as such the Minister is required to provide Complainant with a decision (decree) with the Certificate of Admeasurement (C/A) number inserted, after which Complainant can proceed to the notary to finalize the deed. On 7 May 2021 preliminary findings report (PFR) was sent to the Minister affording the Minister the opportunity to respond to the findings and recommendations issued. To date of the Final Report (FR) dated 9 July 2021<sup>3</sup> no response had been received from the Minister.

During a Council of Ministers (COM) press briefing on 25 August 2021, the Minister informed the general public about plans for the development of OTB. During said press briefing the Minister stated that several steps were being taken to realize the project 'Vineyard Heights'. These steps included the issuing of 25 individual parcels and sending out tenders for infrastructure in the area<sup>4</sup>. Following the announcement of the Minister and several complaints filed by the public, the Ombudsman sent a letter of concern dated 9 September 2021 to the Minister requesting clarity on the process used to allocate domain land to the 25 applicants mentioned in the press briefing. Based on the responses received and concerns raised the Ombudsman resolved to conduct a systemic investigation regarding:

- The process and procedures followed by the Ministry of VROMI to award 50+ individuals draft decrees for OTB;
- The process and procedures followed by the Ministry of VROMI to award 25 individuals parcels in OTB;
- The internal administrative system used to archive and the process used to allocate long lease land.

### **Research Methodology**

The research methodology applied by the Ombudsman consisted of desk research and the analyzing of qualitative and quantitative data provided by the following sources:

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<sup>2</sup> Process of Land/Water Parcel Request, Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure.

<sup>3</sup> Complaint nr. 2019/0202.

<sup>4</sup> Live Council of Ministers Press Briefing, 25 August 2021.



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- Minister of VROMI;
- Cadastre & Land Registry (Kadaster);
- Ministry of General Affairs;
- Court decisions<sup>5</sup>;
- Complaints filed with the Ombudsman;
- Advice provided by the government's lawyer;
- Advice Vineyard Heights Committee;
- Media publications;
- Terms of Reference (TOR) OTB project<sup>6</sup>;
- OTB inspection report dated 2 November 2015 assessing the infrastructure in OTB;
- Action Plan 2016 - Coalition of 8;
- Ministry Plan 2015-2018;
- COM Press Briefings.

### **Legal basis for the allocation of Domain Land**

Article 1 of the '*Verordening op de uitgifte van eigendommen*' gives the Minister the authority to allocate domain land. In absence of a published policy to allocate public domain the Minister has the discretionary authority to deny or approve requests for domain land. Article 2 of the national ordinance stipulates the conditions under which public domain is issued.<sup>7</sup> Domain land is usually allocated under the general conditions contained in articles 5 to 25 and special conditions that can be set by the Minister in each individual case. In order for an individual to acquire public domain in long lease, a request must be submitted to the Minister in writing in accordance with article 4. For a parcel transfer to take place a decree is drafted as a preparatory act for a civil decision, namely the granting of long lease.

### **Standard Internal Procedures used for allocating Domain Land**

Upon receiving a request for a parcel of land addressed to the Minister, Domain Affairs then carries out an investigation to establish whether the parcel is available for use. Once the parcel has been deemed available, additional research is then carried out within the Ministry (Inspection Department, Permits Department, Public Works, New Projects Department) in collaboration with Kadaster to confirm whether the requested parcel of land can be issued to

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<sup>5</sup> Court decisions regarding ownership Over the Bank from the period of 2007 onwards.

<sup>6</sup> Terms of Reference Over the Bank Development, Department of New Projects Development and Planning, February 2016.

<sup>7</sup> Article 2 of the '*verordening op de uitgifte van eigendommen*' further outlines the fixed conditions under which domain land is issued which are namely, for a period not exceeding 60 years, by notarial deed and by annual payment.



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applicant. When the investigation is completed, the department of Domain Affairs will send an advice to the Minister for further handling<sup>8</sup>. In the event of a negative advice from the relevant departments or unavailability of the parcel, the applicant is then informed of the decision in writing.

Once approved a concept proposal will be drafted by Domain Affairs which is then sent to the Minister for a decision on the issuance of the requested parcel at the price and terms stated in the draft decision. After a decision has been taken by the Minister, Domain Affairs ensures that the measuring task is passed on to Kadaster so that a C/A can be issued and paid for by the applicant<sup>9</sup>. After the final decree is signed by the Minister, the applicant will be contacted by the department of ‘*Documentaire Informatie Voorziening*’ (DIV) to collect the decree, the decree is only made available once a payment has been made for a stamp of Naf. 10.00 at the Receivers<sup>10</sup>. Upon collecting the decree, the applicant is required to bring a stamped copy to Domain Affairs in order for an invoice for the “13 Month” (annual payment for the first year of long lease) to be created.

The Receivers Office will then notify the applicant to satisfy their annual long lease fee as per the drafted invoice. Upon receiving the invoice, the applicant must take their receipt of payment for their annual long lease fees to a notary of their choice along with the original decree so an official deed can be made. When the deed has been signed by all parties involved, the applicant will be notified by the notary to provide their signature on the deed, upon which notarial fees must be satisfied.

### **Ownership OTB**

By court verdicts dated 2 November 2007 and 9 November 2012 it was established that the plaintiff did not provide enough grounds to establish legal ownership of the parcel described as 290/1984.

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<sup>8</sup> Process of Land/Water Parcel Request, Domain Affairs, Ministry of Public Housing, Spatial Planning, Environment and Infrastructure.

<sup>9</sup> Process of Land/Water Parcel Request, Domain Affairs Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure.

<sup>10</sup> The information provided is based on the internal document distributed and used by the Ministry to allocate Domain Land, however it is unclear whether the internal document had been updated after the process had been taken over by the Domain Affairs in 2016.



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The trustee was required to return the parcel described as 290/1984 to Country Sint Maarten. According to the cadastral records the parcels described as 290/1984 and 162/2014 were registered as the property of Country Sint Maarten since 5 February 2015<sup>11</sup>.

Subsequently, the plaintiff had placed a lien on the property described as 290/1984 and 162/2014 on 16 February 2015 and 27 February 2015, respectively.

By court verdict rendered on 13 December 2016 it had been established by the Court of First Instance that the parcel described as 162/2014 remained property of Country Sint Maarten. In accordance with the decision provided by the Court on 13 December 2016, Country Sint Maarten was mandated to have the lien lifted as of the date of the verdict. According to Kadaster's registers the lien was lifted on 5 July 2017. It is unclear why government took almost 6 months to have said lien lifted. By decision of the Joint Court of Justice dated 16 November 2018 the court upheld the decision made by the previous court which established that the plaintiffs claim to ownership of the properties described as 290/1984 and 162/2014 known as OTB was unfounded.

### **Process/procedures OTB Project**

In October 2015, the Terms of Reference (TOR) were drafted by the department of New Projects Development and Planning of the Ministry of VROMI. On 2 November 2015, an inspection was conducted in order to assess and place the required infrastructure on the parcel described as 290/1984 and for future development of the parcel described as 162/2014. The findings of the inspection report regarding parcel 290/1984 concluded that the infrastructure in the area was poor to non-existent and that there were 244<sup>12</sup> buildings being used as dwellings and apartments. According to the TOR, the uncontrolled development would be restructured and integrated into the new development. Based on the contents of the TOR, both the new development and the existing structures would be presented as one project in the overall works to be prepared.<sup>13</sup> On 21 April 2016, a COM decision was passed awarding Independent Consulting Engineers N.V. (ICE) with the assignment to begin preparatory works for the development of OTB.

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<sup>11</sup> 'Verklaring' Upper Princess Quarter (UPQ) 162/2014.

<sup>12</sup> Inspection Report Upper Princess Quarter INSP15-1207, Ministry of Public Housing, Spatial Planning, Environment and Infrastructure, 2 November 2015.

<sup>13</sup> Terms of Reference Over the Bank, Department of New Project, Development and Planning, Ministry of VROMI, pg. 3-5, October 2015, revised February 2016.



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The following was approved by the COM<sup>14</sup>:

- Approval of awarding advice dated 14 April 2016;
- Approval of the amount of *Naf. 199.000*, - for preparation works;
- Approval of the amount of *Naf. 199.000*, - to be taken from Capital Investment 2016;
- Approval draft “Letter of Acceptance and Contract Agreement FIDIC White book for the preparation works for the development of Over the Bank” between Country Sint Maarten and ICE;
- Approval of the National Decree to authorize the Minister to sign Letter of Acceptance and Contract Agreement FIDIC White book on behalf of Country Sint Maarten, in accordance with article 21 *‘Rijkswet financieel toezicht Curaçao en Sint Maarten’*;
- Approval of the “Letter of Acceptance and Contract Agreement FIDIC White book to Independent Consultants NV” for the amount of *Naf. 199.000*, -.

Subsequently a request was submitted on 17 May 2016 to the Cabinet of the Governor for signing. In response to the request submitted by the Minister, the Director of the Cabinet of the Governor informed the Minister that the TOR had not been included in the documents submitted and that the desired budget post does not provide enough coverage to finance the requested project<sup>15</sup>. The COM was requested to provide further clarification regarding the financing of the OTB project and provide an overview entailing the potential risk associated with the expected loan to finance the project. Subsequently a development plan was established by ICE, whereby 51 lots were created of which 50 residential and 1 (one) lot was designated for commercial space.

During a live COM press briefing the Minister had informed the general public that 300 requests for domain land had been received for OTB dating back to as early as 2011<sup>16</sup>. According to the Minister 50 applicants had been chosen based on a list of persons who applied from January 2016 and some from the period of 2011 onwards that had re-applied<sup>17</sup>. The 50 applicants were also chosen based on candidates that were young professionals and did not own property.

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<sup>14</sup> COM decision was required as the Minister could not exceed to the amount allotted to him based on National Ordinance ‘Comptabilitietsverordening’.

<sup>15</sup> Landsbesluit 2016/0144, Cabinet of the Governor, 19 May 2016.

<sup>16</sup> Minister Angel Meyers confirms land distribution in Over the Bank, Council of Ministers Press Briefing, SXM Talks, 7 September 2016.

<sup>17</sup> Minister Angel Meyers confirms land distribution in Over the Bank, Council of Ministers Press Briefing, SXM Talks, 7 September 2016.



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With reference to the issuance of the lots, the Minister received a memorandum<sup>18</sup> from Domain Affairs recommending the following changes to the initial advice which was drafted by the Cabinet of the Minister:

- To apply a higher annual canon fee (namely *Naf.* 3.00);
- To reduce the building density needed to erect a structure from 40% to 30%;
- To reinstate the '*boeteclausule*'<sup>19</sup> in the draft decrees.

The Minister was also advised to inquire with the government's attorney<sup>20</sup> about the status of the lien that had been placed on the property.

The Minister informed<sup>21</sup> the head of Domain Affairs that he will follow the advice regarding the adjustment of the building density, and with regards to the other recommendations no change will be made as there are sufficient arguments not to do so. According to the Minister the concept long lease decree sufficiently addressed those concerns.

Subsequently Domain Affairs ensured that the measuring task regarding the 50 lots was passed on to Kadaster so a C/A could be issued and paid for by the applicants. The conditions laid down in the draft decrees were - amongst others - as follows:

- Right to long lease for a period of 60 years;
- A yearly canon of *Naf.* 2.40 per square meter (m<sup>2</sup>);
- After the expiration of a period of at least 5 years after the execution of the deed of leasehold and for a period of at least 5 years following, the canon can be adjusted and amended by decision of the Minister;
- The lessee will be notified of the decision to amend the ground rent by registered letter at least three months before the expiration of the 5-year period.

In response to the measuring request by Domain affairs, Kadaster provided Domain Affairs with 39 certificates of admeasurements paid for by applicants. 11 persons had not rendered payment and as such those lots were not measured by Kadaster (see enclosure 1).

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<sup>18</sup> Memorandum dated 18 August 2016, re. '*aanbiedingsbrief Over the Bank percelen*'.

<sup>19</sup> This ensures that parties are aware of their obligations and failure to live up to obligations can result in being given an administrative fine.

<sup>20</sup> The law office of Gibson & Associates.

<sup>21</sup> Memorandum dated 26 August, 2016.





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By letters dated 3 October 2016 applicants were informed by the Minister that *“the Ministry of VROMI will make every effort on behalf of the Country Sint Maarten to issue the right of long lease to you (them) in good order, as soon as a verdict is rendered by the court in favor of the Government”*<sup>22</sup>.

By verdict dated 13 December 2016 it was established that the lien could be lifted as the Government of Sint Maarten had been deemed the rightful owner of the disputed parcels known as 162/2014 and 290/1984 since 5 February 2015.

A change in government took place by national decree of December 2016.<sup>23</sup> The Ministry did not inform any of the applicants that the court case was rendered in favor of government nor were their decrees finalized.

In 2017 two complaints were filed with the Ombudsman regarding the non-response of the Minister to their request for an update/finalization of the issuance of two parcels in the OTB Project.

Through the intervention of the Ombudsman the (succeeding) Minister informed complainant(s) by letter dated 22 June 2017 as follows. *“The letter of 3 October 2016 was (pertaining to) a draft decree, and its purpose was solely to inform candidates of the Minister’s intention to issue a parcel to them in long lease when all preparations were completed”*. The Minister further stated that the draft decree could not be executed considering that the drafting of the decree was a preparatory act and no official decree had been issued. The Minister concluded by informing applicants that *“as long as the lien remains in effect on the property, the legal title of long lease to other third parties cannot be conveyed”*. The investigation has shown that in accordance with the verdict rendered on 13 December 2016, Country Sint Maarten was mandated to lift the lien, as such the Minister had an obligation to contact all applicants and inform them of the status of their request. At no point in time were applicants contacted. In 2018<sup>24</sup> and once again in 2019<sup>25</sup> a change in government took place. During the period of 2019-2021 various applicants had requested updates from the then Minister(s) regarding the finalization of their decrees to acquire the

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<sup>22</sup> Intent to issue parcel in long lease “Over the Bank” DIV 4858, Minister of VROMI, 3 October 2016.

<sup>23</sup> Landscourant (National Gazette), Jaargang 2017, Nummer 1, 6 januari 2017.

<sup>24</sup> Landscourant (National Gazette), Jaargang 2018, nummer 2, 19 januari 2018.

<sup>25</sup> Landscourant (National Gazette), Jaargang 2019, nummer 31, 10 december 2019.



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allotted parcel in OTB. Most were left with no response; some were informed that there was a lien and no infrastructure in place as such they would have to wait until further notice.

Despite the land being awarded to government in a final verdict of the High Court in 2018, no official information of the current status and the finalization of the decrees were provided.

A change of government took place again in March 2020<sup>26</sup>.

On 9 July 2021, a final report was issued by the Ombudsman regarding the non-response of the Minister to complainant's request for an update/finalization of the transfer process related to a parcel of land in the OTB project. During the investigation a meeting was held on 20 August 2019 with the (acting) head of Domain Affairs who stated that the (then) Minister did not follow the advice of the department in its entirety on who/which groups to allocate the lots located in OTB. He further stated that Complainant should not have received the draft decree to go to Kadaster and pay for a '*meetbrief*.' The acting head acknowledged that this is actually an internal affair that has become common practice. He acknowledged that the Minister has the authority to deviate from the advice of the department. The acting head further acknowledged that the procedure on paper and in practice are slightly different. He concluded by stating that a decision was forthcoming. Due to the lack of a decision, a follow up meeting was held in October 2019 with the Secretary General (SG) of the Ministry requesting an update on the process. According to the SG the land could not be transferred at that time because of the pending court case and that there was no budget for the development of infrastructure for the area in question. The SG acknowledged that lease land had been allocated before without any infrastructure and that it is not a legal requirement for land allocation. However, he shared the opinion that allocating land without an infrastructure brings with it the obligation for government to provide/fix the infrastructure and that is why it should be done before land allocation.

The investigation has revealed that once the Minister has made his intention known to award a parcel of lease land to an applicant, the process for allocation starts and the decision of the Minister is in principle binding. A draft decree is an internal document and serves as a preparatory act to the final decree. It contains the applicants name and the terms and conditions such as the canon fee and end date.

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<sup>26</sup> Landscourant (National Gazette), Jaargang 2020, nummer 09, 3 april 2020.



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The reason why a final decree is not issued immediately is because the C/A is not known (as yet). A C/A is paid for by the applicant. Once payment is made, the Kadaster would measure the pertinent land and issue a C/A. It is therefore common practice that applicants receive a copy of the draft decree.

The investigation has revealed that some of the draft decrees of various complainants had been manually corrected (e.g., crib number, lot number and canon fee). Even though these were draft decrees, propriety requires the Ministry to be meticulous in their handling when serving the public. Providing applicants with a draft decree with manual changes is careless and improper. Despite the manual changes applied to the draft decrees, government is continuous, and as such there is an obligation for the Minister/Ministry to finalize the process. Legitimate expectations on the part of the recipients must be honored.

### **Vineyard Heights Project**

Prior to the announcement of the Vineyard Heights Project, an advice dated 9 April 2021 was submitted to the Minister regarding the architectural renderings for OTB. The contents of said advice indicate that the project to develop the area was initiated prior to 19 October 2020 when two companies had submitted bids based on a request from the department of New Projects to execute the architectural renderings and carry out future architectural developments (in OTB)<sup>27</sup>. On 11 May 2021, the government's attorney submitted an advice to the Minister upon his request following a meeting regarding the initiation of a residential development project in OTB<sup>28</sup>. The attorney informed the Minister of the following: *“based on the number of requests in relation to the number of parcels available and residential units projected, it is likely that it will not be possible to grant long lease parcels to all of the applicants”*.

The Minister was also made aware of the consequences of issuing domain land without notifying previous applicants of the status of their request. The government's attorney had advised the Minister that there may be a number of unknown applicants that may still be interested in obtaining domain land in the area. The Minister was further advised to implement a policy eliminating applicants that have not actively inquired in over a year or more to date of submitting their applications. Said policy would also eliminate applications that have not filed an objection or appeal before the court within six (6) weeks after the term of 1 year had elapsed and individuals already in possession of domain land or other types of

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<sup>27</sup> Architectural Renderings for Vineyard Heights Development, Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure New Projects, DIV#9141, 9 April 2021.

<sup>28</sup> Mr. R. Gibson jr. of Gibson and Associates.



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real estate. According to documentation provided said advice was approved by the Minister on 25 May 2021<sup>29</sup>. Despite the approval of the advice, the Minister did not publish an announcement targeting individuals that had applied for parcels in the pertinent area or are awaiting an update on the finalization of their request prior to reissuing (the) 25 individual lots. The Minister installed a committee named Vineyard Heights that was tasked with selecting candidates for the Vineyard Heights Project based on the requests compiled by Domain Affairs and the advice of the governments' attorney. Very little is known about the composition of the Vineyard Heights Committee. By letter dated 25 June 2021 the Minister had received a report<sup>30</sup> from the Vineyard Heights Committee regarding the selection criteria that was used to select 25 candidates. According to the Committee, applicants were chosen based on their follow up with the Ministry regarding their requests for domain land from the period of 1 January 2020 until 31 May 2021. It remains unclear what medium had been used to contact the 25 applicants that had been awarded parcels in the area. No public announcement was made for applicants to provide proof of requests or follow up with requests for OTB, as stated in the attorney's advice. The investigation confirms that several individuals that had applied and paid for a C/A in 2016 had followed up with the Ministry/Minister during the period of 2019 -2021. However only 1 of the 25 individuals chosen by the Vineyard Heights Committee that had applied and paid for a C/A in 2016 had been awarded a parcel in the Vineyard Heights Project.

The criteria used by the Vineyard Heights Committee for the selection of applicants for the Vineyard Height Project for area A was as follows:

- Land will be issued to name, with the exception of NV's and BV's;
- First time landowner, no land registered in name at Kadaster;
- Proof of full-time job earning a minimum gross income of Naf. 3000, - (joint income, or other means of being able to build with approval at the discretion of the Minister);
- Will be a contributing member of the VH homeowners' association;
- Government has the first right to buy back upon sale of property;
- Property cannot be transferred within first 10 years, unless going back to government;
- Buildings must be built in the pre-approved format by the Ministry of VROMI.

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<sup>29</sup> Report Vineyard Heights Committee, Ministry of Public Housing, Spatial Planning, Environment and Infrastructure, 25 June 2021.

<sup>30</sup> Report Vineyard Heights Committee, Ministry of Public Housing, Spatial Planning, Environment and Infrastructure, 25 June 2021.



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On 25 June 2021, the Minister awarded an assignment<sup>31</sup> to a company to develop the architectural renderings for Vineyard Heights. According to the decision of the Minister the assignment would be managed and coordinated by the department of New Projects Development & Planning<sup>32</sup>. Important to note is that the department head of New Projects also holds the position of acting SG and functioned as acting head of Domain Affairs for a period of time.

In June 2021, during the 2021 budget debate, the Minister presented his plans to Parliament on how the Ministry plans to address the lack of affordable housing in Sint Maarten. The Parliament of Sint Maarten passed the annual budget<sup>33</sup> approving the initiation of the Sustainable Housing project. At the time of the approval of the budget little details had been provided regarding the specifics of said project.

On 22 July 2021 the head of Domain Affairs submitted the measuring task for 5 lots in OTB to Kadaster so that a C/A could be issued (and paid for by the 5 applicants).<sup>34</sup> Kadaster subsequently provided Domain Affairs with 4 C/A's. 1 person did not render payment and as such that lot was not measured (by Kadaster). On 27 August 2021, the Minister issued 20 decrees to 20 individuals who had been vetted by the Vineyard Heights Committee, whereby 20 parcels which had already been surveyed in the period of 2016-2017 were reallocated<sup>35</sup>. It is unclear what procedure was followed to issue said 20 decrees and what advise Domain Affairs provided as those parcels had already been allocated in 2016 and 2017 to previous applicants that had followed the Ministries internal standard procedures (see enclosure 2).

On 20 October 2021 a motion of disapproval ('*afkeuring*'), was passed by Parliament of Sint Maarten (Parliament) against the Minister regarding the issuance of long lease land in OTB. The Minister was instructed by Parliament to present a policy on the issuance of domain land within 120 days of the meeting and cease the issuance of long lease land in OTB.

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<sup>31</sup> DIV nr. 9141.

<sup>32</sup> Architectural Renderings Vineyard Heights, Minister of Public Housing, Spatial Planning, Environment and Infrastructure, 25 June 2021.

<sup>33</sup> Landsverordening tot vaststelling van de Begroting van het land Sint Maarten voor het dienstjaar 2021 (Landsverordening begroting 2021).

<sup>34</sup> Meetopdrachten Kadaster 2021

<sup>35</sup> See Upper Princess Quarter, division Map Kadaster.



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The Minister was further instructed to execute the advice provided by Gibson & Associates<sup>36</sup> and establish a policy and provide an update within three (3) months.

On 17 November 2021, the acting SG provided the following responses amongst others to the questions posed in the Notification of Complaint (NOC) of the complaint filed in 2019 and closed in 2021<sup>37</sup>, including questions posed in the letter of concern dated 9 September 2021. With reference to the question regarding complainants parcel the SG responded that the parcel of land in question had been issued to another individual and forms part of the Vineyard Heights Project. The SG also indicated that the issuance of the long lease land (in 2016) was not done illegally. Regarding the status of complainant's case, after receiving a draft decree and *'meetbrief'*, the SG explained that the definite decree would have to be created, indicating the C/A (number) that was paid for by complainant. Complainant would then have a period of six months to have the decree deeded at the notary. After the six months, the decree would expire. With regard to the question as to why the initial (2016) applicants/recipients were not informed about the Minister's new plans (anno 2020/2021) for the area, the SG responded that the initial applicants did not receive a definite decree, therefore the Minister was not obligated to contact them (see enclosure 3). This reasoning is flawed. After all, the investigation has revealed that the issuing of draft decrees is an inherent part of the process and serves as a required preparatory act to the (issuance of the) final decree.

On 25 January 2022 the Ombudsman received a response to the questions posed in the Notification of Systemic Investigation dated 10 November 2021 (see enclosure 4).

In its verdict of 28 January 2022 regarding the disputed lots the Court of First Instance established that: *'the conclusion must be drawn that Country Sint Maarten has committed itself to issue the ground lease rights to the claimants'*<sup>38</sup>, by *inter alia* issuing the draft decrees. The court further forbade government from issuing parcels in OTB as long as there is no decision taken in a regular court proceeding. If the Minister fails to adhere to the ruling rendered by the court, the minister faces a fine of \$500.000, which will be enforced with immediate effect. As a result, the 20 applicants cannot proceed to the notary to finalize the process.

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<sup>36</sup> The Minister was advised by governments attorney to set up a policy based on an objective selection criterion and contact individuals that have followed up on their request in writing within no more than 1 year. Vineyard Heights Project, Gibson & Associates, 11 May 2021.

<sup>37</sup> Complaint nr. 2019/0202.

<sup>38</sup> ECLI:NL: OGEAM: 2022:7: '*rechtsoverweging*' (r.o.) 4.25.



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### **Internal Administration DIV/ Ministry VROMI**

The tasks of the department of *DIV* are established by article 17d of the national decree containing general measures regarding the subdivision and further details of the Ministry of General Affairs<sup>39</sup>. The department of *DIV* is tasked with the following:

- developing policies and regulations regarding central postal registration, progress monitoring, postal dispatch and central archiving, and supervising their implementation;
- documentary and archive support tasks, including the management of the computerized system for documentary information provision;
- carrying out archiving and document lending;
- taking care of document management or a central library;
- performing the central mail registration, progress monitoring, mail dispatch and archiving;
- digitizing documents and automating the documentary information provisioning process.

By letter dated 15 September 2021, the Minister requested that the Ombudsman provide the Ministry with information/supporting documents in order to provide a response to the questions posed in her letter of concern<sup>40</sup>.

The documents/information requested were as follows:

- Draft decrees issued in 2016 by the former Minister;
- Letter from the Minister reassuring applicants that their request would be finalized after the verdict was rendered by the court;
- Letter from the (former) Minister informing applicants that the allocation of domain land could not be finalized;
- Number of previous and recent applicants that were contacted by the Ministry in 2021 to receive domain land.

According to the Minister previous administrations had not left behind complete and comprehensive files and/or information regarding matter at hand.<sup>41</sup> On 17 September 2021, the Minister informed the Ombudsman that the ministry was currently in the process of retrieving all internal documentation relating to the case and that the ministry is not able to

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<sup>39</sup> Landsbesluit, houdende algemene maatregelen tot onderverdeling en nadere uitwerking van het Ministerie van Algemene Zaken, artikel 17d.

<sup>40</sup> Response Letter of Concern - Vineyard Heights, Minister of VROMI, 15 September 2021.

<sup>41</sup> Response Letter of Concern - Vineyard Heights, Minister of VROMI, pg.2, 15 September 2021.



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provide an adequate response within the timeframe set by the Ombudsman<sup>42</sup>. The Ombudsman responded to the request by informing the Minister that all relevant documentation should be readily available within Domain Affairs and by extension the ministry. By email of that same day an extension had been granted to the ministry to respond by 24 September 2021. The Ombudsman was provided with a memo dated 22 September 2021 from the head of Domain Affairs to the Minister stating the following “(...) *Domain Affairs has started the process of retrieving all documentation on file pertaining to the issuance of land in long lease at ‘Over the Bank’ during the years 2016-2017. The process had not resulted in any additional information being retrieved, other than what was previously submitted to your cabinet (i.e., Cabinet of the Minister)*”<sup>43</sup>. The head of Domain Affairs concluded by informing the Minister that Domain Affairs had not been able to locate any of the signed concept decrees within the department.”

By email dated 24 September 2021 the Minister had informed the Ombudsman that “*there hasn’t been clear information on the supposed 50+ applicants from the initial plans of the Over the Bank project*”. According to the Minister the ministry had gathered information on some of the individuals with one written list and one typed list, which did not coincide with each other. The Minister informed the Ombudsman that the Ministry of VROMI is occupied with gathering a coherent overview of all applicants.

According to the Minister a publication was made requesting all applicants between the years of 2014 to 2018 to come forward. No copy of the correspondence referenced was provided. The Minister concluded by reiterating that “*previous administrations had not left behind complete and comprehensive files and /or information regarding matters handled by the previous administrations*”<sup>44</sup>.”

Based on a meeting held with the head of DIV on 3 December 2021 the following was established. Due to a ransom ware attack that took place in 2016<sup>45</sup>, some 2016 files were corrupted, as such not all letters/documents could be provided. However, the department was able to provide an overview of the information regarding the OTB project (e.g., 50 land requests, draft decrees and October 2016 intent letters) via their backup system.

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<sup>42</sup> Response “Letter of Concern” – Vineyard Heights, Ministry of Public, Housing, Spatial Planning, Environment, and Infrastructure, OM-OBM2021/1023b, 17 September 2021.

<sup>43</sup> Request documentation on Over the Bank’ land issuance, memo Domain Affairs Ministry of Public Housing, Spatial Planning, Environment and Infrastructure, 22 September 2021.

<sup>44</sup> Letter of Concern Minister VROMI Vineyard Heights / Over the Bank, Ministry of Public, Housing, Spatial Planning, Environment and Infrastructure, 24 September 2021.

<sup>45</sup> In 2016 the Government administration was attacked by ransomware which resulted in a substantial number of files becoming corrupted and inaccessible.





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The fact that the draft decrees were registered at DIV shows that Domain Affairs did provide DIV with the decrees and as such Domain Affairs should have the decrees in their system (administration/archives). According to the procedures, Domain Affairs sends the assignment letters to prepare the C/A to Kadaster. As such this information should be available at Domain Affairs as well as the copies of the C/A's.

The head of DIV further explained the procedure with regard to domain land. All incoming requests for public domain land are sent via DIV and given a registration number. Once said registration number is provided the request will be sent to the Cabinet of the Minister, the SG and then to (Domain Affairs) for further handling. In the event a request could not be honored, the decision of the Minister regarding the request of the applicant would be sent back to DIV where it is registered and sent to the applicant. If an applicant is awarded a requested parcel, the draft decree including all relevant supporting documentation (advices/comments) would be registered and uploaded by DIV. Once the decree is finalized by the Minister, the applicant will be notified by DIV to collect their decree against a fee. After the applicant has made the relevant payment, the completed file is then uploaded in the DIV's central register, and the finalized decree is subsequently issued (by DIV).

In 2016 a COM decision had been taken whereby it was decided that the issuing of decrees would be directly handled by Domain Affairs. The reason for the change was that Domain Affairs was more familiar with their procedures and could more adequately inform the applicants thereof. The agreement was made that Domain Affairs would register the final document (decree) at DIV after issuance. According to the head of DIV the change takes a burden off the department, however the ministry is not meticulous in registering the final document. At the end of the meeting, it was decided that additional information, including the documentation regarding the 2016 COM decision to further assess the administrative procedures used by DIV in conjunction with Ministry of VROMI, would be sent to the Ombudsman upon her request in writing.

Following the agreements made with the head of DIV a request for information was sent to the department head on 8 December 2021. In response to the request of the Ombudsman, the head of DIV informed the Ombudsman on 10 December 2022 that a response to the inquiry would be provided by the SG of General Affairs (AZ) and requested an extension on his behalf to provide the information. The Ombudsman granted an extension to respond by 20 January 2022. As no response or update had been provided, the SG of the Ombudsman sent a reminder to the Minister of AZ including the SG on 27 January 2022. The Minister was requested to respond by 3 February 2022. To date no response or update has been provided, despite agreements made with the Ministry of AZ to provide detailed information and



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informing the Minister of GA of the obligation to provide the requested information pursuant to article 19 of the National Ordinance Ombudsman.

### **Summary of main findings**

The core task of the Ombudsman is the investigation of *Propriety* applied by government bodies and government agencies in their relationship and dealings with the public. The scope of *Propriety* goes beyond the law; it reflects the norms expected from government in executing the laws, policies and established procedures. Government is expected to be open and clear, respectful, involved and result oriented, honest and trustworthy.

During the course of the investigation, it became apparent that the lack of policy has given successive Ministers of VROMI discretion in how public domain has and is currently being distributed amongst applicants. Not codifying the process for the allocation of domain land into an actual policy reduces the accountability, transparency and objectivity of the processes/procedures used by the Ministry/Minister of VROMI when awarding public domain. This has been confirmed in the recent ruling<sup>46</sup> of the court as well. To quote from the judgement: *'the court is aware that successive ministers of VROMI allocate, or at least (have) wanted to allocate domain lands without any underlying published policy. The Court of First Instance cannot avoid the impression that successive ministers of VROMI exercised optimally their discretionary power to lease out domain lands. Official memorandums drawn up to promote the public interest are set aside without any motivation. The reason for this can be guessed at, but it will in particular be related to ministerial violations of public order and morality. These infringements must then be regularly rectified with the 'farewell policy' introduced by the court of Justice and the 'welcome policy' introduced by the court, so that the country is not bound by these (expensive) legal acts. This action also leads to a violation of the principle of equality and the prohibition of arbitrary government action. In the case to be assessed, it concerns scarce domain land and there are many candidates who want to qualify for a long lease on plots in the area of 'Over the Bank'.'*

The investigation further reveals that there is a lack of continuity when there is a change in government, specifically as it pertains to allocation of domain land.

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<sup>46</sup> ECLI:NL: OGEAM: 2022:7: r.o.-en 4.28, 4.29.



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Based on the facts and findings as mentioned above the following standards of proper conduct should be considered in order to improve the operations of the Ministry and service to the community.

***Active and adequate information provision (administrative accuracy)***

In the interest of managing the affairs of the citizens administrative bodies are required to actively and upon request provide adequate information to the public. This implies among others the obligation to answer letters from citizens, sending an acknowledgement of receipt, and an interim notice in case the handling of a request takes longer than anticipated.

Providing adequate information can clear up the air between public bodies and the citizens. In general, an individual is more willing to accept a situation when there is an explanation, or the outcome of a request is motivated. To ensure a high level of credibility in public bodies, transparency is essential. Being open and clear in providing adequate information regarding plans and actions of the government, that affect the interest of the citizen is a requirement for enhancing the credibility of public bodies.

That administrative bodies are required to actively and upon request provide adequate information to the public, entails on the one hand the duty to provide citizens with information upon request. As well as the duty to inform the citizen on its own initiative about proceedings that have a direct effect on them. Proper information provision creates legal certainty for all.

***Legal certainty***

Legal certainty is essential in any state of law; it requires compliance by government with decisions of the Court and that legitimate expectations are honored by government.

Compliance with Court decisions: A public body should comply promptly with court decisions; in any case within the timeframe set by the Court or by law. This means that Court decisions need to be followed on government's own initiative. Organizational issues may not be an excuse for non-compliance. Moreover, court decisions have to be followed with ample precision.

***Legitimate expectations:*** This standard provides that justified expectations should be honored. An expectation is justified if the citizen could reasonably think, or be under the impression that the public body or civil servant in the case is authorized. The circumstances of the case play an important role.



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A letter and or signed contract provokes higher expectation than word of mouth. In the end a legitimate expectation on the part of the citizen has to be honored by the public body.

### *Adequate organization of services*

Administrative bodies are required to organize their administration and operation in a manner which guarantees proper service to the public.

Proper service refers to the principle of meticulousness in the administration. Proper service also includes organizing the administration in a manner that is lawful, effective, transparent, accessible, equipped to provide prompt service and information. Continuity should be guaranteed; proper registration and archiving are essential in achieving and guarantee continuity in the administration.

### *Reasons*

Actions taken by government should be carried by facts and logic communicated to the citizen. Proper reasons, motives and grounds should be provided and explained to the citizen with all decisions made by government.

A public body cannot act on the basis of its own discretion, nor can it act randomly, as such every decision and action of a public body has to be properly motivated.

A public body has to motivate its decision in regard to a request submitted, however also in regard to change in legislation and decrees. Motivation is considered to be proper when the following elements can be found in the reasoning:

- Relevant rules and regulations;
- Relevant facts and interest;
- Well thought out, thorough and sound reasoning.

Proper motivation is required in individual cases. A standard motivation is in general not sufficient to be used in a specific case.

In case of a change in policy (legislation and or decrees) the public body has to ensure that the interests of the citizens are taken into account. Hence, every change in policy (legislation and or decrees) has to be accompanied by a thorough motivation, unless in all reasonableness it can be assumed that a motivation is redundant. Only after publication it can be established whether a decision is properly motivated.



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***Promptness***

A government body should act decisive and sufficiently swift.

A public body is expected to be dynamic and as such be decisive and swift in its decision making. Hence, providing a response or decision within the legal timeframe or at least within a reasonable time is required. When a public body expects citizens to adhere to deadlines, based on the principle of equality the public body should strive to adhere to deadlines provided by law. Not adhering to a legal time frame will undermine the authority of the public body as well as tarnish its credibility with the citizen.

There are acceptable exceptions to the mentioned deadlines. A public body can miss a deadline in cases where more information is required to come to a decision. In such cases a public body is required to duly inform the citizen of the delay. Meeting a deadline however by no means guarantees that promptness has been observed. Promptness requires a decision to be taken in less than the legal timeframe in matters of urgency.

Upon being informed by the Minister that court proceedings were initiated, the Ombudsman refrained from further investigating the process used to re-allocate parcels in OTB in accordance with articles 16, 17 paragraphs 1c & 3 and 21 of the National Ordinance Ombudsman. Consequently, no conclusion or recommendation(s) have been issued.

Sincerely,

Ms. G.E. Mossel LL.M  
Ombudsman

cc: Ms. Silveria Jacobs, Minister of General Affairs  
Mr. K. Ruan, Acting Secretary General VROMI  
Mr. Hensly Plantijn, Secretary General of General Affairs



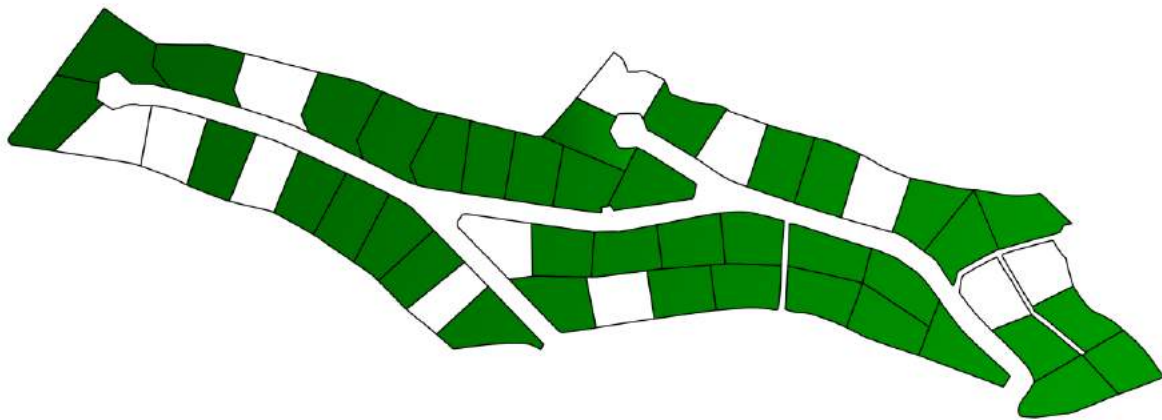
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Enclosure 1

## **OVER THE BANK PROJECT**

*2016-2017*



 *39 lots measured and paid for in 2016-2017*

 *12 Lots not measured by Kadaster*





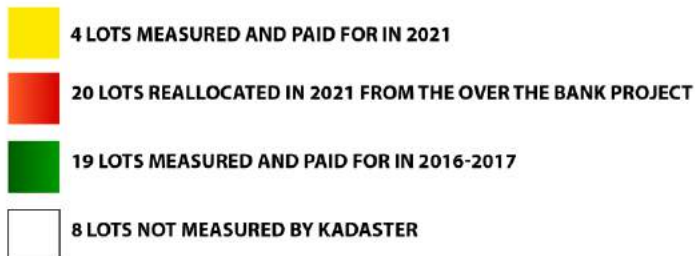
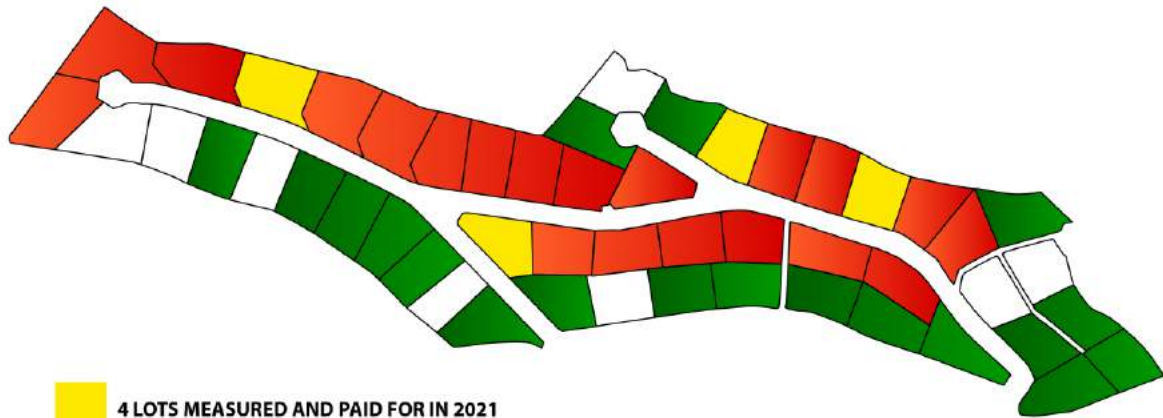
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Enclosure 2

## VINEYARD HEIGHTS PROJECT

2021





### ENCLOSURE 3

Questions<sup>47</sup> posed in the letter of concern were responded to by the SG as follows:

1. *According to the Ministry the lack of infrastructure was the main reason the transfer of domain land could not be finalized, however this has been done in the past i.e., Ring Road, St.Peters, South Reward and Pointe Balance. Please elaborate.  
It is common practice within the department of Domain Affairs that land given out in long lease needs to have proper infrastructure before issuance. However, it is not legally necessary, nor is it incorporated in any written policy.*
2. *If the infrastructure was the issue pertaining to the 54 initial applicants/ recipients, why was the infrastructure not an issue for issuance of the 25 parcels mentioned by the Minister, and subsequent plans?  
The infrastructure to provide access to the 25 parcels is scheduled to be placed in time for the recipients to begin construction.*
3. *Why weren't the initial 54 applicants/ recipients informed about the Minister's new plans for the area known as Over the Bank? Please elaborate.  
The initial 50 plus applicants did not receive a definite decree, therefore the Minister was not obligated to contact them.*
4. *Will all recipients who were initially awarded parcels in the area known as Over the Bank, prior to the announcing of the Vineyard Heights project, receive preference seeing that the area has become available? If yes, when, if not please elaborate.  
No, the previous applicants for parcels Over the Bank will not receive preference in the issuance of long lease land. These applicants will be considered for the sale of the duplexes planned for the Vineyard Heights project.*
5. *Has the Ministry provided a decision to individuals that have previously submitted requests for domain land in the area known as Over the Bank? If yes, how many, if not please elaborate.  
A definite decision has not been provided to individuals that have previously submitted requests for domain land in the area known as Over the Bank.*
6. *Considering that the 54 initial recipients were informed by the Minister to pay a fee to Cadastre to have a 'meetbrief' created and there are only 25 individual lots*

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<sup>47</sup> Please note that the sequence of the questions in the NOT, when compared to the source document, have been adjusted for editorial purposes.





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*currently available, what will happen to the 19 remaining applicants/ recipients, providing payment was made for the certificate of admeasurement?*

*All applicants who paid for a certificate of admeasurement and did not receive domain land in long lease will be reimbursed for the amount paid.*



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## ENCLOSURE 4

By letter dated 25 January 2022<sup>48</sup> a response to questions<sup>49</sup> posed in the Notification of systemic Investigation (NOSI) was received from the Minister:

1. *What are the general procedures followed by the Ministry to allocate lease land? The general procedure being used is as follows:*
  1. *Applicant submits letter to the Public Service Center where it is stamped and registered.*
  2. *Letter is sent to the Department of DIV to receive a DIV number.*
  3. *Letter is sent to the Cabinet of the Minister.*
  4. *Letter is sent to the Secretary General.*
  5. *Letter is sent to the Department of Domain Affairs.*
  6. *The Department of Domain Affairs prepares an advice and draft decree.*
  7. *Head of Domain Affairs signs advice and initials draft decree.*
  8. *The Secretary General signs the advice and initials the draft decree for approval.*
  9. *Advice and draft decree are sent to the Cabinet of the Minister.*
  10. *Minister of VROMI signs the advice and initials the draft decree for approval.*
  11. *Advice and draft decree are returned to Domain Affairs.*
  12. *Assignment letter to prepare the Certificate of Admeasurement (C/A) is sent to Kadaster.*
  13. *Applicant pays for the C/A at Kadaster.*
  14. *Applicant collects the C/A from Kadaster.*
  15. *Kadaster submits a copy of the C/A to Domain Affairs.*
  16. *Domain Affairs prepares an advice and final decree for the Minister.*
  17. *Head of Domain Affairs signs advice and initials draft decree.*
  18. *Secretary General signs advice and initials final decree for approval.*
  19. *Advice and final decree are sent to the Cabinet of the Minister.*
  20. *Minister signs advice and final decree for approval.*
  21. *Advice and final decree are sent to DIV/ Registration for a decree number and date.*
  22. *Final decree is sent to Domain Affairs.*

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<sup>48</sup> DIV nr. 10060-22.

<sup>49</sup> Please note that the sequence of the questions in the NOT, when compared to the source document, have been adjusted for editorial purposes.



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2. *Please outline the process and procedures followed by the Ministry to award the 50+ individuals draft decrees for the Over the Bank project?*

*From the various documents reviewed pertaining to the issuance of long lease land at Over the Bank in 2016/2017, the Department of Domain Affairs assumes that the procedure executed was as follows:*

1. *Letter was received from applicant.*
  2. *Letter was stamped & registered at the Public Service Center.*
  3. *Letter was sent to the Cabinet of the Minister.*
  4. *Letter was sent to the Secretary General.*
  5. *Letter was sent to the Department of Domain Affairs.*
  6. *The Cabinet of the Minister prepared the advice and draft decree.*
  7. *Advice and draft decree were sent to Domain Affairs.*
  8. *Head of Domain Affairs signed advice and initialed draft decree.*
  9. *Secretary General signed the advice and initialed draft decree.*
  10. *Advice and draft decree were sent to the Cabinet of the Minister.*
  11. *Minister of VROMI signed the advice and draft decree.*
  12. *Signed draft decree was sent to Domain Affairs.*
  13. *Assignment letter for the C/A was sent to Kadaster.*
  14. *Applicant paid for the C/A at Kadaster.*
  15. *Applicant collected the C/A from Kadaster.*
  16. *Applicant submitted the C/A to Domain Affairs.*
  17. *The Cabinet of the Minister sent the Letter of Intent to issue the land in long lease to applicant.*
3. *Provide an overview of the procedures followed by Ministry to allocate the 25 parcels in the area known as Over the Bank (project Vineyard Heights).*  
*The same procedures described in answer 3 were followed with the addition of the establishment of the Vineyard Heights Committee. The committee was tasked with the vetting of the selected applicants to ensure that they met the criteria of the Vineyard Heights project. The vetting took place prior to the advice and draft decree being prepared by the Department of Domain Affairs.*
4. *Was a new decision made by the COM to annul the Over the Bank project and approve the Vineyard Heights project? If yes please provide a copy, if not why? No COM decisions for Over the Bank. (Please see attached memo).*



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*An approval for the Vineyard Heights was not needed by COM as this was done within the purview of the Minister of VROMI.*

5. *How are long lease applications (request, letters, (draft) decrees) archived in general?*

*Prior to the hard copies being sent to the Department of Domain Affairs, these documents are scanned and archived in Government's registration system, DECOS, which is managed by the DIV Department. The hard copies are filed at the office at Domain Affairs.*

6. *How was this process applied in practice regarding the Over the Bank and Vineyard Heights projects?*

*The processed described under answer 5 was applied in the Vineyard Heights projects. In relation to the Over the Bank process, a number of files is missing within the DECOS system and cannot be accessed, making it difficult to ascertain if all applications followed this process. In addition, a number of hard copies (request, letters, advices, (draft) decrees) cannot be located in the office of Domain Affairs.*

7. *When was the lien placed on the property described as mbr#162/2014 and when was this lifted?*

*Based on information received, the lien on certificate of admeasurement 162/2014 was placed on 27 February 2015 and was lifted on 5 July 2017.*

8. *Why were the draft decrees for the 50+ individuals not finalized by the ministry after the Court verdict of November 2018?*

*See hereby the following reasons:*

- a. An inexplicable change in documentation registration in 2016 by the then Minister and SG which may have led to improper management of information;*
- b. The draft documents were tampered with;*
- c. The legal advice received questions the legitimacy/ validity of the tampered draft documents;*
- d. Assuming that the regular procedures were not followed no definite decrees were issued. In addition, the ministry is currently undergoing its own internal investigation and assessments of the obtained information in order to formulate a cohesive position on the draft decrees.*



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9. *Provide a copy of all the 'meetopdracht brieven' that were sent from the Department of Domain Affairs to Kadaster to draft a 'meetbrief' for applicants for the area known as Over the Bank (past 50+ and present 25).*

*Will be delivered in hard copy to the office of the Ombudsman.*

10. *Provide a copy of all 'meetbrieven' that were issued for the area known as Over the Bank (past 50+ and present 25)*

*Will be delivered in hard copy to the office of the Ombudsman.*

11. *Provide a copy of all letter/emails from the Kadaster to the Department of Domain Affairs confirming that the request to draft the pertinent 'meetbrieven' (past 50+ and present 25) had been completed.*

*This information is not available within at the Department of Domain Affairs nor have been received from the Kadaster.*

12. *Why wasn't the Department of Domain Affairs included to manage and coordinate the project known as Vineyard Heights once the project had been awarded to the preferred architectural firm?*

*The Department of Domain Affairs was included in the managing and coordinating of the project known as Vineyard Heights.*

13. *Why did the Minister choose to contact applicants from 2020 onward and disregard applicants from 2014 onwards?*

*The decision was taken based on legal advice provided by the government's attorney. It was not clear who, of the plethora of applicants, were still interested in acquiring a parcel of land as follow-up was not done by a number of those applicants and lastly, it could not be ascertained who would qualify for said parcel. The qualification criteria for a parcel of land would be that the individual does not already own real estate and/or has not already received one or more parcels from the Government of St. Maarten. All applicants could not be taken into consideration as there were limited parcels available to be provided at this time.*

*Taking the above into account, it was advised to vet the applicants from 2020 onward and those that actively followed up to note their ability to qualify for the limited available parcels of land.*



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14. *Considering the motion of ‘afkeuring’ which was passed by Parliament on 20 October 2021, what steps are being taken by the Ministry to comply with said motion? Since then, the drafting of a policy on land issuance has been prioritized.*
15. *Will all recipients who were initially awarded parcels in the area known as Over the Bank, prior to the announcing of the Vineyard Heights project, receive preference seeing that the area has become available? If yes, when, if not please elaborate. The 50+ applicants who received draft decrees for parcels in the area known as Over the Bank, prior to the announcing of the Vineyard Heights project, is currently being assessed against the already established criteria.*
16. *When will the ministry provide a decision to individuals that submitted requests for domain land in the area known as Over the Bank? Recently a publication for individuals in relation to the Over the Bank case was made to bring forward information on their case. Based on this, an assessment is currently being carried out. Once the assessments have been concluded, a decision on the findings and position of the Ministry will be made and communicated to the individuals.*