Whose Land Is It Anyway? An Analysis of the Management and Distribution of Crown Land in The Bahamas

by

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B.A. Sociology
Northeastern Illinois University, 2004

Submitted to the Department of Urban Studies and Planning on May 24, 2007 in partial fulfillment of the requirements for the degree of Master in City Planning at the Massachusetts Institute of Technology June 2007

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Abstract

Like many islands throughout the Caribbean, The Bahamas are now experiencing rapid growth and development in the form of large-scale luxury resorts and second homes. Consistent with a long history going back to the colonial era, these development trends are being driven by external factors - including the aging of the Baby Boomer generation, a scarcity of affordable waterfront land in North America, and shifting travel preferences post-9/11. But major policy decisions, now hotly debated, have also played an important role in shaping these development trends and their impacts. Through an economic development strategy known as the Anchor Projects, the Bahamian Government has tapped foreign demand for prime Bahamian land with the aim of reducing crowding on the capital island-city of Nassau, boosting the economies of the sparsely populated Family Islands, and providing residents of those islands with much-needed employment and infrastructure. As a key concession to spur the Anchor Projects, Government has granted large tracts of publicly owned “Crown Land” at favorable prices to developers; but in a nation where natives are tied closely to Crown Land and where there is lack of a comprehensive land use framework that includes environmental management and public participation in development, this policy has triggered significant conflict among Government, developers, and Bahamians. Bahamians resent Crown Land disposition policies that seem to benefit foreign investors and visitors at great expense to current and future generations of Bahamians; particularly where such policies are seemingly threatening to make housing unaffordable, overwhelm small-island cultures with newcomer needs, privatize cherished community commons, and generate conflicts over labor shortage. Using information gleaned from interviews with key informants, newspapers and journal articles, and data gathered from various Government agencies, this study examines the history of Crown Land management in The Bahamas, as well as the current valuation, pricing, and allocation of this vital public resource. The thesis explores the risks in a non-sustainable development model where land tenure, tracking, and planning traditions are either missing or weak. Based on my findings, I offer several major recommendations: Create and implement a National Development and Land Use Plan, improve agency integration, clarify land tenures, implement and legislate programs for environmental protection and management, improve fiscal management of land resources, deepen the democracy, and address issues of sovereignty and changing social structure.

Thesis Supervisor: Xavier de Souza Briggs
Title: Associate Professor of Sociology and Urban Planning
BAHAMAS NATIONAL ANTHEM
“MARCH ON BAHAMALAND”

Lift up your head to the rising sun, Bahamaland;

March on to glory, your bright banners waving high.

See how the world marks the manner of your bearing!

Pledge to excel through love and unity.

Pressing onward, march together to a common loftier goal;

Steady sunward, though the weather hide the wide and treach'rous shoal.

Lift up your head to the rising sun, Bahamaland;

’Til the road you’ve trod

Lead unto your God,

March on, Bahamaland!

Lyrics and Music: Timothy Gibson, 1972
SPECIAL THANKS

My heartfelt appreciation goes out to……

Dr. Myles Munroe whose teachings have grounded me and helped me discover the most important thing in life – purpose.

To my advisors: Xav, Annette, Phil, and Lang for sharing with me their knowledge, insight, and recommendations. I’m forever grateful and indebted to you for helping me create something I can be proud of.

To the DUSP support staff, especially Sandy and Alice for kind reminders of all the things needed to be done to make a triumphant MIT exit within the 2 year time frame.

To the MIT Department of Urban Studies and Planning graduating class of 2007, whom I am happy to call not just colleagues but friends.

Francesca, I could not have done MIT without you, thanks for keeping me sane.

Sheila, as you know I literally could not have done this thesis without you. Thanks!

To the staff at the Ministry of Energy and Environment for their support and feedback.

To all the individuals interviewed for taking the time out to help make this story rich.

Last but not least, to my family, friends, and mentors who have always believed in me, supported me, and encouraged me and who have not held it against me that I disappeared for 5 months in order to put this thing together.
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CHAPTER 1

INTRODUCTION

...there is a deep and abiding attachment of Caribbean people to their land as a symbol of family and community bonds and as a source not simply of livelihood but of life’s meaning. The Caribbean has long been seen primarily as a series of landscapes to be mined for their wealth or enjoyed for their beauty by outsiders. West Indian novelists and poets and playwrights have long been telling us, that love of Caribbean land is integral to the identity of its people. Only recently have some of them come into full possession of even a part of that land. Like their dispossessed ancestors, they strive by every means at their disposal to strengthen and validate that possession.

- David Lowenthal, Author

Throughout the Caribbean, tourism communities have experienced a surge in large scale resort development and second home demand over the last five years. To a large extent, macro trends occurring within the United States such as the aging of the Baby Boomer generation and shifts in travel preferences post-September 11th have created these increased demands. Due to its geographic proximity to the United States and archipelagic make-up, The Bahamas has become a particularly attractive destination for these large scale resort and second home development projects. Whereas many countries must rely heavily on a regulatory or watchdog approach to monitoring development, The Bahamas has a unique advantage unlike most in that the majority of lands are in public control through the system of Crown Land. This means that as owner of 3.5 million acres – roughly 70% of real estate holdings within the archipelago – the Government has power to directly control development and manage its outcomes. One would surmise that as proprietors of this valuable public
good, the Bahamian Government is better equipped to capitalize on its position of ownership, using it as a point of leverage to ensure large scale resort and second home development aligns with Government objectives, and promotes the interests of the Bahamian people. To the contrary, however, there is growing evidence that as development pressures increase, Bahamian citizens have become increasingly dissatisfied with Government practices related to the management, disposition and development of Crown Land.

As a young Bahamian from the city of Nassau on the island of New Providence, it was easy for me to understand and relate to the dissatisfaction, frustration, and uneasiness many Bahamians were experiencing in regards to large scale resort development on Crown Land throughout The Bahamas. I myself had watched as real estate prices on private land began to increase beyond my reach and I witnessed the disappearance of many beach and coastline areas to which I had traditionally had access since childhood. Furthermore, the amount of available Crown Land was steadily declining, and it seemed Bahamians had little to show for it. Crown Land was as I had known it, land which belonged to the Bahamian people – a birthright to be used for generations of Bahamians to come; however, large scale resort development projects were threatening this right. The Government of the Bahamas was now granting large tracts of this valuable public resource to foreign developers at concessionary prices – as low as $1 - $2 for an entire project - for the development of private resort enclaves consisting of wealthy foreigners. Furthermore, Crown Land for development projects was being granted in a seemingly ad-hoc manner, with little to no prior consultation with the Bahamian public or residents of impacted communities.

Initially, it seemed that aggressive overdevelopment vis-à-vis an initiative known as Anchor Projects, was to blame for such outcomes. Conceptualized in 2002 by the then Prime
Minister of The Bahamas, Perry Gladstone Christie, this model of development set out to place large scale resort “anchors” on each of the roughly 30 major islands throughout The Bahamas, particularly those islands outside of New Providence known as the Family Islands or Out Islands.

The aegis of this thesis evolved when I began to contemplate the implications of this development model for my own future. There were many questions the Anchor Project model raised in my mind, but in my quest for answers I slowly realized that the majority of these concerns could not be addressed by evaluating the Anchor Project model alone, it was necessary to dig deeper to find the information I wanted. My initial questions and concerns were as follows:

1) What were the internal and external pressures that created both the political will and impetus for the Anchor Project initiative?
2) Why did so much negative criticism persist over development in a nation where public ownership of land and development conditions seemed relatively favorable?
3) Why did the Government seem incapable of managing outcomes and mitigating the negative impacts that were resulting from the rise in development and demand for Bahamian land?
4) Why were Bahamians so tied to the land and extremely sensitive to Crown Land disposition by the Government for foreign use?
5) Why did the disposition of Crown Land resources seem so ad-hoc?
6) Why had Bahamians been left out of the development decisions that directly impacted their lives, particularly those projects that involved public Crown Land?

These questions eventually culminated into what would become the key research question for this thesis: How does The Bahamas value, price, manage and allocate its Crown Land resources.
In conducting historical research on the management and distribution of Crown Land within The Bahamas, I discovered that historically data related to land ownership, land use, and land tenure was weak and had been poorly managed since the colonial era. Social norms and customs related to landholding during that period had resulted in many overlapping claims and rights to land. This contributed to complications within the system of land registry, land management and tenure clarification.

Post-Emancipation, the convoluted state of the land tenure system within The Bahamas was further exacerbated by the emergence of informal and alternative tenures, and the lack of mandatory surveying which could provide accurate spatial mapping. The result was that even today, the tenure system remains in an archaic state, as evidenced by the unreliability of records and widely accepted fact that Government is unable to say with absolute certainty how much land actually exists in the Bahamas of any particular tenure.

In the absence of reliable records and accurate spatial data, spatial planning of any kind is difficult, if not virtually impossible to do within the Bahamian context. Even if such data was readily available and spatial records were properly managed however, The Bahamas would still lack a comprehensive planning framework within which this information could be further developed and particularly useful.

The Bahamas has never established a comprehensive planning institution to guide Crown Land development, manage growth and outcomes, and mitigate the various socio-economic impacts of development that could negatively affect communities. Furthermore, organizations that have expertise in various aspects of comprehensive planning and land management are poorly integrated, and there is little to no coordination across agencies.
Data is often viewed as proprietary and is spread amongst various agencies; this creates a challenge to those in authority who must often make informed decisions, but instead are forced to operate in an information vacuum when addressing issues related to land resources and land management.

In essence, planning is piecemeal rather than holistic, with no common agenda to drive the work of related agencies. As such, there is often agency overlap, and implementation of initiatives is unsustainable – since they bear little applicability to the broader range of stakeholders. The myopic view of planning trivializes the need for a concerted planning effort in order for development in The Bahamas to be truly sustainable.

Another limitation to effective Crown Land management and administration is the fact that there is no tradition of public engagement in regards to planning within The Bahamas. In addition to this, there is an absence of a well-organized repository of public information related to land records, development projects, or other pertinent public documents which may be easily accessed for the purposes of informed research or general public dissemination. Full disclosure and access to data is often the privilege of a few, and even where data does exist, one is often subjected to a tedious and bureaucratic process in order to obtain even the simplest data sets. This lack of transparency and limited public participation perpetuates the idea that Government is not looking out for the best interest of the Bahamian people. Bahamians feel disenfranchised as they have no control or say as to how development within their community and on public land should be carried out. The lack of a public planning process also means that disagreements are often played out in the media or in the courts, making it difficult to decipher between rhetoric and fact.
In terms of environmental stewardship of Crown Lands, currently there exists no law to protect and conserve both natural and marine resources from development. Environmentally sensitive areas that encompass Crown Land including reefs and mangroves, and access to beaches and sites used customarily by locals for fishing, crabbing or hunting, have no protections from development infringement. There is also no regulatory environmental enforcement agency in place with the power to secure environmental protection. There exists no environmental management program to guide development on Crown Land and provide locals with the assurance and security that developments will not wreak havoc on the environment, or destroy customary areas of importance to which locals previously had access.

This brings us to a key point of contention that has always existed in the land tenure environment within The Bahamas. As history will show, Bahamians have always been insecure in landholding tenures, often subject to encroachment by foreign persons with large amounts of capital or the legal wherewithal to infringe on lands traditionally viewed as belonging to Bahamians by right. The ability of Bahamians to occupy land was historically based on the economic and political interests of the Crown. Sitting Bahamian tenants were often molested during times when development interests were high; however, when development interests waned Bahamians were often allowed to occupy Crown Lands undisturbed. As such, the outside interest in Bahamian Crown Land by foreigners with large amounts of capital as a result of the Anchor Project initiative makes many Bahamians uneasy as this trend has historically brought with it limitations on land access and the disappearance of areas of customary tenure.
These observations help explain why the overwhelming interest in Bahamian real estate that has come about as a result of the Anchor Project initiative has caused such conflict and criticism within the Bahamian community. In short, these historical trends as described exacerbate growth pressures and hamper the Government’s ability to effectively manage the negative externalities of development and adequately address conflicts.

*Crown Land*

Although public land in The Bahamas has been referred to as Crown Land since 1629 when the British Crown laid formal claim to the islands, the definition of Crown Land has evolved over time. Initially, all land within The Bahamas was known as Crown Land, meaning the British Crown claimed absolute ownership and authority over all land tenures within the tiny archipelago. Essentially, Crown Land was the original freehold, and the British Crown monopolized its ownership position by rarely and reluctantly alienating it. By 1670 however, the Crown was eager to develop settlements in its colonies and expand its empire; as such the Bahama Islands were granted to six Lords Proprietors. The Proprietors granted freehold and leasehold tenures to settlers, but as absentee landlords they kept weak tenure records and poorly managed and administered Crown Lands. In 1787, the British Crown bought back all Crown Land from the Lords Proprietors and resumed responsibility for their management and administration. Much of the land during that time was leased to American Loyalists who had sought refuge in The Bahamas after the American Revolution. The Loyalists developed plantation systems, but by 1834 slavery was abolished and the plantation system collapsed. Informal and alternative tenures such as Generational and Commonage were developed on Crown Land thereafter by ex-slaves, who had essentially become squatters after Emancipation. These ex-slaves remained secure in their tenures until
the early 1920’s and 1930’s, when tourism development brought a renewed interest in
development of Bahamian Crown Land. From this time until Bahamian Independence in
1973, most Bahamian tenants were insecure in landholding tenures. Independence brought
with it a strong sense of nationalism however, and the majority of Crown Land was jealously
conserved until an Act was passed in 1992 allowing foreigners to once again freely access
Bahamian land. After Independence however, Crown Land continued to be referred to by the
same. This was despite the fact that Crown Land was now public land or national land by
design. The common definition of Crown Land thereafter was land held in trust for the
Bahamian people by the Queen of England as Head of the Commonwealth of Nations.
Beyond this, there was never any further clarification of Crown Land, and as such this would
serve as a point of contention and confusion between those who took the definition literally
(as in literally only for the use of Bahamian people), and those who defined it more in its
non-literal sense (namely lands to be used for the benefit of Bahamians, including for
purposes of economic development – such as Anchor Project development).

Crown Land is administered via the Department of Lands and Surveys which
presently falls under the management portfolio of the Prime Minister. While there are
unwritten principles and input that the Prime Minister operates under, ultimately he is the
final authority on Crown Land disposition and allocation – a decision which is based largely
on the PM’s discretion. In addition to a discretionary approval and disposition process,
Crown Land pricing is also discretionary – priced namely to be affordable to whomever
applies for it. Crown Land can also be bought outright as freehold or it can be leased, as was
done previously under colonial rule. Crown Land leaseholds are usually agricultural,
residential, commercial or industrial, annual tenancy (normally for subsistence farming or
non-permanent structures), or seaborne lease. The terms and conditions of lease tenures vary, with lease periods ranging from 3-21 years depending on lease type. Leases are renewable and in some cases are granted on conditional purchase.

Today, Crown Land exists as one of three types of land tenure in The Bahamas: true Crown Land or public land as has been described, private land which includes Commonage and Generational, and Government Land which is Crown Land that has been granted to the Treasurer for public use and requires cabinet approval before it can be sold.

Methodology

Few attempts at systematic research on Crown Land policies and procedures has been done in The Bahamas, meaning there is no real repository of information on Crown Land management and disposition either written or in electronic form. Official policies and guidelines on how Crown Land should be priced, managed, and distributed is practically non-existent. Where data does exist, it is often inaccessible, inaccurate and incomplete and reliability of records is questionable since land data is often poorly managed. Statistical data is also hard to come by, as there is seemingly a great amount of common knowledge, but very rarely does it seem that one records or transfers this known data to written form. Simple data sets such as median home price could not be found at any Governmental agency, and in an attempt to obtain a full list of all development projects that had occurred over the last five years, including their tenures, I was informed I would have to write a letter to the Permanent Secretary of the Ministry of Financial Services and Investments to request the information, and it would be considered. There was some reprieve in that during the course of the thesis I was hired as a planning consultant within the Ministry of Energy and Environment
(disbanded since the May 2007 election), and as such I was able to get a brief insider perspective on the challenges of development and coordination across agencies. This also helped my ability to access certain information that would most likely otherwise be withheld. As such, the methodology used in this thesis relies more heavily on qualitative interviews with key informants, newspaper articles, and case study information.

Interviews entailed a broad canvassing of key representatives from key areas as outlined below. A total of sixteen (16) interviews were conducted over the course of the thesis; ten (10) of which included insider perspectives from directors, managers, and other high level Government officials in areas such as finance, tourism, physical planning and the environment, while the remaining six (6) interviews were conducted with private sector individuals representing areas such as finance, economic development, resort development and real estate. The interview schedule used is outlined below. Initial interviews were for the most part targeted contacts, while latter interviews were based on referral.

<table>
<thead>
<tr>
<th>Public Sector Entity</th>
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<tbody>
<tr>
<td>Bahamas Development Bank</td>
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<td>Bahamas Investment Authority</td>
<td>1</td>
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<tr>
<td>Ministry of Tourism</td>
<td>3</td>
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<tr>
<td>Ministry of Works</td>
<td>1</td>
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<tr>
<td>Department of Physical Planning/Town Planning</td>
<td>1</td>
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<tr>
<td>Bahamas Hotel Corporation</td>
<td>1</td>
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<tr>
<td>Office of the Prime Minister</td>
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<tr>
<td>BEST Commission</td>
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<table>
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<th>Private Sector Entity</th>
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<tbody>
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<td>Bahamas Chamber of Commerce</td>
<td>1</td>
</tr>
<tr>
<td>Realtor</td>
<td>1</td>
</tr>
<tr>
<td>Developer</td>
<td>2</td>
</tr>
<tr>
<td>Environmentalist</td>
<td>1</td>
</tr>
<tr>
<td>Investment Manager</td>
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Total Interviewed 10

Interviews were conducted from December 2006 thru April of 2007, and lasted an average of 30 minutes to 1 hour; one second interview was conducted at the Office of the Prime Minister. Many of the interviews with key Government officials were secured using established contacts within The Bahamas; however, several interviewees were contacted
directly without any previous connection or introduction and a few interviewees were able to recommend possible interviewees beyond the original list. Interviewees were very open and candid in discussing the topic at hand. Roughly half of the interviews were recorded using a voice recorder, while others preferred not to be taped and hand written notes were used. All interviews were conducted in person and no phone interviews were used in this study.

The case study was important in providing a more detailed snapshot of how conflicts and criticisms are playing out on the ground. Guana Cay was chosen because it is the most publicized case with easy access to information, and also because it is a reflection of many of the elements of conflict that exist today.

Media sources such as newspapers were often very rich, as the study coincided with the 2007 general election; this did pose a problem however in separating out rhetoric from reality.

Ultimately, the findings and recommendations produced by this research will contribute to a much needed body of planning literature that will help inform land policy and guide land management decisions, ensuring Government is maximizing the potential of its land resources while minimizing conflicts and safeguarding the quality of life of Bahamians and non-Bahamians alike.

*Thesis Overview*

In order address the key question of this research - How does The Bahamas value, price and allocate its Crown Land resources? - the first order of business is to acquire an understanding of the historical context of land management and administration within The Bahamas. This first chapter includes information on the evolution of Crown Land
management and disposition from discovery of the islands in 1492, through Loyalist settlement and plantation development, to the abolition of slavery and the emergence of tourism in the early 20th century. Distinctions between Crown Land and various informal and alternative tenures that have emerged over the course of history will also be identified. In addition, Acts, policies, and regulations enacted during this period will also be highlighted, as will the social norms and customs that often prevailed, making implementation and enforcement of such regulations difficult and tenure clarification almost impossible to untangle - limiting the ability to conduct proper spatial planning.

The second chapter of this thesis will introduce the reader to modern development pressures affecting The Bahamas since its inauguration as an independent nation, uncovering both the macro and micro trends that have influenced the current development state, in addition to their political context. These include internal pressures related to an imbalance in internal migration, the need for fiscal independence and infrastructure development within the Family Islands, and the need to restore confidence in the finance and investment sector. External pressures include the aging of the Baby Boomer generation within the United States, the need for travel security in a post-9/11 world, and the limited availability of affordable waterfront properties that can be developed within the United States. In addition, this chapter will demonstrate how town planning evolved within The Bahamas in the 20th century, eventually being driven largely by development projects and concessionary investment tools to guide growth, physical planning, and economic development. Combined with the historical challenges of spatial planning as discussed in chapter one, this chapter will give the reader a clearer idea of the impediments to a more comprehensive and sustainable planning framework within The Bahamas, particularly on Crown Land tenures.
Chapter 3 will outline some of the details of a case study focusing on a large scale resort development project on the island of Guana Cay in the Abaco island chain. The Bakers Bay anchor project called for the use of private, Crown and Government Land as part of its development strategy. In essence, the Guana Cay case highlights dimensions of land use conflict and how they are playing out on the ground. It also exposes the fact that there are no public policy guidelines related to public participation in development decisions. This case too is a good example of how planning and sustainable development have become project driven, with developers managing the natural resources and conducting planning functions usually reserved for the state. Furthermore, it speaks to the lack of security of Crown Land tenure for Bahamians, and is demonstrative of how conflicts are playing out in the courts and in the media, rather than in an institutionalized planning forum.

Finally, classic works by planners such as Krumholz (2000) show that challenges related to equity amidst market-driven, project-by-project development, exists throughout the globe, and The Bahamas is not unique to conflicts over the role of government, concessions, and expectations in the context of such development. In recognizing this fact, the analysis and conclusion will summarize the specific public planning challenges that The Bahamas faces, in light of the historical context of Crown Land management and administration, and the modern day pressures for development. Policy recommendations will be made which can serve as options in addressing current challenges and mitigating future conflicts and will give suggestions on how Government can more responsibly manage and allocate this public good.
Formerly a British colony, the islands of The Bahamas extends over 100,000 square miles from the Southern tip of Florida to the Northern coast of Cuba. There are over 700 islands and cays in the archipelago for a total land mass of 5,833 square miles. Of these islands and cays only about 30 are inhabited, with roughly 60% of the population (316,000) living on New Providence, home to the nation’s capital city of Nassau.

Image: Magellan Geograhix
CHAPTER 2
HISTORY OF LAND TENURE AND LAND ADMINISTRATION IN THE
BAHAMAS

Though the history of The Bahamas precedes the arrival of Christopher Columbus on October 12th, 1492, Columbus’ discovery of the tiny archipelago marked the beginning of what would be a history of recurring conflicts over Crown Land and landholding rights - namely native landholding versus landholding by foreign newcomers, the use value of Crown Land versus its exchange value, and informal custom versus formal Crown tenures. These conflicts would be exacerbated over time by the increasingly arcane system of Crown Land management and administration within the Islands, which - under colonialism - was driven by economics and exploitation. Whenever the ability to derive profits from the land waned, so did the carefulness in land management and administration. It was only when development pressures stressed the system, or when the growth of the economy was threatened, that the impetus to modernize or improve the system of Crown Land tenure would reemerge. Even during periods where modernization became high priority however, attempts to improve the system of Crown Land management and administration were severely impeded due to the complex history of Bahamian landholding, the coexistence of formal and informal tenures, and poor enforcement measures. As this chapter on the history of landholding in The Bahamas will demonstrate, the arduous task of tenure clarification within the Bahamian context and the difficulty in collecting basic land use data impeded spatial planning, and contributed to the majority of policies and initiatives being ineffective and unsustainable. This flaw would become particularly evident and problematic in the
twentieth century, when tourism development and foreign direct investment would come to dominate the Bahamian economy and put pressure on the Bahamas’ Crown Land resources.

**Emergence of the Crown Land System in The Bahamas**

Though the colonial powers of Spain, Portugal, France and The Netherlands all scrambled to lay claim to territories in the ‘New World,’ it was the British Crown that eventually came to dominate the resources, labor, language, religion, customs and system of land tenure within The Bahamas.

Originally “discovered” in 1492 by the Spanish navigator Christopher Columbus, The Bahamas was much less attractive to Spain than the more resource rich lands nearby such as the island of Hispaniola and later mainland Florida, and as such the Spaniards never permanently settled the Bahama Islands. During the early stages of discovery and expansion, The Bahamas remained relatively obscure; this due in large part to the abundance of coral reefs and shoals that surrounded its shores which were avoided by early explorers as they were treacherous and often times deadly to navigate (Craton, 1962). By the 17th century however, European settlers and their slaves had replaced the indigenous Arawak population of The Bahamas, and Britain was able to consolidate rule over them. It was at this point that all land in the Islands became “Crown Land” – that is the British Crown claimed absolute ownership and authority over all land within the tiny archipelago (Craton and Saunders, 2000: 46).

The Crown Land ideology grew out of the medieval feudal contract, whereby “absolute and permanent ownership of land was invested in a monarchy” (Craton and Saunders, 2000: 46). The monarchy’s power, in turn, “was originally established through
conquest or surrender-and-regrant,” and that power included “a renewable act of personal submission (later commuted into nominal rent)” (Craton and Saunders, 2000: 46). Ideally, this system would allow tenants and their male heirs to acquire land and in so doing the monarchy would expand its reach, creating an even greater empire (Craton and Saunders, 2000: 46). In reality however, this medieval ideology did not play out so smoothly when applied to the system of Crown Land within the emerging Bahamian colony.

As the “original freehold,” the Crown monopolized the land tenure system and “rarely and reluctantly alienated land” or transferred ownership (Craton, 1987: 89). In the Crown’s view, conversion of land into absolute freehold – that is legal ownership of a property with absolute rights – was nothing short of “an invasion of the royal prerogative” (Craton and Saunders, 2000: 46). As such, the Crown initially retained absolute control over all land in the Islands. It was not until the Crown realized that settlement of the colony and subsequent expansion of the British Empire was virtually impossible without relinquishing absolute sovereignty and allowing some form of “possessive individualism,” that the dissemination of freehold tenures was granted somewhat less grudgingly (Craton and Saunders, 2000: 46).

Even though the Crown eventually released its grip on Crown Land in The Bahamas by allowing individuals freehold and leasehold tenures in exchange for quit rents, settlement and adherence to the legal methods of transmission of freehold and leasehold tenures within The Bahamas did not take hold immediately. The general availability of unoccupied Crown Land and the poor Bahamian soil led to a shifting cultivation system where tenants often occupied much more Crown Land than was legally allotted, without paying any form of quit rent. This led to poor and inaccurate record keeping and quit rent arrears; a situation further
exacerbated by lax surveying and a century of Crown Land administration and management by absentee landlords.

**Settlement of Crown Land in The Bahamas Begins**

Limited state capacity, piracy, mismanagement and neglect of the Islands by tenants-in-chief, meant that earnest settlement of Crown Land did not take root within The Bahamas overnight. Once settlements were developed however, there were many challenges in terms of land tenure and administration. There was no proper surveyor and as such, much of the land was never officially laid out or platted. The poor soil throughout the Islands meant that many settlers abandoned the areas of Crown Land they were originally granted, moving on to nearby areas which they may or may not have held possession of legally via freehold or leasehold tenure. This shifting cultivation and quick turnover of land made record keeping difficult and put quit rents in a severe state of arrears. The fact that both the physical and fiscal management and administration of Crown Land continued on in a perpetual state of disorder and chaos for nearly a century, was due largely due to the fact that the tenants-in-chief responsible for land management and administration within The Bahamas and the collection of quit rents, had long since abandoned the islands. There was rampant fraud and confusion over titles and tenures which did little to encourage settlement, and much revenue was being lost due to poor fiscal enforcement. Eventually, the Crown stepped in and regained control over quit rents, titles, recording, and all unalienated Crown Land in The Bahamas.

In 1629 the British Crown laid formal claim to The Bahamas when King Charles I granted the Attorney General of England, Sir Robert Heath, a ‘Patent 5’\(^1\) to settle the Islands

\(^1\) Land patents, though not titles, were usually large areas of land that were granted by the British Crown directly to individuals or private companies.
(Thorpe, 1909). Sir Robert Heath’s attempts to settle the Islands were ineffectual however, and in 1670 King Charles II created a new Bahamas grant, bestowing the Islands to six of the eight Lords Proprietors of the Province of Carolina¹ (Rankin, 1962). The Bahamas became a formal British Proprietary Colony² and as tenants-in-chief the Proprietors were able to grant and distribute land in exchange for a quit rent³. The land had to be developed or improved and quit rents had to be kept up to date however; otherwise, the land would fall back to the Lords Proprietors and the rights to sell or bequeath the land to heirs would be revoked (Craton, 1987: 90).

Like modern-day speculators however, once the Lords Proprietors received the Bahamas grant, they had little interest in doing what was necessary to formulate and organize effective, sustainable methods of settling The Bahamas - which would have included an efficient system of land granting and record keeping that provided security to possible settlers. One historian likened the actions and attitudes of the Proprietors towards the territories that had been bestowed to them as that of a mere real estate operation:

They planned to operate as little more than a real estate office offering to supply the ever-present land hunger of the peoples of Europe. They envisioned profits through the payment of annual dues under the medieval practice of quitrents. In addition, they hoped, handsome gains could be realized through the production of such scarce and desirable commodities as sugar, ginger, indigo, cotton, wines and whale oil...Well aware of the expenses of colonization, the Carolina Proprietors planned no great movement of people under their sponsorship. They expected that judicious propaganda and the scarcity of land in Europe would populate their colony (Rankin, 1962)

² A colony in which private landholders or proprietors held powers usually reserved for the state, including administration; this form of governance was common in the early stages of colonization.
³ A levy or land tax on freehold or leasehold tenures.
The actions of the Lord Proprietors resulted in extreme neglect and fiscal mismanagement of Crown Land within the archipelago, coupled with woeful social conditions and a sense of prevailing lawlessness (Bahamas National Archives, 2003). This included a period where Nassau and The Bahamas was essentially dubbed the “undisputed center of worldwide piracy” (Craton & Saunders, 1999: 103). Local government allowed pirates to totally overrun the islands and control its ports in exchange for a share of any ill-gotten loot (Bahamas National Archives, 2003).

Save for a valiant attempt by the Eleutheran Adventurers\(^1\) to colonize the island of Eleuthera in 1648, it was not until Captain Woodes Rogers took over governance of the Islands in 1718, becoming the colony’s first Royal Governor, that The Bahamas became a British Crown Colony\(^2\) and the earnest establishment of settlements ensued. During his time as Governor, Rogers leased land from the Proprietors for 21 years, and played a major role in the reconstruction and lay out of the capital city of Nassau on the island of New Providence (Bahamas National Archives, 2003).

In 1720, with formal settlement pushing land ownership to a higher level of importance, The Bahamas was granted a Surveyor General which it shared with the Carolinas – this fact made it difficult for the Surveyor to provide the appropriate level of service to the island colony. Despite increasing complaints by settlers in regards to the poor level of service and repeated demands that The Bahamas retain its own Surveyor that could grant patents of Crown Land, there were no such persons qualified to conduct appropriate land surveys (Bahamas National Archives, 2003). One can imagine that despite the lack of a

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\(^1\) Led by Captain William Sayle, these were English religious refugees or Puritans who had come to the Bahamas by way of Bermuda seeking new lands where they could have total religious freedom. Landing on the island of Cigateo, they renamed it ‘Eleuthera’ meaning ‘Freedom’.

\(^2\) In an effort to concentrate power and regain authority, the British Crown placed governors in Proprietary Colonies, converting them to British Crown Colonies.
resident surveyor, this did little to stop settlers from occupying lands that had not been properly platted or surveyed. As such, it was necessary for the British Crown to form an Assembly in 1729, whose aim it was to settle and clarify land claims – “particularly (in what may have been the majority of cases) that which was never laid out, since deserted, never surveyed, or titles and patents lost. In the absence of a valid counter-claim, those who could prove possession for a mere three years, with improvements made, were promised clear title subject only to the payment of an annual quit rent” (Craton, 1987: 91). “An Act for Settling Claims and the Payment of Quit Rents” was also established and executed by the Office of the Colonial Secretary, who had responsibility for ensuring the validity of land claims, surveying, and the recording of conveyances (Craton & Saunders, 1999: 136).

A few decades later, the Registry Act of 1764 was passed, requiring the registration of deeds or conveyances in an effort to “prevent the confusion and frauds that had followed a rapid turnover of land and mortgages and the many evil minded persons taking advantage of bad and insufficient titles and securities” (Craton and Saunders, 2000: 48). A large part of the confusion and fraud that was occurring in the land tenure system was due to poor administrative management – namely the fact that, though they had effectively abandoned The Bahamas, the Lords Proprietors continued to retain the monopoly on land and rights to grant freehold and leasehold tenures. In addition, they maintained authority to collect quit rents.

In 1773, having conducted the first thorough review of land tenures in The Bahamas, Governor Thomas Shirley argued that “until the dead hand of the Proprietors was prised away, The Bahamas would remain in a state of Inactivity and supineness with regard to their
Shirley’s study uncovered four types of claims in existence:

...while only a fraction of the lands were held with any sort of title, there were at least four forms of claim: original Proprietary grants, grants by Proprietary delegates such as the co-partners of 1718-1739, grants by former royal governors, and warrants of survey – that is, claims based on uninterrupted possession and acknowledged development (Craton & Saunders, 1999: 165).

Shirley found that the majority of Crown Land records related to Proprietary grants and grants by Proprietary delegates were missing, as “Proprietors and copartners had carried back to England any records they might have made, and since had done nothing” (Craton & Saunders, 1999: 165). Records were also discovered in Nassau at the office of the Colonial Secretary, “but these were limited almost entirely to town lots in Nassau and tracts on New Providence, Rose Island and Hog Island” - now known as Paradise Island (Craton & Saunders, 1999: 165).

Shirley found that the situation was far worse in the sparsely populated Family Islands - a term used to describe all remaining islands in The Bahamas outside of New Providence (of which the city of Nassau, Paradise Island, Rose Island and surrounding cays are considered a part). Save for “two or three Families who hold by Warrants of Survey,” Family Islanders had “no other Title to their lands but that of Possession” (Craton & Saunders, 1999: 165).

The Family Islands were more rural in nature, but the poverty and infertility of most Bahamian soil made agriculture difficult. Settlers would use up the land, exhausting it after a few years, then move on to other acreages with little regard as to whether or not they held legal title to the land which they were cultivating. This practice prohibited sustained formal
ownership, impeded accurate record keeping, and stunted the development of a system of management and legal ownership rights within The Bahamas. In the words of Governor Shirley, the situation in the Family Islands was described as such:

“...and there being much waste Ground about them, seldom improve one Tract longer than two or three Years when they explore some new Spot and cultivate the same, until it begins to grow impoverished, so that it is impossible to remark with the least degree of exactness the number of Acre is cultivated” (Craton & Saunders, 1999: 165).

Shirley also found that quit rents were in arrears – often by several years – and the 1729 Act for Settling Claims and the Payment of Quit Rents which was designed to ensure the validity of land claims, surveying, and recording of conveyances, had not been effectively implemented and was considered out-of-date (Craton & Saunders, 1999: 165).

Having relinquished absolute control over Crown Land within the colony a century earlier with the aim of establishing and expanding its Empire, the British Crown now saw the growth and prosperity of the colony being threatened by the poor management of land tenures that was retarding settlement and development. In a move designed to regain control of Crown Land in The Bahamas, increase profits, and bring clarity to the tenure system so as to encourage settlement by providing settlers with the security they were being denied under the rule of the Lords Proprietors (Craton & Saunders, 1999: 166), the Crown bought land from the Proprietors in 1784 and 1786 - eventually buying out the Lords Proprietors in 1787 (Craton, 1987: 92). The Crown reclaimed responsibility for all surveying, land titles and registration, collection of quit rent and taxes on sales and conveyances, and resumed control over all unalienated land within the Bahamas (Craton & Saunders, 1999: 165).
Loyalist Refugees Settle in The Bahamas

Due to its geographic proximity and the fact that The Bahamas was ruled by the Lords Proprietors of the Province of Carolina for over a century, the history of the Islands remained closely tied to that of its neighboring North American colonies, and in later centuries the United States and Canada. It was not surprising then that when the thirteen colonies that became the United States gained independence from the British Empire during the American Revolution, refugees from New York, Florida and the Carolinas – called ‘Loyalists’ because of their decision to remain loyal to the British Crown – sought to resettle in West Indian colonies that were still subject to British rule such as The Bahamas.

The arrival of Loyalist settlers - black slaves, working class whites, and both poor and prosperous free blacks in tow - marked a period of rapid growth and expansion in the Islands. Historians Michael Craton and Gail Saunders describe the effects of the Loyalist resettlement scheme:

Of the grand total of about one hundred thousand refugees from the new United States, only some sixteen hundred whites and fifty-seven hundred slaves and free blacks migrated permanently to The Bahamas. Yet, this modest influx trebled the colony’s population, raised the proportion of slaves and other blacks from one-half to three-quarters of the whole, and increased the number of permanently settled islands from three (or five) to a dozen (Craton & Saunders, 1999: 179)

This was the first large-scale, highly organized migration experienced by The Bahamas.

With this migration came a transformation of the social, economic, and political structure of The Bahamas, including the growth of downtown Nassau as a burgeoning metropolis and the beginning of racial and social discord within the Islands. While the Loyalists came to The Bahamas with specific land development aims that provided the impetus needed for the Crown to review and redress issues of land management and administration, their arrival also
signaled the beginning of what would eventually become conflicting Crown Land interests throughout the modern history of The Bahamas:

At the very least, the different understandings and expectations of the dominant whites and such black Loyalists (freedmen) as were carried to Abaco (island), were bound to produce friction. On the part of the whites who needed laborers and domestics (for plantation development), the possession of legal authority, if not also the custom of the country, disposed them to regard and treat all black dependents as actual slaves. Inevitably this would come into conflict with the aspirations toward independence and individuality which had led blacks toward the Loyalist camp, if not actually fight for their freedom (Craton & Saunders, 1999: 185).

American Loyalists began arriving to The Bahamas in the 1780’s. Having regained control of Crown Land from the Lords Proprietors, the British Crown sought to compensate Loyalist refugees who had settled in The Bahamas with grants of land. Initially, Loyalists were given land grants free of charge and were exempt from quit rent for the first ten years of occupancy; however, the terms of such land grants would only remain valid if the land was developed or improved - otherwise the land would convert back to property of the Crown. Loyalists were granted land “at the rate of 40 acres for each white head of household, plus 20 acres for every dependent, including slaves” (Craton, 1987: 92).

With the influx of Loyalist settlers and their desire to develop plantations, the need for proper documentation and dispensation of Crown Land grants became increasingly important, and a number of steps were taken to remedy the cumbersome and confused system of land management and administration that had developed under the Lord Proprietors rule. These steps were manifested in the various Acts and laws that were passed during the period immediately following the arrival of Loyalist settlers:
## Acts Implemented During the Era of Loyalist Settlement

<table>
<thead>
<tr>
<th>DATE</th>
<th>ACT</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1793</td>
<td>Surveyor General of Lands</td>
<td>Established as a formal civic enterprise.</td>
</tr>
<tr>
<td>1802</td>
<td>Quit Rent Act</td>
<td>Surrender and regranting of all Crown Land issued since 1787, subjecting them to payment of an annual quit rent. All undeveloped land or any land where quit rent had not been paid reverted back to the Crown.</td>
</tr>
<tr>
<td>1805</td>
<td>Registration Act</td>
<td>Registration required of all deeds and conveyances; registered documents would take priority over all other documents, although the date of those documents might have preceded the date of the registered deed.</td>
</tr>
<tr>
<td>1846</td>
<td>Commutation Act</td>
<td>Abolished quit rents; quit rent tenures that were in arrears could be converted to freehold land if payment in arrears of up to 16 years were paid within 3 months and a valid form of documentation could be produced.</td>
</tr>
</tbody>
</table>

*Source: Craton, 1987*

Fortunately for the Crown, the inability of many persons to meet the requirements specified in these Acts, coupled with the fact that no tenure was secure without a registered title, served to weaken landholding tenure by individuals “wherever ownership had been, or became, obscure” (Craton & Saunders, 2000: 50). As a result, there was a large increase in Crown Land holdings due to defaults (recently settled islands were most affected), as all unalienated land was re-commuted to the Crown, in addition to those tenures where quit rent arrears had not been paid (Craton & Saunders, 2000: 49).

Although these policies made the value of legal title explicit, lack of enforcement institutions meant that these policies did little to “fix the method of conveyance in the European mold;” neither did it determine that ordinary farmers would restrict themselves to areas over which they had strictly legal tenure,” as this practice had become an acceptable social custom (Craton & Saunders, 2000: 50). As such, a general disregard for legal title
persisted and the Crown’s policies did little to improve the land tenure system in The Bahamas.

**Slavery Abolished in The Bahamas**

With the abolition of slavery and subsequent collapse of the plantation economy, the system of formal tenure and record keeping was further complicated as ex-slaves began to develop their own informal and alternative systems of possession such as ‘Commonage’ and ‘Generational’ tenure. Ex-slaves developed these systems out of necessity, as the Crown failed to grant ex-slaves any Crown Land within the colony post-Emancipation. Technically squatters, ex-slaves continued to occupy land within the Bahamas via informal custom for over a century, while the system of formal landholding was little improved over the same period.

When slavery was abolished, the collapse of the plantation system was almost immediate. Many former plantations were abandoned by slave masters, and having received no assistance from the Crown, the majority of ex-slaves were forced to carve out a living as freedmen with no access to capital or land. Initially, many relied on apprenticeships with former masters as a matter of necessity, but eventually the majority of ex-slaves were able to establish themselves by forming informal tenures such as ‘Generational’ and alternative tenures such as ‘Commonage’.

Commonage land is private land that arose out of the Commonage Act of 1896, governing the rights of persons occupying Commonage land. Generally defined, Commonage land is land that was granted by the Crown to no less than twenty persons. Commoners and their descendants are recorded in a register, which under the Commonage
Act is maintained by the District Commissioner and regulated by the Minister responsible for Commonage. Commonage land cannot be divided or sold to persons not registered as Commoners.

Though commonage holdings arguably exist throughout The Bahamas, the four official Commonages in existence are at Harbour Island/Spanish Wells, Rock Sound, and Tarpum Bay within Eleuthera, and Mount Thompson/Ramsey within Exuma (Government of The Bahamas, 2007). No Commoners can sell their rights to Commonage land or use the property as collateral for a loan. This is because lenders will require a proper unencumbered title before issuing funds, but such legal documentation is non-existent under the Commonage system (Rabley & Turnquest, 2003: 19).

Prevalent in areas that were never settled or that had long since been abandoned by Loyalists, Generational land is privately owned land granted to family members upon death of the original owner; but whereas the heirs fail to probate the estate, the land continues to be occupied from generation to generation without any legal administration (Craton, 1987, 99). In fact, “even where wills might give priority to one descendant over another, all descendants retained a fundamental claim. Some wills and deeds, indeed, actually specified this method of transmission, naming the immediate tenant but reserving the rights in the land to all descendents,” any number of which were the actual users and even including those whose user rights could be considered questionable – such as mother- or father-in-laws (Craton, 1987: 99).

In a report on land issues in The Bahamas, Peter Rabley and Tex Turnquest describe the system of Generational tenure as follows:

“Generational Title” is not an estate in land, but rather the remnant of inattention to legal processes and requirements. It can affect large tracts of land (200 or 300 acres
are not uncommon) where a remote ancestor is still the record owner of the large tract. Because his/her estate has never been probated and the estates of intervening generations have never been probated, title is now held by the descendants as tenants in common of undivided interests in the whole, but the actual persons holding title have never been determined (Rabley & Turnquest, 2003).

Generational land - like Commonage land – cannot be sold, marketed, or used as a source of collateral or financing. Eleuthera, Cat Island, Long Island, Crooked Island, and Rum Cay have large tracts of land categorized as Generational; however, with greater interest in Bahamian land by foreigners for commercial and tourism development and the subsequent increase in real estate value, the number of individuals claiming rights to Generational land is on the rise, and many of these legitimate claimants reside outside of The Bahamas. (Rabley & Turnquest, 2003: 18).

In addition to alternate and informal tenures such as Commonage and Generational, many Bahamians have continued to squat on private or Crown Land undisturbed for many years and as such claim it as their own (Craton, 1987: 102).

While the development of these informal and alternate tenures served as an important step towards independence for ex-slaves from their former slave masters, these systems of landholding further complicated an already perplexing system of land management and administration in The Bahamas.

The Emancipation Act of 1834 abolished slavery in British territories, but like most of Britain’s Caribbean colonies, The Bahamas had to wait another four years for the most elementary of liberties, as most former slaves were constrained to work for their previous owners through formal apprenticeship (Craton & Saunders, 2000: 3). Both the economy and the population began to decline, and by 1838 the plantation system had completely collapsed. For ex-slaves, “the loss of their former owners’ protective responsibility was accompanied by
a steady worsening of the conditions of work, land tenure, and material welfare. The ending of slavery saw not only the creation of a wage slave proletariat, but the gradual deterioration in the status of would-be peasants, as white former slave owners (happy to detach free blacks from the black majority) and black middle class allies tightened their control over both the political system and mercantile economy” (Craton & Saunders, 2000: 4).

Although the Crown had the power to grant acreages or plots of Crown Land to ex-slaves as it had done for Loyalists and other European settlers prior to Emancipation, backed by the white Bahamian ruling class, the Crown chose instead to make little provision for ex-slaves in terms of Crown grants. In an act that historians have regarded as “jealously conservative,” the Crown kept land out of the hands of ex-slaves by pricing it beyond their means and setting minimal parcel sizes that were so large (40 acres in 1839), effectively only those with sufficient capital had the capacity to develop it (Craton, 1987: 98). Eventually, “the price and size of lots were later reduced to 20 acres,” – even still, this was unattainable for most ex-slaves, particularly those that were residing in the Family Islands (Craton, 1987, 98).

As in the past, the Crown was only interested in giving land to persons who could ensure development and bring about substantial profits and revenue to the Crown. With the majority of ex-slaves within The Bahamas having no access to sufficient capital, they were left landless – forced by the Crown to technically become squatters on the large areas of vacant or abandoned Crown Land throughout The Bahamas.

Bahamian blacks, “though they were not directly helped, they were rarely molested (Craton, 1987: 97),” as an initial attempt at massive, forced eviction from the widely scattered islands in 1839 turned out to be unfeasible within a year of implementation (Craton,
Instead, in order to prevent “unlawful alienation” of Crown Land via informal custom, the Crown decreed that “unauthorized settlers (squatters) could only gain title by squatters rights after 60 years of unchallenged occupation, rather than the 20 years which applied to private land” (Craton, 1987:101). In essence, “ex-slaves found it relatively easy to gather wood, run sheep or goats, farm or even live on lands belonging to others or the Crown, but never easy to gain title for themselves by squatters’ rights. Their access to free land by informal custom, moreover, was curtailed wherever resident landowners were able to enforce leasehold or sharecropping tenures, or during periods when the government was willing (and able) to encourage development by foreign investors” (Craton, 1987:101).

As evidenced by this passage, the Crown – backed by the white ruling class – did everything within its power to structure an institutionalized system of long-run inequality in landholding in the Bahamas post-Emancipation, effectively challenging the landholding rights of the poor or working class whenever it conflicted with their greater social, economic, or political interests (Craton & Saunders, 2000:53). From this period then, evolved the characteristic features of much Bahamian landholding and land use to the present day - land would continue to be used and valued, but not securely owned, by the black majority (former slaves) or poor whites (“Conchs”). Historians Craton and Saunders confirm this trend in their recent work on Bahamian history:

A contradiction existed between on the one hand, an attitude derived from the notion that land is tribal or kinship territory, simply for usufruct, the use by members of the tribe or kin according to need...and on the other hand the concept of real estate...But more practically and specifically in the Bahamian context, it involved a conflict between poor islanders (almost exclusively black), who relied on custom and usage and rarely had written titles; and lawyers (until the mid-1960’s, nearly all whites) eager to establish precise boundaries, formal title, and uninterrupted possession on behalf of individual clients. These clients as often as not were themselves Bahamians, sometimes persons wishing to protect their property against
The Rise and Fall of Informal Tenures

The laws and practices of the Crown that emerged post-Emancipation created an “unbridgeable dichotomy” of land tenure within The Bahamas: formal landholding based on the more Eurocentric model of linear transfer, emphasizing legal rights and proper documentation – which included tenures such as individual title and possession, freehold and leasehold; versus informal landholding based on the more Afrocentric model of communal or familial occupancy and transfer, with very little regard for appropriate record keeping or legal documentation – which included tenures such as Commonage and Generational (Craton, 1987: 88). As the country moved towards the twentieth century and tourism development gained greater importance however, the value of informal landholding tenures - which were important for ex-slaves post-Emancipation - would slowly diminish in favor of official legal systems.

Established black settlements and informal and alternative tenures such as Generational and Commonage that emerged post-Emancipation often grew out of a process described below by historians Michael Craton and Gail Saunders:

Once the former master’s family left, or through generations of miscegenation folded into the majority (as seems to have happened in parts of mainland Eleuthera and Long Island), the land was regarded as belonging to the former community and its descendents, in custom if not in law. The title might have lapsed or been long forgotten or claimed by a colored descendant of the original owner, but it was almost invariably challenged by all family heads still living in the settlement (Craton & Saunders, 2000: 51).

These systems of informal and alternative tenures - whereby “the ownership of land was held in common, transmitted through kin from generation to generation, and allocated to
families according to need” - were reinforced by the abundance of vacant or abandoned land throughout The Bahamas post-Emancipation (Craton, 1987: 108). Furthermore, these tenures were not surveyed - meaning it was not only difficult to identify the true heirs, but property boundaries were also unclear. Add to this the inefficiencies of official Bahamian land policies – which were either irrelevant or obsolete - and the outcome was that by the twentieth century, the state of land tenure and administration in The Bahamas was quite frankly “anarchic” (Craton, 1987: 102). Though it was a monumental task, the Crown sought to redress these problems by implementing several laws and Acts during the 1900’s:

**Laws and Acts Passed by the Crown in the 20th Century**

<table>
<thead>
<tr>
<th>DATE</th>
<th>ACT</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1882</td>
<td>Crown Lands Office Act</td>
<td>Mandatory surveying of Crown Lands, but was never fully implemented.</td>
</tr>
<tr>
<td>1913</td>
<td>Acquisitions of Land Act</td>
<td>Government initiated system of 'quieting' or resolving unclear titles which dealt exclusively with Government land that had been sold or granted by the Crown for public purpose.</td>
</tr>
<tr>
<td>1920</td>
<td>Land Roll Act</td>
<td>Made provisions for a complete cadastral survey to more accurately link land use with legal title, but was never fully implemented.</td>
</tr>
<tr>
<td>1927</td>
<td>Squatters &amp; Trespassers Act</td>
<td>Brought tougher penalties on informal tenants.</td>
</tr>
<tr>
<td>1959</td>
<td>Quieting of Titles Act</td>
<td>Designed to resolve encumbrances and title disputes where more than one owner claimed rights to the same property.</td>
</tr>
<tr>
<td>1968</td>
<td>Department of Lands &amp; Surveys</td>
<td>Crown Lands Office changed to Department of Lands &amp; Surveys</td>
</tr>
</tbody>
</table>

*Source: Craton, 1987*

In actuality however, these Acts only served to reveal the severity of the “hopeless tangles” of the land tenure system and caused increasing resentment between Bahamian peasants - who had been secure in informal and alternative Crown Land tenures for nearly a century -
and non-Bahamian entrepreneurs wishing to obtain Crown Land for financial gain and development (Craton, 1987: 103). The Quieting of Titles Act was particularly contentious as Bahamians saw it as a “license (for foreign persons) to steal” (Craton, 1987: 103).

As previously stated, The Bahamas would be “increasingly tied to the North American mainland” (Craton & Saunders, 2000: 75), and as such during the era of the American Prohibition (1919 – 1933) wherein the sale and import of alcohol was restricted, The Bahamas served as a smuggling base for rumrunners and bootleggers. There was “a flow of illicit liquor - which became a flood, and the infusion of new wealth into the Bahamas was immediate” (Craton & Saunders, 2000: 237). With this flood came direct foreign investment and subsequently the expansion of tourism as a major industry that attracted developers and speculators to The Bahamas (Craton, 1987: 102). This interest in land development coincided with the push for decolonization and as such there was little resistance from the Crown Lands office - which consisted mostly of non-Bahamians – in allowing developers to buy large areas of land in New Providence and the Family Islands, having no real intention to develop these properties. The land was often left undeveloped for years and competitive tensions arose between Bahamians - who used the land not for monetary value, but as a primary residence and food source through peasant farming – and foreigners, who encroached on Crown Land, Commonage, and Generation land for the purpose of speculation or commercial development. The Quieting of Titles Act put sitting Bahamian tenants who were “outside the money economy, often illiterate, ignorant of the legal process, and immobilized on distant islands,” at a disadvantage (Craton & Saunders, 2000: 54). The Act inevitably served to benefit “those with the necessary capital and legal expertise” (Craton & Saunders, 2000: 54).
In essence, the Quieting of Titles Act, "which accompanied the greatest surge of foreign investment in land in Bahamian history," marked the beginning of the devaluation of informal tenures (Craton, 1987: 103). Bahamians could not unlock their Generational or Commonage land for development along modern lines of commercial or tourism expansion because of the inability to use these tenures as collateral, the rigidity of the law as it related to transmission of customary land, and the "exponential number of qualified tenants" - of which "the area of common could not support more than a fraction of those qualified for it" (Craton, 1987: 107). With traditional farming in decline and without the necessary capital or collateral to develop modern enterprises on customary tenures, formal tenures become more attractive and Family Islanders began to gravitate towards the economic and tourist centers of Nassau and Freeport.

From Landholding to Town Planning

It was not until decolonization and the emergence of the tourism economy in the twentieth century that a renewed interest in land management and administration came about in the form of an institutionalized town planning agency. By this time however, the system of land administration and management in The Bahamas was in a state of anarchy, rife with land disputes, conflicting claims, inapt policies, and a convoluted system of recording. On the eve of the greatest surge in foreign direct investment in the history of the nation, The Bahamas had made little real progress towards tenure clarification over the centuries.

The surge in foreign direct investment that occurred in the twentieth century marked the beginning of a shift from landholding to town planning. In order to fully develop lands for commercial and tourism expansion, it was not only necessary to address landholding
issues such as overlapping claims and rights to land, the archaic nature of land policy, the lack of parcel-based cadastral maps, the limited surveying not based on a common property identifier, and the unreliability of records in the official Registry; it was also necessary to institute a formal structure that could implement long range planning, coordinate large scale physical development, and provide support for the necessary infrastructure and services needed to firmly establish the burgeoning tourist economy.

In 1961, the Town Planning Act was introduced and out of it the Department of Physical Planning (DPP) - whose charge it was to address land use planning issues throughout The Bahamas. As with many other governmental agencies however, “DPP suffered from lack of staffing, resources, and data, resulting in DPP acting more as a processing center attempting to deal with incoming permits and environmental impact assessments (EIA’s) from BEST” (Bahamas Environmental Science and Technology Commission) (Rabley & Turnquest, 2003: 26). The result was that on the eve of the 21st century - which would bring with it a new surge of non-Bahamians interested in developing and settling large tracts of Bahamian land - the system of land tenure and administration in The Bahamas would remain little improved, suffering from the same set of chronic tenure and administrative issues that had plagued the island nation centuries before. Furthermore, there would be no established comprehensive planning framework established to guide future growth and development, and mitigate negative social, environmental, or other impacts on communities.

In 1961 the Town Planning Act was introduced in New Providence, and was extended to the Family Islands three years later. The Department of Physical Planning (DPP) arose out
of the Town Planning Act, and according to Rabley and Turnquest's land issues report, was charged with the following responsibilities (Rabley & Turnquest, 2003: 26):

1) Formulating plans for the control and regulation of long-range spatial and physical development.
2) Controlling and regulating development subdivisions.
3) Assisting the various Town Planning Committees (as established under the Town Planning Act).
4) Controlling and regulating the size, type and number of signs, preventing their proliferation and unsightly visual effects on the landscape.
5) Statutory zoning as required under the Town Planning Act.

Though the Town Planning Act and establishment of the DPP was meant to improve planning and land use administration within The Bahamas, being that the system was in such a convoluted state, the ability of the DPP to affect marked improvements proved difficult. One of the greatest hurdles pertained to weaknesses in the system of registration, including one major loophole: although deeds and conveyances were recorded at the Registry, in The Bahamas a true registration system did not exist. A high-level Government official with many years of experience in the administration and management of land within The Bahamas explained the shortcomings of the Bahamian system of registration during a recent interview:

The Registry records land transactions, but it does not register them...although we continue to use the term "register." Registration means the government guarantees that the title you have is good and a true registry system involves registration of the title itself. The recording system we have here does not do that. I can tell you right now that I will sell you the land outside this building, we can make up a document, sign it, and take it to the Registry and it will be recorded; there is no assessment made by the Government at the time of recording as to the validity or sufficiency of the documents recorded. The legal definition of land registration is not what we have here – our system is just so that if you lose the document, you can go to the Registry and find the recorded document again. (Interview)

In addition to a system of recording rather than a true title system, "registration" of deeds and conveyances continues to be non-mandatory, and in lieu of a survey a legal description of a
property may suffice. Furthermore, deeds and documents related to transmission are poorly managed, stored in alphabetical order, and are mostly paper based with no backup copies—making them entirely susceptible to loss, fire, or other physical damage (Rabley & Turnquest, 2003: 21). The state of the registry has prompted similar remarks from both historians and contemporaries alike:

Thanks to incomplete and inaccurate surveying, to incomplete registration and a bewildering range of documentary and customary claims, many of them conflicting and overlapping, those who wish to purchase and develop land are almost faced with insuperable difficulties (Michael Craton, Historian - 1987)

Recent studies indicate that over 15% of all parcels are in dispute. This estimate is probably low since there is no comprehensive cadastral map of all parcels. The deed recording system (Registry) used in The Bahamas records land transactions in chronological order and based on the names of persons involved in the transaction. This person-based system requires a time consuming and cumbersome backward search of the ‘chain’ of all previous transactions to determine the current ownership of the land. Land tenure security is reduced since recording is not mandatory and as a result individual properties may be omitted from the Registry. Being a deed recording system, as opposed to a registration of title system, land transactions among parties are valid even if they are not recorded in the Registry. Moreover, even if a property is recorded, there is no requirement for recording subsequent transactions. Since the Registry has no responsibility for validating the information regarding the land (location, size and value) prior to recording, the reliability of the Registry information is open to question (Inter American Development Bank (IADB), 2004: 5).

The existence of this type of system of recording—rather than that of a true title registration—has perpetuated complexities within the land registry to such an extent that the majority of persons interested in title are often forced to seek out the services of specialist lawyers or title experts (Rabley & Turnquest, 2003: 21). Not only is this an expensive public burden, but the effectiveness of Government in managing its land resources is also hampered, as the Government itself remains uncertain as to the exact amount of properties in the Bahamas, the locations and boundaries of these properties, and their corresponding uses or tenures.
Rabley and Turnquest contrast the current system of recording with that of a true title registration system in their recent study on land issues within The Bahamas:

A true title registration system, supported by appropriate legislation, provides a legal framework, which calls for a certificate of title created and maintained by the government and guaranteeing the ownership and encumbrance information contained on the certificate of title for a specific parcel of real property. Examination of the certificate of title alone is all that is necessary to determine ownership, leases, mortgages, restrictions, easements and encumbrances. On transfer of ownership a new certificate of title is created and no terminated encumbrances are carried forward. The status of ownership of a parcel can be determined from the certificate of title at any time (Rabley & Turnquest, 2003: 22).

Perhaps to a fault then, DPP via the Town Planning Act failed to even attempt to clarify tenures, improve land records or require mandatory surveying based on a common property identifier – all of which could have helped to improve spatial planning and growth management in the future. Instead, the DPP took a more myopic view of town planning and land management that excluded issues related to long range planning, fiscal land policy, comprehensive land use planning, environmental management and conservation, infrastructure development, economic development, and clarification of tenures that would allow for proper spatial planning and effective growth management.

Furthermore, without a comprehensive vision for land planning and administration, DPP failed to establish itself as a clearinghouse for land related data via coordination and collaboration with other relevant agencies. As such, planning remains piecemeal with data related to land use and administration spread among various agencies¹, and any official

¹ According to Rabley & Turnquest (2003), namely The Ministry of Agriculture which manages agricultural land and marine resources and who is currently dealing with high profile issues including rapid coastal zone development, docking harbors, marinas, hotels, sand dredging, destabilization of shorelines caused by reef blasting and large numbers of cruise ships; The Ministry of Public Works who is responsible for building control, public and private roads, and subdivisions; The Registrar General; The Department of Lands and Surveys; The Department of Physical Planning; The Real Property Tax Department, and The Treasury Department. In addition, the Department of Environmental Health is tasked with regulation and control of the environmental health aspects of seaports, harbors and marinas.
numbers provided that relate to the total amount of properties in existence of any type of
tenure throughout The Bahamas, are “proxies” at best (Rabley and Turnquest, 2003: 19).

This being the case, the state of Crown Land tenure in The Bahamas remains
unchanged, with Crown Land management remaining weak and little attention being given as
to how to effectively manage and allocate this public good.

Summary & Implications

The legacy of the history of land tenure and administration in The Bahamas is one
where lack of human resources, obsolete policies and poor administrative procedures, archaic
systems of registry, inaccurate recording and surveying, scarcity of geospatial data, and
institutionalized inequalities in landholding tenures, has resulted in serious land use conflicts,
social discord, administrative inefficiencies, and duplication between various land
development agencies. In addition, having no real idea of how much land definitively exists
in the country of any particular tenure, the Government continues to make land use and
development policy decisions in a vacuum. Combined with these deficiencies, the lack of a
comprehensive, integrated, environmentally sustainable long range plan for the development
of all land tenures within The Bahamas – including marine resources - leaves the country
vulnerable during periods of rapid expansion, explosive population growth, aggressive
international capital, or an overwhelming interest in its real estate markets.

The poor spatial data that exists in The Bahamas means that decision makers often
lack the necessary spatial information needed to make an informed decision on how to
properly manage its Crown Land resources and avoid development mismatch. Furthermore,
in the absence of a comprehensive planning framework and with little coordination between
agencies, development oversight often occurs and decisions on land management, land use, land disposition and land pricing have no correlation to current statistical trends or future needs.

As with the influx of Loyalist settlers to The Bahamas, this chapter also demonstrates that geographic proximity to North America dictates that the Bahamas is continually influenced--often in dramatic fashion--by key changes in the U.S. and other nations. In the U.S. case, the changes go back far: from the Revolutionary and Civil Wars through Prohibition, the rise of mass tourism after the Second World War, and now Baby Boomer retirement and linked second-home and luxury travel. The Loyalist influx also proved that no matter how modest an entry of persons to The Bahamas, it can easily overwhelm the capacity and human resources of the local population, and on some islands such an influx can lead to questions of sovereignty as newcomers outnumber the existing Bahamian population.

More often than not, as will be evident in the next chapter, influx of population to The Bahamas usually results in social, political, and economic transformation, in addition to social conflict and discord - as occurred with the Loyalist arrival. This is now occurring in The Bahamas with influx of Haitian and other illegal immigrants to The Bahamas, and most likely will occur due to the influx of second home owners resulting from current development pressures and trends (to be further detailed in the following chapter). Such conflicts are particularly contentious if Crown Land is involved, such as Bahamian resentment over the rise of informal Haitian squatter settlements on Crown Land, or their discontentment and frustration over the granting of Crown Land to foreign investors – who often conceptualize Crown Land as mere real estate, without an understanding of the familial and customary ties Bahamians have to it.
Finally, as was the case of ex-slaves who found it relatively easy to live on lands belonging to the Crown, but much more difficult to gain title to it, in allowing the convoluted system of tenures to persist and without implementation of a more comprehensive land use framework, Bahamians will continue to occupy or access Crown Land, Generational Land, or Commonage land without security of tenure, and remain susceptible to encroachment from outsiders with the financial wherewithal to develop these properties. This feeds into the current perception that Crown Land disposition favors wealthy foreigners, similar to the system of institutionalized inequality first established by the Crown: whereas the white minority having access to large amounts of capital – (now namely foreigners) – were freely granted Crown Land, while the black majority (and Conchs) desirous of development but without access to such large amounts of capital, were denied possession of those same lands and essentially shut out of development opportunities.

The implications of land tenure history on the current development state will become more evident in the following chapter, whereas it will be shown that missing spatial data, unreliable records, complicated land tenures, the absence of a comprehensive planning framework, and other issues as discussed above, has made it difficult for the Government of the Bahamas to conduct any form of spatial planning that can be useful in effectively managing current growth pressures and balancing development demands.
CHAPTER 3
MODERN DEVELOPMENT PRESSURES AND LAND CONFLICTS IN AN INDEPENDENT NATION

Though the Bahamas became an independent nation on July 10, 1973, it would continue to face much of the same challenges in terms of Crown Land management and administration in the modern world as it had in centuries past under colonial rule. Like the Bahamian tide, there would continue to be an ebb and flow in terms of the level of interest in land administration and management post-Independence; however, as tourism continued to grow and eventually dominate the Bahamian economy, periods of waning interest would often last no more than a decade - as compared to nearly a century of inactivity during the period between Emancipation and Prohibition as demonstrated in the previous chapter. In addition, the fact that each incoming Prime Minister (PM) had their own idea of how Crown Land should be managed and administered helped to ensure a renewed interest in Bahamian real estate and guaranteed land use policies and legislation would change just as frequently as the elected Government did.

Initially, Crown Land policies and legislation implemented immediately following Independence were extremely pro-nationalism and geared towards favoring Bahamians – specifically black Bahamians; however, as a newly independent nation no longer able to depend on the charity of the Crown, and lacking any form of an industrial, agricultural, or product manufacturing base, The Bahamian economy became progressively more reliant on foreign capital and foreign direct investment. As such, tourism became firmly established as the Bahamas’ number one export, with off-shore banking following a close second. The result was that successive leaders took a more gratuitous attitude towards foreign ownership
and development of Crown Land. This is reflected in policies such as the International Persons Landholding Act (1994) which allowed non-Bahamians to own up to five acres of Bahamian land without Government approval, and the Anchor Projects (2002) which encouraged foreign developers to purchase large tracts of Bahamian public land on which to construct large scale resort development projects or second home residences for non-Bahamians.

Literally of their own success, such initiatives facilitated a large influx of foreign residents to the Bahamian shores, creating new development pressures and reviving the age old tensions between native landholding versus landholding by foreign newcomers, the use value of Crown Land versus its exchange value, and informal custom versus formal Crown tenures. Once again however, as will be demonstrated in this chapter, in the absence of reliable spatial data and a comprehensive, integrated planning and land use framework, The Bahamas would be ineffective in adequately managing its Crown Land resources in the midst of development pressures. Furthermore, unlike generations of Bahamians before who were subject to the social, political, and economic whims of the Crown, modern Bahamians were vociferous, literate, educated, legally savvy, and possessed voting power. They increasingly demanded to be involved in development decisions that impacted their lives or hampered their access to Crown Land within their communities. As planning had largely been development driven however, there was no tradition of public consultation or planning in the public domain. As such, the Government was incapable of effectively involving communities in the development process, adequately responding to their needs, and diffusing rising tensions in the midst of land use conflicts.
Independence and Nationalism

In 1973 the Bahamas became an independent nation, officially cutting ties with Britain and the system of colonial rule. The first Prime Minister of the nation was black majority leader Lynden Pindling. As Prime Minister, Pindling sought to reclaim The Bahamas for Bahamians, namely black Bahamians. This translated to Crown Land policies that were extremely nationalistic in nature, and inhibited the ability of foreign persons to own or lease land in The Bahamas. While such actions made more Crown Land available to Bahamians, Pindling did not develop accompanying policies or legislation that would clarify tenures so as to allow for appropriate spatial planning; nor did he implement a comprehensive system of land management and administration that would specify how Crown Land was to be valued, priced, managed and allocated. As such, there was little differentiation between the state of the national patrimony during colonialism as compared to the period following Independence.

For over three centuries, the British Crown ruled over The Bahamas, infusing the Islands with the British culture, language, religion, and system of governance and land administration. By the twentieth century however, decolonization of British territories had begun and imperialism was coming to a debilitating end. In The Bahamas, the Crown’s eagerness to “devolve authority and responsibility” translated to a new constitution in 1964 and internal self-governance by the white minority United Bahamian Party (UBP) within that same year (Craton & Saunders, 2000: 316). Dubbed the “Bay Street Boys” or “White Knights” - as the party consisted of influential white merchants who controlled both the local economic and political systems, and owned the majority of businesses concentrated along Bay Street in downtown Nassau - the UBP’s power was wrestled away just three years later.
when Bahamians voted in favor of the Progressive Liberal Party (PLP). Led by Lynden Pindling, the black majority PLP party brought political dominance by the white minority to a historic end in 1967 (Craton & Saunders, 2000: 316), leading Bahamians to a final break from British imperialism on July 10, 1973 – the date of Bahamian Independence (Craton & Saunders, 2000: 316).

Pindling had been able to mobilize Bahamian voters using the platform of black power and Bahamian nationalism, and after having won the historic election he made it clear that he was “disgusted by the way foreign leaseholders had been able to hem in or squeeze out local settlements and rape the (Bahamian) landscape” (Craton, 1987: 106). He immediately set out to reverse the historical trend of black Bahamians being subjected to encroachment by foreign persons on Crown Land, and also sought to redress their inability to secure ownership. First, he revisited the number of Crown Land leases that had been granted to foreign persons and cancelled or shortened numerous leasehold tenures; thereafter, he passed legislation known as the Immovable Property (Acquisition by Foreign Persons) Act of 1981 (Government of The Bahamas, 2007), which was designed to curb foreign acquisition of Bahamian real estate.

The Immovable Property Act required “prior Government approval for the purchase, transfer, or inheritance of any property by non-Bahamians,” whether large or small (Geographia, 1995). It also “prevented the sale to foreigners of land adjacent to (Family Island) townships where it might inhibit urban expansion” (Craton, 1987: 107). The Act “reserved certain categories of land for acquisition by Bahamians,” and was designed to “ensure land (would be) available to future generations of Bahamians” by limiting foreign
speculation in the Bahamian real estate market through the requirement of timely and
"orderly development of land held by foreigners" (Craton, 1987: 107).

Such actions were as much a show of Bahamian nationalism as they were an effort to
establish Bahamian autonomy, as described by historians Michael Craton and Gail Saunders:

The foreign policy of the new Bahamian nation can be generally characterized as expressing the desire to seem completely independent of its former imperial master without falling under the alternative sway of its dominant neighbor to the west and north or, more subtly, to downplay both the lingering cultural, historical, and sentimental ties with Britain and the geopolitical and economic realities that tie the destiny of the Bahamas to that of the United States (Craton & Saunders, 2000: 367).

In the end however, Pindling avoided totally antagonizing his North American neighbors by granting compensation to foreign leaseholders whose Crown Land leases had been shortened or cancelled (Craton, 1987: 106). Additionally, all U.S. military or marine bases that had been leased on Crown Land in the 1950’s for 99 years by the British Government – who had conceded these leases “with little or no consultation with the Bahamian government” (Craton & Saunders, 2000: 373) - “were either renegotiated or quietly allowed to lapse with mutual consent” (Craton, 1987: 106).

Through Pindling’s actions, “the amount of unalienated Crown Land belonging to the newly established Commonwealth of the Bahamas increased” (Craton, 1987: 107); however, the myopic view of planning persisted and “very little progress was made towards a cadastral survey or a comprehensive registry of titles.” As such, the anarchic state of land tenure, management and administration remained unchanged, despite The Bahamas’ coming of age as an independent nation (Craton, 1987: 107). As would become evident later, while Pindling had depressed the foreign investment market and kept foreign land ownership at bay during his administration, he failed to directly address how tenures would be clarified in
order to establish a spatial database; neither did he develop and implement a comprehensive planning mandate on how Crown Land should be valued, priced, managed and allocated.

**Revival of Foreign Ownership in the Bahamian Real Estate Market**

When the rule of Sir Lynden Pindling and the PLP administration finally came to an end nearly a quarter century after Independence, the new leader – Hubert Ingraham of the Free National Movement (FNM) - ushered in foreign investment and opened up the Bahamian real estate market to non-Bahamians. Unlike the nationalistic platform of his predecessor, Ingraham sought to accommodate foreign persons wishing to own Bahamian land; the main tool he used to do this was the repeal of the Immovable Property Act and subsequent creation of the International Persons Landholding Act (IPLA). This created overwhelming interest in foreign ownership of Bahamian land, and prompted the formation of several land related agencies.

Prime Minister Pindling served as uninterrupted leader of the independent Bahamian nation for over twenty-five years, and his policies towards foreign landholding changed little over that period. It was not until the opposition party - the Free National Movement (FNM) - came into power in 1992 that the Immovable Properties Act was repealed and replaced with the International Persons Landholding Act of 1994 (IPLA).

The IPLA “eased the process of foreign ownership of homes and real estate” by allowing non-Bahamian homeowners and business owners to own up to 5 acres of Bahamian residential property without having to obtain prior Government approval (Geographia, 1995). In addition, non-Bahamians would pay the same stamp tax duty on property conveyance as Bahamians - whereas previously they had paid a double rate (Rigby, 2007). Foreign

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1 Tax on a conveyance of sale of land that is charged at progressive rates
homeowners would also be allowed a homeowner card for themselves and close family members “to facilitate immigration formalities at all Bahamian ports of entry,” (Geographia, 1995) and would be granted expedited residency consideration if they purchased a home valued upwards of $500,000. This was all a part of the new Government’s plan to take a more “accommodating stance on the granting of residency permits to non-Bahamian investors and homeowners” (Geographia, 1995).

Ingraham described his resuscitation of the Bahamian real estate market via the IPLA in a recent article in the Freeport News:

Old and draconian, the Immovable Properties Act put in place by the PLP was detrimental to the country’s economy and that is why the FNM repealed it within four months of coming to office. That’s what responsible governments do. If a law is offensive and not serving the desired purpose, you either amend it or repeal it. (Freeport News, 2007)

This legislative change from the Immovable Property Act to the Landholding Act was due as much to leadership change as it was to absolute necessity. The social, economic, and political life of The Bahamas had been severely eroded due to the corruption of the drug trade in the 1980’s under the PLP, and investor confidence in The Bahamas had almost completely diminished. In a special report published in the Miami Herald in September of 1984, The Bahamas was dubbed “A Nation for Sale” by authors Carl Hiaasen and Jim Mcgee, whose snapshot of The Bahamas in the 1980’s can be summarized as follows:

For more than a decade, international drug traffickers used the Bahamas as a vital gateway for U.S.-bound cocaine and marijuana. Sparsely populated and strewn over 100,000 square miles, the country’s 700 islands were a smuggler’s dream and a law-enforcement nightmare. Only one hour by air from the Florida coast with dozens of unguarded beachfront runways and scores of secluded harbours, The Bahamas were an ideal spot for storage, refueling, and escape. Accusations of bribe-taking, money-laundering and other corruption left no layer of Bahamian Government untainted. Some of Prime Minister Pindling’s closest and most powerful associates were
implicated in payoffs, money-laundering and drug shakedowns, while the PLP leader himself was the subject of serious bribery accusations (Hiaasen & McGee, 1984).

As such, “the FNM had been elected on a platform promising a complete turnaround – the eradication of corruption, patronage, and slackness, the replacement of government overspending by new investments in the private sector, the revival of tourism, and above all, the creation of more jobs” (Craton and Saunders, 2000: 387). The implementation of the International Persons Landholding Act became an important step in fulfilling the FNM mandate.

The IPLA legislation not only generated a renewed foreign interest in Bahamian real estate, but also motivated Government to redress issues related to land management and administration. This included the establishment of the Bahamas Environment Science and Technology Commission (BEST) in 1994, the Bahamas National Geographic Information Systems (BNGIS) Centre in 1999, and the Bahamas Land Use Policy and Administration Project (LUPAP) in 2004.
<table>
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<tr>
<th>Agency</th>
<th>Mandate</th>
<th>Implementation</th>
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<tr>
<td>BEST</td>
<td>Review Environmental Impact Assessments (EIA) Designed after the National Inter-Ministerial Committee on Science and Technology (NIMCOST) created in 1989. Remains an advisory body and as such has no legally mandated regularity authority or environmental planning framework to move decisions forward. Development is outpacing institutional capacity; BEST suffers from limited human resources, lack of space, and lack of the technological equipment necessary to meet the demands.</td>
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<td></td>
<td>Advise Government on environmental &amp; scientific issues including impact of development proposals</td>
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</tr>
<tr>
<td></td>
<td>Propose policies and legislation related to conservation, sustainable development, coastal and environmental management and disaster preparedness</td>
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<tr>
<td>BNGIS</td>
<td>Act as a repository for geospatial data that provides public and private sectors access to spatial info necessary to improve land use decisions; management of geo-data resources.</td>
<td>The project was completed in 2001, but sat largely dormant by 2003. The Centre was recently reactivated but is still unable to provide meaningful assistance in terms of supplying the geospatial data necessary to manage and administer land, improve the decision making process, and create effective land use policy.</td>
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<td></td>
<td></td>
<td>BNGIS is challenged by bureaucratic administrative procedures and inability to fully access data housed at other Governmental agencies; public agencies often take a proprietary attitude towards information and data sharing.</td>
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<tr>
<td>LUPAP</td>
<td>Improve the efficiency of land management and allocation, including Crown Land</td>
<td>Project is near completion, but it remains to be seen whether or not the project will move beyond another costly data gathering exercise to actual implementation; surmounting the economic, legal, cultural, and political challenges of land tenure that have plagued The Bahamas for centuries</td>
</tr>
<tr>
<td></td>
<td>Improve the reliability of land records and transactions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Provide better access to land information</td>
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Source: Rabley & Turnquest, 2003
While the IPLA prompted greater attention to land administration, significantly opened up the second-home and foreign direct investment market, contributed to robust land sales, and positively impacted the real estate, tourism, and construction sectors, it also brought with it non-Bahamians who were able to speculate in Bahamian real estate and obtain large tracts of land without being required to effect development¹ (Rigby, 2007). This practice resulted in non-Bahamians having exclusive control over a significant amount of Bahamian land, a practice that was contrary to the national investment policy under the previous PLP administration— who had adamantly prohibited the total alienation of any island from the national patrimony and placed limitations on how long foreign owned property could remain unimproved (Rigby, 2007).

Another trend that emerged from the passing of the IPLA was that as foreign demand for land increased, so did the price of real estate—particularly in the Family Islands. A senior Government official within the Ministry of Financial Services and Investments recently reflected on the effects of the IPLA legislation during an interview, describing its impacts on the real estate market within The Bahamas and the negative public perception that it generated:

The difficulty with that legislation is that literally of its own success, it is perceived that that legislation has caused the country to be sold out to foreigners because there was such a huge interest in The Bahamas. The legislation turned on the Government. People were buying land not just for second homes…they were buying land all throughout the Bahamas. Land sales were going for however billions of dollars. (Interview)

¹ One of the most notorious cases of land speculation is perhaps the Bahama Sound project on the island of Exuma
The overwhelming interest in the Bahamian real estate market came to a screeching halt between 2000 and 2001 however, due to two overlapping events: the blacklisting of the Bahamian financial sector by the Organisation for Economic Co-operation Development (OECD), and the 2001 terrorist attacks on the United States.

**The Anchor Projects Initiative**

With the inception of the International Persons Landholding Act in 1994, the growth of the Bahamian land market continued through the turn of the century. In 2000 and 2001 however, the top two sectors of the Bahamian economy – finance and tourism – collapsed due to an OECD blacklist and the September 11th terrorist attacks respectively. This period of rapid economic decline coincided with the 2002 general election, and in a landslide sweep, the PLP party was returned to governance in 2002, promising to lead Bahamians to an economic turnaround and a revival of the foreign investment market. The main tool the PLP utilized to achieve its economic goals was not a new legislation however; rather, it was a development mandate that came to be known as the Anchor Projects.

In 2000, The Bahamas financial and offshore banking sector – the second largest driver of the Bahamian economy behind tourism – was dealt a heavy blow when it was blacklisted along with other mostly third world countries during an international crackdown on money laundering (Zalewski, 2002). The Financial Action Task Force on Money Laundering (FATF) of the OECD - comprised of first world members – raised concerns that low tax countries like The Bahamas that “had low or zero income taxes, allowed foreigners investing in the country to do so at favorable rates, and afforded financial privacy (secrecy) to its investors or citizens,” would “attract too much capital from high tax countries,” and
were therefore “harmful tax regimes” (Task Force on Information Exchange and Financial Privacy, 2002: 20). The economic security of The Bahamas was further weakened when its number one industry – tourism – suffered severe fallout after the September 11th terrorist attacks in 2001.

When the 2002 general elections came about, the FNM government was voted out by a landslide, with the PLP returning to power under the new leadership of Perry Christie. The Christie administration made promises similar to those the FNM had made ten years earlier – namely an economic turnaround that included compliance with OECD standards, restoration of the Bahamian tourist economy, encouragement of foreign capital as an economic engine, and strengthening of investor confidence. In an interview for Caribbean Investment Profiles, Sean McWeeney - a trusted advisor to Prime Minister (PM) Christie – described the PM’s stance towards economic development as follows:

I think, economically, he is very conservative, very pro-free enterprise, very pro-privatization, very pro reducing the size of the government’s direct stake in the economy and he is very big on providing incentives and concessions that help stimulate the investment of private capital. So he is very conservative in that sense. (Owen, 2003: 74).

While the previous FNM administration had used the International Persons Landholding Act as the legislative tool to achieve its economic goals, the PLP initiative was one of mega-developments on each of the roughly 30 major islands throughout the Bahamas that came to be known as Anchor Projects. Similar to “anchor” tenants within a retail mall that generate business for smaller stores or outlets, the Anchor Projects strategy was one where anchor properties consisting of hotels, time shares or residential second homes (in some cases all three), would be developed for each of the roughly 30 major islands throughout The Bahamas, generating spin-off businesses and providing employment
opportunities for Bahamians (Smith, 2007). A Government official in the area of Financial Services and Investments summarized the economic development strategy of the Anchor Development initiative during an interview:

The theory is that (the development) would become the economic engine for that island. It would generate substantial employment; generate opportunities for spin-off businesses like tours, entertainment, housing, and retail. (Interview)

As a complement to the Anchor Development initiative, Prime Minister Christie enacted new legislation and reinforced existing Acts that provided incentives to developers, as listed below:

### Development Incentives and Concessions To Support Anchor Development

<table>
<thead>
<tr>
<th>Year Enacted</th>
<th>Act</th>
<th>Incentives</th>
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<tbody>
<tr>
<td>1954</td>
<td>Hotels Encouragement</td>
<td>Provides custom duties exemptions on materials, equipment and furnishings for construction, renovation or refurbishment. Absolute real property tax exemption for a minimum of the first 10 years. Exemption on taxes of earnings for 20 years by Minister's order. Stamp tax exemptions in the Family Islands.</td>
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<tr>
<td>1999</td>
<td>Bahamas Vacation Plan and Time Sharing</td>
<td>Customs duty exemption on building materials and regulation of vacation projects for the protection of purchasers of time-sharing and vacation plans.</td>
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<tr>
<td>2003</td>
<td>Family Island Economic Enterprise Zones</td>
<td>Customs duties exemptions and incentives designed to encourage the establishment of economic zones on designated Family Islands.</td>
</tr>
<tr>
<td>2007</td>
<td>Economic Development Enterprise Bill</td>
<td>Replaced the Family Island Economic Enterprise Zone Act. The bill provides equal and impartial exemptions for every island. Provides both foreigners and Bahamians with a customs duty and stamp tax exemption on homes costing up to $200,000, in addition to other exemptions on various other items.</td>
</tr>
</tbody>
</table>

Source: Bahamas Investment Authority

In addition to these incentives, the Government continued to make large tracts of Crown Land available to foreign investors at concessionary rates – as low as $1 - $2 dollars for entire projects - as had been done since the enactment of the IPLA under the previous
administration and recorded below from excerpts of Crown grants obtained from the Department of Lands and Surveys:


---

**Figure A:** Crown Grant issued to private Bahamian citizen, 1995

This individual paid $1.08 for 10,168 square feet of Crown Land on the sea
Figure B: This developer paid $1.00 for 17 acres of Crown Land on the sea, 1998

Figure C: This company paid $1.00 for 50 acres of Crown Land on the sea, 2005
Even where private land was purchased, it was not uncommon for the Government to grant developers adjacent Crown Lands as well, allowing developers to ensure the control of adjacent land uses. A seasoned Government official at the Ministry of Financial Services and Investments explains the reasoning behind these concessionary rates and the Government strategy in their disposition:

To accommodate anchor properties developers have identified Crown Land or part private land and part Crown Land. The locations they identify are mostly beachfront. For all these projects the Government enters into a Heads of Agreement, which stipulates what is required of the investor and what is required of the Bahamian Government. If Crown Land is involved, Government will grant Crown Land under a right out purchase agreement or a conditional purchase agreement. Government ownership of Crown Land creates negotiation with developers in what they are required to do. Land is never given away - it might be sold at market value or any other formula. (Interview)

While many persons argued that the Anchor Project development model was not a new initiative - as the economy of The Bahamas had centered around tourism and foreign investment as early as the bootlegging era of the 1920’s and 1930’s – few could deny that the level of interest in the Bahamian real estate market and the amount of foreign direct investment being poured into the country between 2002 – 2007 far surpassed that of any previous period. A recent article in the *Bahamas Investor* highlighted the amount of foreign direct investment being pumped into the Bahamian economy via Anchor Projects:

An unprecedented flow of direct investment has been drawn to The Bahamas over the past 18 months. Nearly US$3 billion in projects were either underway or had been given the go-ahead by government by mid-2005. And another $7.8 billion in projects were under “active consideration” by the government’s approval-granting National Economic Council (NEC), according to figures cited in the ’05 budget communications (Charles, 2006)

The list below gives a sampling of investment projects and proposals for various islands of The Bahamas since 2002. Minister Vincent Peet estimated in a recent article that in total, “430 investment projects were submitted during the period May 2002 to May 2006, of which
“the National Economic Council has approved 229.” Furthermore, he estimated that “to date, the Government has approved $11.2 billion worth of investment projects, most notably of which are for the Ginn property in Grand Bahama, the billion dollar Kerzner, Baha Mar and I-Group Mayaguana developments and the multi-million dollar properties in Rum Cay, Eleuthera, Abaco, Chub Cay and the Berry Islands” (Lundy, 2006).

**Sampling of Development Projects & Proposals Throughout the Bahamas, 2002 – 2007**

<table>
<thead>
<tr>
<th>Location</th>
<th>Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abaco - Guana Cay</td>
<td>Baker's Bay</td>
</tr>
<tr>
<td>Abaco - Winding Bay</td>
<td>The Abaco Club on Winding Bay</td>
</tr>
<tr>
<td>Andros – North Andros</td>
<td>Andros Aisle Development</td>
</tr>
<tr>
<td>Berry Islands - Bonds Cay</td>
<td>Bonds Cay Development</td>
</tr>
<tr>
<td>Berry Islands - Chub Cay</td>
<td>Chub Cay Club</td>
</tr>
<tr>
<td>Berry Islands - Great Harbour Cay, Anderson Cay &amp; Haines Cay</td>
<td>Pristine Resorts</td>
</tr>
<tr>
<td>Bimini</td>
<td>Bimini Bay</td>
</tr>
<tr>
<td>Cat Island</td>
<td>Lucky Mount</td>
</tr>
<tr>
<td>Cat Island - Arthurs Town</td>
<td>Flamingo Point</td>
</tr>
<tr>
<td>Cat Island - South Cat Island</td>
<td>Crystal Mount Limited</td>
</tr>
<tr>
<td>Crooked Island</td>
<td>Pittstown Point Landing</td>
</tr>
<tr>
<td>Eleuthera - Cape Eleuthera</td>
<td>Powell Pointe</td>
</tr>
<tr>
<td>Eleuthera - Current Island</td>
<td>Current Club</td>
</tr>
<tr>
<td>Eleuthera - Governors Harbour</td>
<td>The Club at Pineapple Fields</td>
</tr>
<tr>
<td>Eleuthera - Governors Harbour</td>
<td>French Leave</td>
</tr>
<tr>
<td>Eleuthera - Governors Harbour</td>
<td>Sky Beach Club</td>
</tr>
<tr>
<td>Eleuthera - Rock Sound</td>
<td>Cotton Bay Estates</td>
</tr>
<tr>
<td>Eleuthera - Royal Island</td>
<td>Royal Island</td>
</tr>
<tr>
<td>Eleuthera - Windermere Island</td>
<td>Windermere</td>
</tr>
<tr>
<td>Exuma - Bock Cay</td>
<td>Bock Cay Resort</td>
</tr>
<tr>
<td>Exuma - Crab Cay</td>
<td>Sedona Resorts</td>
</tr>
<tr>
<td>Exuma - Emerald Bay</td>
<td>Four Seasons at Emerald Bay</td>
</tr>
</tbody>
</table>
Sampling of Development Projects & Proposals Throughout the Bahamas, 2002 – 2007 (con’t)

<table>
<thead>
<tr>
<th>Location</th>
<th>Project Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exuma</td>
<td>Emerald Bay Grande Isle Villas</td>
</tr>
<tr>
<td>Exuma</td>
<td>Great Exuma February Point</td>
</tr>
<tr>
<td>Exuma</td>
<td>Normans Cay Aman Resorts</td>
</tr>
<tr>
<td>Grand Bahama - West End</td>
<td>Ginn Versaille sur Mer</td>
</tr>
<tr>
<td>Grand Bahama – East End</td>
<td>Beko Development</td>
</tr>
<tr>
<td>Mayaguana</td>
<td>I-Group</td>
</tr>
<tr>
<td>New Providence – Cable Beach</td>
<td>Baha Mar</td>
</tr>
<tr>
<td>New Providence – Paradise Island</td>
<td>Atlantis Phase III</td>
</tr>
<tr>
<td>New Providence – Rose Island</td>
<td>Ritz Rose Island Beach &amp; Harbour Club</td>
</tr>
<tr>
<td>New Providence – Southwest New Providence</td>
<td>Albany</td>
</tr>
<tr>
<td>New Providence – West</td>
<td>Old Fort Bay</td>
</tr>
<tr>
<td>Rum Cay</td>
<td>Rum Cay Resort &amp; Marina</td>
</tr>
</tbody>
</table>


Nearly all projects listed above are high-end luxury residential or fractional ownership (including private residence clubs), and offer amenities such as golf or marina. Save for the Bahamian owned Cotton Bay development on the island of Eleuthera, and the Mayaguana I-Group project - a joint venture between the I-Group of Boston and the Bahamas Hotel Corporation - all other projects listed above are owned by foreign investors, proving the Anchor Projects model has been successful in attracting foreign capital.

This success is due in part to the archipelagic geography of The Bahamas which offers several destinations in one, miles of white sand beaches and unmatched jewel colored waters, access to the third largest barrier reef on earth with its diverse and spectacular aquatic life, an English-speaking labor force, and acceptance of U.S. currency as payment for goods and services. The most important factor in contributing to the economic success of Anchor Projects from a foreign direct investment standpoint however, is the timely collision of both internal and external development pressures.
From Space the Bright Turquoise Waters of The Bahamas Are Clearly Visible.


Internal Development Pressures in the Modern Bahamas

The establishment of the Anchor Project model of development was not only a strategy to revive tourism and boost foreign direct investment after the economic fallout of OECD and 9/11, it was also a tool that could be used by Government to address several internal pressures that had reached critical levels by the 21st century. These were namely the increasing depopulation of the Family Islands, severe overcrowding in Nassau/New Providence, and limited capacity and resources for infrastructure development and upgrades throughout The Bahamas.
Depopulation of the Family Islands

As stated in the previous chapter, there began in the twentieth century an economic shift from peasant farming and agriculture to tourism; this shift marked the devaluation of informal tenure systems and the beginning of a steady “drift of population from the Family Islands to the main population centers of New Providence and Grand Bahama” (PLP, 2007). A recent excerpt from the PLP website states that this migration “was something that had been allowed to proceed unchecked by the previous administration (the FNM), and had reached crisis proportions (in the 21st century)...with some of the smaller islands in danger of losing communities which had thrived there for generations” (PLP, 2007). With the majority of Family Island migrants consisting of young persons who could find few employment opportunities within their small Family Island communities, the PLP pushed Anchor Projects on the Family Islands as a means of providing employment opportunities that would encourage existing residents to stay on their island, and entice former residents residing in New Providence or Grand Bahama to return.

The charts below show the loss of population within the Family Islands between 1970 and 2000, which was particularly severe for those islands in the southernmost areas of The Bahamas.
Figure A: Population Change in the Northern Bahamas, 1970 - 2000

Figure B: Population Change in the Central Bahamas, 1970 - 2000
Figure C: Population Change in the Southern Bahamas, 1970 – 2000

Source: BNGIS Centre 2005
Used with permission, Ministry of Energy & Environment

Overpopulation in Nassau/New Providence

During the twentieth century, numerous Family Island residents left their homes and communities to seek out better opportunities on New Providence and Grand Bahama. Slowly, the “general ligaments of internal Bahamian migration” became characterized by “the bloating of New Providence, burgeoning of Grand Bahama, and considerable growth of Abaco at the expense of more southerly islands” (Craton & Saunders, 2000: 396). This “unregulated modernization, expansion, and internal migration” within The Bahamas (Craton & Saunders, 2000: 391) led to roughly 70% of the Bahamian population occupying the island of New Providence in 2003 - one of the smallest islands in The Bahamian archipelago, a mere 7 miles long by 21 miles wide. The city of Nassau effectively began to experience an
increase in the levels of congestion, an overwhelming demand for housing, stress on public infrastructure including educational and medical facilities, crime, social problems, and other quality of life issues related to lack of planning and uncontrolled growth. As such, by enticing Family Islanders back to their communities, Anchor Developments would be a means of facilitating the strategic depopulation of New Providence, relieving growth pressures on the capital city.

*Infrastructure Development*

The pressure to accommodate the Family Island population on tiny New Providence was not the only major challenge the capital city had to face. As the majority of tourism infrastructure had been centered in New Providence and Grand Bahama, in the absence of local taxes, property taxes and impact fees designed to directly finance infrastructure and capital works projects, as the economic engine New Providence was also forced to provide financial assistance for infrastructure development to the Family Islands, as the economy on many islands was non-existent. Infrastructure needed on the Family Islands ranged from schools and clinics to utilities and transportation service. The archipelagic make-up of the islands and their scattered land use patterns increased infrastructure costs as it was often difficult to achieve any kind of economies of scale. This being the case, the Anchor Projects initiative was also seen as a way to provide the Family Islands with long overdue infrastructure, by having developers share in those costs (PLP, 2007). During a recent interview with a director at the Ministry of Tourism, the goal of the Anchor Project initiative as a means of transforming Family Islands into independent economies was clearly laid out:
When the Government talks about transformation via anchor projects, it is talking about causing the economy in these individual islands to be stimulated to the point where over time they are able to be self sustaining. Imagine a day when the economy in Eleuthera is so robust, it is generating its own revenue to take care of its own infrastructure and other costs in Eleuthera, as opposed to waiting for the Public Treasury to disburse funds. That is the vision that the PM has - that tourism can be cause for that to happen. (Interview)

Together, these three internal growth pressures as described above served to generate wide support and strong Government will for the Anchor Project development model.

External Development Pressures Affecting The Bahamas

Just as there were internal pressures that provided the political will and internal drive necessary to establish buy-in for the Anchor Project model, there were also external development pressures from North America that provided the necessary consumer base for Anchor properties – namely the increasing property tax rates throughout North America, travel trends post-9/11 and the aging Baby Boomer population.

Real Property Tax

The Bahamas is a relatively tax-free jurisdiction with little to no real estate taxes and a cooperative banking structure, greatly benefiting foreign developers, investors, and second homeowners from higher tax jurisdictions. The table below outlines the current property tax rates for real estate in The Bahamas:
TAX RATES ON RESIDENTIAL REAL ESTATE IN THE BAHAMAS 2007

ANNUAL TAX RATE ON OWNER OCCUPIED PROPERTY

<table>
<thead>
<tr>
<th>New Providence or Family Islands</th>
<th>Bahamians</th>
<th>Non-Bahamians</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Value Less than $250,000</td>
<td>Tax Exempt</td>
<td>Tax Exempt</td>
</tr>
<tr>
<td>Property Value $250,000 - $500,000</td>
<td>$3/4% of market value</td>
<td>$3/4% of market value</td>
</tr>
<tr>
<td>Property Value Greater than $500,000</td>
<td>1% of market value up to $35,000 cap</td>
<td>1% of market value up to $35,000 cap</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Family Islands</th>
<th>Bahamians</th>
<th>Non-Bahamians</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Value Less than $250,000</td>
<td>Exempt</td>
<td>Tax Exempt</td>
</tr>
<tr>
<td>Property Value $250,000 - $500,000</td>
<td>Exempt</td>
<td>3/4% of market value</td>
</tr>
<tr>
<td>Property Value Greater than $500,000</td>
<td>Exempt</td>
<td>1% of market value up to $35,000 cap</td>
</tr>
</tbody>
</table>

ANNUAL TAX RATE ON VACANT OR UNIMPROVED PROPERTY*

<table>
<thead>
<tr>
<th>New Providence or Family Islands</th>
<th>Bahamians</th>
<th>Non-Bahamians</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Value $100,000</td>
<td>Exempt</td>
<td>1% of market value</td>
</tr>
<tr>
<td>Property Value Greater than $100,000</td>
<td>Exempt</td>
<td>1.5% of market value</td>
</tr>
</tbody>
</table>

*Other than unimproved property exempt under Real Property Tax Act Section 39

Source: Ministry of Finance – Real Property Valuation

In an article for the Urban Land Institute, Linda Janasz highlights the attractiveness of a favorable tax structure:

Many Caribbean islands offer a low corporate tax structure, usually no capital gains tax, little or no personal income tax, modest property tax, and normally complete repatriation of profits. For hotel developers, there are various concessions including relief from customs, duties on supplies and equipment, and tax exemptions depending on the size and scope of property being developed (Janasz, 2003).

Even more, as part of the Anchor Development initiative the Christie administration made additional provisions to extend first homeowner tax concession exemptions to Bahamians and non-Bahamians alike – despite the fact that unlike their Bahamian counterparts, the first
homes of the majority of non-Bahamians were often their second home residences (Rigby, 2007).

In addition to its favorable tax structure, prime waterfront land throughout The Bahamas is available at relatively inexpensive rates as compared to the United States. As such, individuals and investors seeking to develop offshore found The Bahamas an attractive real estate environment in which to invest and receive a favorable return on their real estate investment.

September 11th Terrorist Attacks

The travel market within the United States is perhaps the largest travel market in the world and the Bahamian tourist economy is almost entirely dependent on American tourists, who account for the majority of visitors that come to The Bahamas each year as shown below in the graph taken from the Financial Times/DK World Report:

![Main Tourist Arrivals (2002)](image)

Source: Financial Times/DK World Reports - Bahamas

When the terrorist attacks of 9/11 took place, the tourism industry in The Bahamas dried up practically overnight; however, there was an unexpected trend that emerged in the Bahamas’ favor: the majority of travelers from the North American region began to prefer travel outside the country that was closer to home, favoring secure brands and in locations like The
Bahamas – with a long tradition of political stability - that would provide safety and security in a post-9/11 world (Davis, 2004). As described in the excerpts below, this preference helped facilitate major expansion throughout the Bahamas:

The Caribbean is in our backyard. Since 9/11, there has been a development slowdown in the region, but there are a few notable exceptions. Areas in the Caribbean experiencing the most new development are the Dominican Republic, Turks and Caicos, and The Bahamas (Janasz, 2003).

The Tourism sector has been particularly hard-hit by the fallout from 9/11, coupled with the Iraq War and continuing concerns amongst Americans about the safety of international travel. However, there are now clear signs that the market is recovering and…The Bahamas will be one of the first tourism destinations to feel the beneficial effects. Travelers from the U.S. who might be reluctant to fly long haul to Europe or the Far East will be more inclined to take short trips to destinations like The Bahamas. (Owen, 2003: 72)

The Aging Baby Boomer Generation

Baby Boomers can be loosely defined as the generation of individuals born between the 1940’s and 1960’s. Baby Boomers are currently entering retirement and “have tremendous financial capabilities, which will increase as they inherit their parents’ properties and investments” (Goodkin, 2000). On average, Baby Boomers over the age of 50 “now have a median net worth that is twice that of the average U.S. population, and control 43 percent of all spendable discretionary income” (Goodkin, 2000). With more wealth than any previous generation, Baby Boomers are “shifting their money from the (unstable) stock market into real estate” – which, according to an article by Patricia Kirk in Urban Land, is proving to be a much more lucrative investment due to escalating property values (Kirk, 2005).

Instability in the stock market…along with escalating property values, changes in income tax rules for real estate, and low interest rates, have boosted the popularity of leisure properties over the last five years. You can leverage the purchase of a second
home, but you can’t leverage stocks and bonds. If you put 20% down and a property appreciates 10% a year, that’s a 50% return on investment over five years - $40,000 turns into $50,000 in one year, plus all the tax write-offs (Kirk, 2005).

In addition to taking advantage of escalating property values, Baby Boomers do not accept the classic form of retirement and as such they are also purchasing real estate that offers resort style amenities to support their leisurely retirement lifestyle (Goodkin, 2000). Kirk goes on to explain this phenomenon further:

While there has always been a market for second homes, never before in U.S. history have so many people had so much to spend on this property type, which is causing an explosion in luxury second-home development. What’s changed this market is the demographics of boomers…they have a lot of money and are willing to pay to find a property that fits their lifestyle. Boomers are very physically active and are attracted to properties with resort style amenities and recreational opportunities – particularly golf, skiing and beaches (Kirk, 2005).

With miles of prime waterfront and a balmy climate, The Bahamas can easily accommodate the Baby Boomer preference for a more active lifestyle of leisure that includes golf and beaches. The Bahamas is also able to accommodate the growing boating and (mega) yachting industry via marina development – another lifestyle trend that is quickly gaining popularity, but is restricted in locations like Florida due to strong building and environmental regulations designed to prevent further degradation and overdevelopment of much of the Florida coastline:

Because most prime waterfront property in the United States is already developed or is federally protected by environmental regulations designed to safeguard species and reefs from development, developers are looking to foreign locations, including The Bahamas and even Cuba, for potential investment opportunities (Norvell, 2001).
With the majority of Baby Boomers choosing to retire in Florida - the number one state for retirees - The Bahamas is able to take advantage of being in close proximity to the Baby Boomer market:

The state’s retirement industry brings in an estimated $37 billion annually, second only to tourism, whose economic impact is $43 billion. Today, approximately 18.7 percent of Florida’s population is 65 years old or older, compared with 12.5 percent for the entire United States. These numbers are projected to grow slightly in the next decade, reaching 19.1 percent in Florida and 13.2 percent nationwide in the year 2010 (Goodkin, 2000).

These external development pressures provided the consumer demand needed to drive the Anchor Projects, which in turn would help the Government achieve its own internal interests of population redistribution, infrastructure development, and economic independence throughout the Family Islands.

**Negative Externalities of Anchor Development**

The development pressures described above helped push the amount foreign direct investment and foreign interest in the Bahamian real estate market to a level unlike any previously experienced – particularly in the Family Islands which were formerly “terra incognita” to most outsiders. Like previous economic or real estate booms such as the arrival of Loyalist settlers in the late 1700’s however, the influx of non-Bahamians to The Bahamas via Anchor Projects brought with it social, political and economic impacts – some of which negatively affected the Bahamian population. These negative externalities of Anchor Development included greater exclusivity, decreased local access to public areas – particularly waterfront areas and beaches, escalating real estate costs, and increased land use conflicts.
Exclusivity & Limited Local Access

One of the major trends that have emerged recently within The Bahamas and the resort development market in general is the shift in the project financing model. A recent article in The Tribune newspaper stated that investment projects are now financed “with minimal equity from developers, who rely on real estate, property and land speculation sales – pre-sales – to generate cash flow and finance construction of their projects. These trends are towards mixed-use developments with residential components, with guests financing projects as a way for developers to minimize their risk” (Tribune, 2007). The older, capital intensive model of constructing a hotel for transient visitors has been replaced with developments that involve some form of visitor ownership. This new financing model includes the evolution of high-end fractional interest developments, where hotel operators use the profitability of sales from fractional ownership interest to finance their resort developments (Falbey, 2002). At a recent interview, a Tourism director who often oversees resort investment projects shed insight on the high-end fractional interest model commonly used by Anchor developers:

The traditional hotel model is no longer feasible. It is almost impossible to get financing for traditional hotels because of the unpredictable costs and revenue streams that are susceptible to economic downturns. The traditional hotel model has been replaced with a pre-sale model of vacation ownership and condos where up to 60% of your financing is based on pre-sales, or fractional ownership. (Interview)

A distinguishing feature of this model – which places emphasis on the potential annual appreciation of the real estate rather than its annual use - is that “because of the greater interest offered and the attendant higher cost, the market generally attracts a much higher-end purchaser than the typical vacation ownership program geared towards the mass market” (Davis, 2000). At the highest end of this already high-end model is “the ‘private
residence club,’ modeled after the exclusive golf and country club, which has become a popular subtype of the fractional interest trend. The idea behind the private residence club is for a few buyers to own a very luxurious estate property, condominium villa, or other luxury resort accommodation, which is available only for their private use. It is not rented to the public and, in some cases, is not available for exchange through any established exchange organizations or even privately” (Davis, 2000).

Developers are not the only ones targeting high-end clientele however, as demonstrated by a recent article in the Financial Times outlining the Government’s strategy in targeting the more upscale, exclusive segment of the hotel and resort development market:

Finance minister James Smith points out that the rich clients of big developments such as Atlantis and Baha Mar are less affected by the vicissitudes of the global economy. "They've got a niche market. It's not completely insulated from ups and downs, but the people who they go after usually have surpluses and tend not to reduce travel in the way the average household would.” Targeting the big spenders has indeed helped to increase total tourist expenditure. “In the 1970’s and 1980’s we went after a different market from the US, we went for the mass market. We ended up with more visitors, lower room rates, and a deteriorating product. Going after a middle and low income market we found to our horror that while we had the numbers we did not have the spending capacity," he says (Mander, 2005).

The push by both the tourism and development sector to attract a more affluent clientele to the Bahamian shores, has contributed to a rise in gated communities and exclusive foreign enclaves that reduce local access to previously accessible areas - particularly rights to access beaches and the waterfront. A group of residents on the island of Bimini where the Bimini Bay project is located recently expressed such concerns related to limited local access and social exclusion, in addition to a resident on the island of Acklins.

On Monday, residents of the island staged a massive protest to publicly voice their concerns about the project. Among other things, they claim that a gate that has been erected denies them access to five miles of the seven-mile long island, which is only slightly over a quarter of a mile wide at its widest point. Noting that the last census
recorded Bimini as having 1,600-plus residents, Bimini District Chief Councillor Tasha Bullard-Rolle, one of the leaders of the demonstration, made this observation: "You are talking about confining about 1,600 residents to a two-mile space and a growing population. Where are we suppose to go if we are denied access to the additional five miles?" (which leads to the northern third of the island and popular public beaches) (Nassau Guardian, 2005).

The developers are building Bimini as Miami's next playground and it's just a hop, skip and a jump away…but some locals are concerned it's a playground where they might not be welcome (Wyss, 2006).

Those hills (referring to an area on the island of Acklins recently acquired by a foreign developer) are some of the highest elevations on the island and clearly ought not to be made inaccessible to Bahamians...if we are not careful all those lovely beaches will most likely be gradually acquired in like manner...then, a few decades hence, the natives of Acklins will be without sufficient beaches, just as we are now in New Providence. A bird in a golden cage is no less a prisoner, and without more balance and control, this will be the plight of future generations (implying that Bahamians would become slaves again in their own land) (Smith, 2007).

Columnist Arthur Foulkes concluded that “if the lots being put on the market in this Great Bahamian Land Rush are sold and occupied, then we will have foreign settler communities all over The Bahamas” which will result in “a recipe for tension and conflict between settlers, natives, and consequently political problems” (Foulkes, 2007).

Escalating Real Estate Values

Due to topographical constraints and inelastic demand, the recent development surge generated from Anchor Projects has resulted in increased real estate costs throughout The Bahamas - particularly in the Family Islands, where there exist few if any options for local affordable housing to help offset development impacts. In a recent Tribune article, a tourism director discussed this very real trend that was affecting the bottom line of the Four Seasons anchor project on the island of Exuma, where median home price is purported to be nearly $600,000:
The demand for housing and limited availability of land on Exuma has pushed up real estate prices and it is not uncommon to find a two bed one bath apartment in excess of $2,200 per month. The developer has to rent many of these to meet staff needs (Hartnell, 2007).

This article featured in Islands magazine puts the median home price in Exuma at $575,000 and encourages prospective second home buyers to buy now while there are still deals before prices escalate. It also highlights the favorable tax laws and ease in obtaining Bahamian residency.

Columnist Jim Wyss observed a similar trend on the island of Bimini where the Bimini Bay project is located:

We may be up there as workers, but I don't think too many (local residents) will be enthusiastic about going up to the place and spending money...With studio apartments starting at about a quarter-million dollars, (there is doubt) any Bimini resident could afford to live there. I think we'll have two Biminis, the old Bimini down here and the new Bimini up there (Wyss, 2006).

With construction costs also rising, the natural aspiration to own a piece of land in some areas is unachievable at market prices\(^1\), as many Bahamians are unable to compete with

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\(^1\) Areas of Exuma, parts of Eleuthera – including all of Harbour Island, and areas of Abaco would fall into these categories.
the buying power of wealthy non-Bahamians. Columnist Nikki Kelly describes the Anchor Project model as nothing more than a “misguided belief that this will automatically prompt a back to the island movement; (however), it has not happened because in many instances those projects have pushed up land prices and living costs beyond the reach of many islanders wishing to return home” (Kelly, 2007).

In his book on addressing affordable housing within tourism economies, Dr. William Hettinger describes the second home externality unique to tourism communities:

Second home ownership is an externality unique to tourism communities. Second homeowners are external sources of competition. These homebuyers are economically based in another market, but they compete with locals (the internal economy) in a tourism community housing market for the available (land or) housing unit. Second homeowners tend to be wealthier people from another housing market and are unique in several ways: their wealth is derived from a market other than the tourism community in which they have a second home and they tend to purchase housing of high quality, either large and with many features or on prime tourism land, such as on the water with a view of the mountains or ocean. This is a technical externality as it alters the market incentives. As second-home ownership increases in a community, inflationary pressure is put on housing prices, often to the extent that housing is no longer affordable to locals (Hettinger, 2005: 94).

This real estate trend of inflationary pricing was predicted by an investor in The Bahamas, Phil Ruffin (owner of the former Wyndham Nassau Resort, now Baha Mar), during an interview for Caribbean Investment Profiles shortly after 9/11:

Tourism is recovering and I also believe land values will rocket in the next four or five years in The Bahamas. There is not much of it. You can’t go out into the sea and you are rapidly using up all the good land. Land is going to be very valuable in the future – at least in Nassau” (Owen, 2003: 72).

A Government Official responsible for hotel development throughout The Bahamas that was recently interviewed confirmed the impacts of hotel development on escalating prices of land:

Currently, there is a great demand for land in The Bahamas - particularly for water frontage. External demand is very great and because of that, it is driving up the value
and price of land. This is being dictated by our proximity to the major economic power of the U.S. with its large population who can easily access The Bahamas. (Interview)

**Land Use Conflicts**

Anchor developments have created tensions between the use value and exchange value of decreasing Crown Land resources within The Bahamas. John Davis describes this tension in his book *Contested Ground*:

There are two types of domestic property interests: accommodation and accumulation. People may ...have a strategic interest in the use value of domestic property, utilizing residential land and buildings for personal accommodation; or they may have an interest in the exchange value of domestic property utilizing residential land and buildings for financial gain and wealth accumulation. Some may have both types of interests (Davis, 1991).

These tensions between accommodation and accumulation are especially apparent in regards to Crown Land. Due to the increasingly prohibitive real estate prices on private land and the persisting inability of Bahamians to unlock Commonage and Generational land for residential or commercial development, Crown Land – public land which can be developed, used as collateral, and is available on favorable terms at affordable prices - is becoming more attractive to locals as a form of accommodation; however, locals must compete with foreign developers and investors for Crown Land, who – backed by Government - are able to develop Crown land at concessionary prices for Anchor Developments and significant financial gain.

The competition between local and foreign ownership of Crown Land is further exacerbated by the lack of clear policies in regards to the use, management, purpose and parameters of Crown Land allocation; for example, many Bahamians have a commonly held belief that as Crown Land is publicly owned land held in a trust by the Head of State of the
Commonwealth (Queen Elizabeth II) for the Bahamian people; taken literally, the granting of Crown Land to non-Bahamians for the exclusive use of non-Bahamians is an invasion of the Bahamian prerogative and an abuse of the true purpose of Crown Land.

The use of Crown Land for Anchor projects is a particularly hot button on those islands that have little to no Crown land available and limited – if any - affordable housing options. Below is the most recent survey of Crown Land distribution available. Taken in the mid-1990’s, this is the best available proxy of the amount of available Crown Land at that time, and as such today’s figures would be significantly less for some islands.
Crown Land in The Bahamas circa 1998

<table>
<thead>
<tr>
<th>Island</th>
<th>A Total Land</th>
<th>B: Private % of A</th>
<th>C: Crown % of A</th>
<th>Leased/Aliened % of A</th>
<th>Unalienated % of A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abaco</td>
<td>253,400</td>
<td>50,703 20%</td>
<td>202,697 80%</td>
<td>16,900 7%</td>
<td>185,797 73%</td>
</tr>
<tr>
<td>Acklins</td>
<td>168,318</td>
<td>131,880 78%</td>
<td>36,438 22%</td>
<td>1,821 1%</td>
<td>34,617 21%</td>
</tr>
<tr>
<td>Andros</td>
<td>1,472,000</td>
<td>56,456 4%</td>
<td>1,415,544 96%</td>
<td>5,461 0%</td>
<td>1,410,083 96%</td>
</tr>
<tr>
<td>Berry</td>
<td>9,331</td>
<td>8,343 89%</td>
<td>988 11%</td>
<td>48 1%</td>
<td>940 10%</td>
</tr>
<tr>
<td>Bimini</td>
<td>4,500</td>
<td>4,000 89%</td>
<td>500 11%</td>
<td>145 3%</td>
<td>355 8%</td>
</tr>
<tr>
<td>Cat Island</td>
<td>96,043</td>
<td>76,976 80%</td>
<td>19,067 20%</td>
<td>1,482 2%</td>
<td>17,585 18%</td>
</tr>
<tr>
<td>Conception</td>
<td>2,000</td>
<td>0%</td>
<td>2,000 100%</td>
<td>2,000 100%</td>
<td>- 0%</td>
</tr>
<tr>
<td>Crooked</td>
<td>10,836</td>
<td>6,300 58%</td>
<td>4,536 42%</td>
<td>1,621 17%</td>
<td>2,715 25%</td>
</tr>
<tr>
<td>Eleuthera</td>
<td>128,000</td>
<td>49,112 38%</td>
<td>78,888 62%</td>
<td>1,311 1%</td>
<td>77,577 61%</td>
</tr>
<tr>
<td>Exuma</td>
<td>44,476</td>
<td>42,078 95%</td>
<td>2,398 5%</td>
<td>82 0%</td>
<td>2,316 5%</td>
</tr>
<tr>
<td>Exuma Cays</td>
<td>30,271</td>
<td>9,573 32%</td>
<td>20,698 68%</td>
<td>2,508 8%</td>
<td>18,190 60%</td>
</tr>
<tr>
<td>Grand Bahama</td>
<td>339,200</td>
<td>206,685 61%</td>
<td>132,545 39%</td>
<td>318 0%</td>
<td>132,227 39%</td>
</tr>
<tr>
<td>Inagua</td>
<td>384,042</td>
<td>73,266 19%</td>
<td>310,776 81%</td>
<td>183,696 48%</td>
<td>127,080 33%</td>
</tr>
<tr>
<td>Long Cay</td>
<td>5,846</td>
<td>4,481 77%</td>
<td>1,365 23%</td>
<td>1 0%</td>
<td>1,364 23%</td>
</tr>
<tr>
<td>Long Island</td>
<td>147,200</td>
<td>116,579 79%</td>
<td>30,621 21%</td>
<td>1,370 1%</td>
<td>29,251 20%</td>
</tr>
<tr>
<td>Mayaguana</td>
<td>70,400</td>
<td>607 1%</td>
<td>69,793 99%</td>
<td>125 0%</td>
<td>69,668 99%</td>
</tr>
<tr>
<td>Moore's Island</td>
<td>4,065</td>
<td>1,720 42%</td>
<td>2,345 58%</td>
<td>0%</td>
<td>- 0%</td>
</tr>
<tr>
<td>New Providence</td>
<td>52,300</td>
<td>43,100 82%</td>
<td>9,200 18%</td>
<td>4,665 9%</td>
<td>4,535 9%</td>
</tr>
<tr>
<td>Ragged Island</td>
<td>9,272</td>
<td>1,940 21%</td>
<td>7,332 79%</td>
<td>0%</td>
<td>7,332 79%</td>
</tr>
<tr>
<td>Rum Cay</td>
<td>19,200</td>
<td>15,200 79%</td>
<td>4,000 21%</td>
<td>1 0%</td>
<td>3,999 21%</td>
</tr>
<tr>
<td>San Salvador</td>
<td>38,400</td>
<td>27,720 72%</td>
<td>10,680 28%</td>
<td>25 0%</td>
<td>10,655 28%</td>
</tr>
<tr>
<td>Other Cays</td>
<td>157,965</td>
<td>11,594 7%</td>
<td>146,371 93%</td>
<td>1,495 1%</td>
<td>144,876 92%</td>
</tr>
</tbody>
</table>

Total 3,447,065 938,283 27% 2,508,782 73% 225,275 7% 2,281,162 66%
Total W/O Andros 1,975,065 881,827 45% 1,093,238 55% 219,814 11% 871,079 44%

Source: Used with Permission, Ministry of Energy & Environment
While initially well received by most, the negative externalities reviewed above that have come as a result of the Anchor Projects have fostered increasingly negative reactions by Bahamians throughout The Bahamas towards development.

**Negative Perceptions in the Public Domain**

The negative externalities listed above have fostered many negative perceptions of Anchor Development within the Bahamian community. Below are excerpts taken from various articles and commentaries on the subject of Anchor Projects:

The PM blames lack of planning for Family Island problems but continues to approve anchor projects indiscriminately, against the advice of experts who say these large developments are damaging the Bahamian environment. (Columnist – Kelly, 2006).

Is this project the right size for us? (Citizen - Wyss, 2006).

I watched a bulldozer in two feet of water remove mangroves by the acre in a healthy, viable wetland. How sad it is that the Bahamas, a world leader in the area of marine conservation, should have authorized such an egregious act (Environmentalist - Wyss, 2006).

These deals are made possible by giving away Bahamian land that is our birthright (Attorney - Smith, 2007).

There is a great outcry against the great giveaway for no apparent benefit, of Crown Land (Public Land) and Treasury Land (Crown Land issued to Government for public purpose; also called Government Land). Preference ought to be given to local communities to capitalize on such lands, not give it away to foreign developments for little return (Attorney - Smith, 2006).

Similarly, many of the interviewees that participated in this study also had concerns with the Anchor Development model and the recent surge of development that is occurring in The Bahamas. An official involved in land management observed the fact that the Crown
Land resources of The Bahamas were non-renewable, and that once granted to non-Bahamians for development, this public good could not be recovered:

Our land is our only asset…once it is sold it is gone. (Interview)

An environmental activist that had worked for many years with communities wishing to organize over development issues expressed frustrations during an interview over the lack of public participation and the scarcity of information given to locals regarding large projects that would impact their respective community:

The public is treated with complete disdain and lacks access to information about these developments. There is no proper democratic process, which works perfectly for Government as there is no one for them to answer to and they can pick and choose what they want the public to see. (Interview)

One hotelier with many years of experience in hotel operations and management throughout The Bahamas involved in the planning of one of the largest Anchor Projects admitted during an interview that the current pace of development was overwhelming the capacity and resources of The Bahamas:

The Bahamas is so hot that we have to cool it down. If we allow investment to continue at the rate it is going, it will overwhelm us. (Interview)

A portfolio manager interviewed whose clientele is made up largely of foreign investors wishing to invest in The Bahamas expressed concern over the disconnect between Anchor Projects to population size and available workforce, implying that that this workforce imbalance and lack of spatial planning would most likely lead to higher immigration rates:

We are a small country with about 175 -200,000 people max in terms of workforce; it is all good to say this will help with employment, but do you want 90% of your population working in the service industry and that is all they ever do? Even if that is
what you want, not everyone is prepared to do it and then you have to bring in immigrants because of the requirement of the work. (Interview)

For the most part, these negative perceptions are due to weaknesses in the system of Crown Land management and administration that existed prior to Bahamian Independence, such as the confused state of land tenure as described below in Rabley & Turnquest’s study on Bahamian land issues – which shows how poor administration is limiting Government’s ability to conduct proper long range spatial planning:

Administration of Crown Lands is burdened due to inadequate budgetary and human resources, a lack of a complete inventory and map of government land holdings, bureaucratic leasing procedures, and procedures designed largely for large landholders and a low level of property transactions (Rabley & Turnquest, 2003: 15).

Post-Independence, the Government’s planning capacity amidst development pressure was further hindered by its failure to implement a comprehensive planning framework that included environmental protection and analysis of social impacts. Furthermore, there is no historic tradition of public participation leaving the majority of Bahamian stakeholders out of the planning process. This is similar to the colonial period where the British Crown was the authority on land use decisions – such as when Crown Land was granted for the construction of U.S. military and marine bases with no consultation with local government or the Bahamian people.

Though the Bahamas is now considered a democratic nation, development decisions – particularly those involving Crown Land disposition - continue to be made at the highest level of government (Central Government on New Providence) on a discretionary basis (including discretionary land pricing) with little to no information being passed on to or collected from affected communities or local government – which remains relatively weak
since its implementation in 1996. These discretionary policies and practices and limited public participation and transparency contributes to the public perception that Government decisions are not in the best interest of the Bahamian people and that developers are negotiating secret deals with Government.

In essence, the value, pricing, administration and allocation of Crown Land in The Bahamas continues to hinge on a planning framework that is driven by developer concessions and foreign direct investment policy, meaning that planning becomes very site specific and limited to the boundaries of development projects, rather a regional or national context. A Government official well versed in planning discourse described the scenario in this way:

The general rule is that developers pay for site impacts, but project impacts are usually limited to the land area occupied by the facility itself; they don’t go beyond their boundaries to address external impacts such as labour supply, schools and workforce housing. There is the assumption that all those things have been looked after. There are no social impact studies. (Interview)

In summary, various officials who were interviewed pointed out the need for stronger policies and procedures related to the price, management, and allocation of Crown Lands in order for The Bahamas to be better prepared to deal with many of the challenges that exist within today’s development environment and those that will come in the future:

Policies need to be in place to give people a higher degree of confidence and comfort that this resource is being managed properly. There is also the notion of leniency towards foreigners. We need transparency and a clear idea of the process, the guidelines used in decision-making, the pros and cons, and the likelihood of a favorable decision. (Interview)

Absolute administrative discretion over Crown Land disposition is controlled by the Minister responsible for Lands and Surveys. Since 1992, this ministerial responsibility has fallen to the (Office of the) Prime Minister. While there are factors that are taken into account and the groundwork is done with various agencies to make an informed decision, essentially one person has absolute discretion over all Crown Land. This is powerful and it is hard to have those wings clipped (Interview).
There is no written (national) criterion for anything, though departments usually have principles that they operate under. There is a thought process, but there are no guidelines, no transparency, and each project is open to the discretion of one to two key decision makers (Interview).

Pricing of Crown Land is discretionary based on use, location, need, availability, and physical characteristics. Though a foreign investor may be required to pay market value, even this can become a judgment call as economies do not exist in some islands, making determination of market value difficult (Interview).

**Summary & Implications**

Like similar Acts and development initiatives before it, as a result of its own overwhelming success the Anchor Project model has uncovered a number of weaknesses within the system of land management and administration within The Bahamas, and reveals faults in the nation’s overall planning structure – namely, this development model was been implemented without any of the following accompanying mechanisms:

1. Methods for community engagement and conflict resolution
2. Environmental management framework
3. Land use planning framework
4. Siting of conservation areas
5. Spatial planning to ensure projects are the right size, scale or density for communities and the required workforce was available
6. Workforce housing
7. Social impact studies
8. Clear decision making process and pricing structure

The implications are that Anchor development is seemingly being carried out in an uncontrolled manner, with ad-hoc disposition of Bahamian Crown Land – a valuable public resource. In addition, rather than comprehensive planning, planning is done along the lines of development projects, land concessions, and policies on who can own and invest. This is evident in the fact that the majority of infrastructure in The Bahamas is based on the islands
of New Providence (Nassau) and Grand Bahama (Freeport), where much of the investments and development projects were located for the better part of the twentieth century. As such, many Family Island communities have been and most likely will continue to be left behind as infrastructure development and community improvements continue to be based on whether or not developers come shopping in their area. This is done in lieu of a national development plan for the sustained growth and development of all communities throughout The Bahamas, which would include more sound fiscal management of land to develop communities via impact fees, tax restructuring, and better pricing of Crown Land, rather than heavy dependence on foreign capital.

The site specific, investment-driven model of planning and development which simply responds to those who come shopping is also the cause of current development oversight. Anchor Projects are being developed only to find out later that there is inadequate affordable housing, no system of public transportation, inadequate schools and health facilities, and as such it is hard to attract and keep workforce.

In addition, spatial mismatches are occurring between the size and scale of developments and the local population or workforce capacity. One example is that though the Anchor Project was designed mainly to push development to the Family Islands and relieve the growth pressures on New Providence, essentially 3-4 of the largest Anchor Projects in The Bahamas and in some cases the entire Caribbean, have been sited for New Providence, including Baha Mar, Atlantis Phase III, South Ocean, and Albany. In another case on the island of Mayaguana, the total population is roughly 259 persons as of 2000 – not all of whom are eligible for the workforce. Yet, nearly 10,000 acres of Crown Land has been
granted for a large scale Anchor Project, that would include a 25-unit boutique resort, two 200 room hotels, 2,194 second home residential sites, luxury villas, golf courses and marinas.

Furthermore, without environmental management and protection, both natural and marine resources are susceptible to damage due to overdevelopment, including reefs and mangroves, and access to beaches and sites used customarily by locals for fishing, crabbing or hunting are either being developed or local access is being limited.

The next chapter will take a close look at how these development challenges and planning deficiencies are playing out on the ground, by presenting a case study of the most notorious Anchor Project to date - Baker’s Bay development on Guana Cay in the Abaco chain of islands. In particular, it will highlight the fact that the current system provides no outlet for public comment, input, or dispute resolution, which results in all cases being resolved through the media or the legal system. In the absence of guidelines, legislation, and policies, limits on local and public participation feeds into the perception that Government is unfair and favoritism – particular towards non-Bahamians, exists.
CHAPTER 4
ANCHOR DEVELOPMENT IN THE ABACOS: THE GUANA CAY CASE

The Bakers Bay development on Guana Cay in the Abaco island chain is perhaps one of the most contentious and notorious cases of conflicts that have arisen as a result of the Anchor Project initiative. The fight between developers and a group of Guana Cay residents has dragged on for nearly two years, playing out in both the media and the legal court system. Some of the main issues of contention include environmental impacts of the project, lack of public consultation, local access to beaches, the size and scale of the development, and the request by developers to obtain large tracts of public Crown Land and Government (Treasury) Land (Crown Land issued to the Government for public purpose and disposed by the Treasury pending Cabinet approval).

To date, the Guana Cay case remains unresolved and continues to unfold. Though no resolution has been reached, the issues raised in the case speak to the inadequacies in spatial planning and highlight the lack of a Government sponsored strategy for a comprehensive development and land use plan that is not site specific. It also speaks to the internal and external pressures, conflicts, and negative externalities that are indicative of the current development state within The Bahamas as discussed in previous chapters, specifically the lack of meaningful public participation in physical and economic development planning. The common themes found throughout the history of Bahamian land tenure are also seen here, namely native landholding versus landholding by foreign newcomers, the use value of Crown Land versus its exchange value, and informal custom versus formal Crown tenures. The case also highlights the attitudes and perceptions many Bahamians have towards developers, Government, and the Anchor Project initiative. Finally, it sheds insight on the way in which
Crown Land in The Bahamas is valued, priced, managed and allocated. In the words of Fred Smith, attorney for the Save Guana Cay Reef Association, “...this case is a microcosm of many of the development issues facing the Bahamas today – the devolution of power, local government rights, leasing of Crown Land and environmental issues” (Hartnell, 2007).

**Great Guana Cay**

The Abaco island chain in the Northeastern Bahamas was one of the first areas to be settled by the Loyalists in the 1780’s following the American Revolution, and even today many residents trace their descendents to that period. Located just north of the Tropic of Cancer, the Abacos have a population of about 13,000 persons and its land mass makes it the second largest island in The Bahamas (Save Guana Cay, 2005). Part of the Little Bahama Bank – a large area of shallow water with sand banks and extensive coral reefs teeming with sea life - the Abacos are comprised of Great Abaco, Little Abaco, and several small cays located within the semi-enclosed Sea of Abaco.
These small cays offer "exclusivity and spectacular vistas," and as such are popular with developers (Sealy, 2005).

Great Guana Cay is one such cay in the Abaco island chain whose exclusivity and pristine natural beauty attracted the Discovery Land Company (DLC) to its shores.

Mike Meldman spends much of his time looking for beautiful property to develop. As Chairman and CEO of San Francisco-based Discovery Land Company, Meldman has successfully built and crafted communities in many of the most spectacular destinations and locations in the United States. His company has prospered due, in large part, to Meldman's fervor and talent for finding the best raw land in great locations. Discovery's newest community, Baker's Bay Golf and Ocean Club in the Bahamas, elicits a new round of superlatives. "Undoubtedly, it's the prettiest piece of property I've ever seen anywhere," says Meldman. "We own a large part of an outer-island which provides almost seven miles of the finest white-sand beach I've seen anywhere in the world." (Pazdur, 2005).

Seven miles long, Guana Cay is connected to mainland Abaco by ferry and has a population of roughly 160 permanent inhabitants - 123 of which are Bahamians – and a much larger seasonal population comprised of a little over 220 persons, of which the majority (206) are non-Bahamians (Sealy, 2005).

### Guana Cay Population, Winter 2003-2004

<table>
<thead>
<tr>
<th>POPULATION FULL-TIME ON GUANA CAY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>BAHAMIAN</td>
<td>123</td>
</tr>
<tr>
<td>FOREIGN</td>
<td>30</td>
</tr>
<tr>
<td>WORKERS</td>
<td>35</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SEASONAL POPULATION ON GUANA CAY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>BAHAMIAN</td>
<td>19</td>
</tr>
<tr>
<td>FOREIGN</td>
<td>206</td>
</tr>
</tbody>
</table>

### Guana Cay Homeownership Distribution
<table>
<thead>
<tr>
<th>TOTAL STRUCTURES IN SETTLEMENT AREA</th>
<th>243</th>
</tr>
</thead>
<tbody>
<tr>
<td>BAHAMIAN OWNED HOMES</td>
<td>67</td>
</tr>
<tr>
<td>FOREIGN OWNED HOMES</td>
<td>101</td>
</tr>
<tr>
<td>FOREIGN OWNED YEAR ROUND HOMES</td>
<td>12</td>
</tr>
<tr>
<td>HOMES AVAILABLE FOR RENT</td>
<td>44~</td>
</tr>
<tr>
<td>HOTEL ROOMS &amp; COTTAGES</td>
<td>56</td>
</tr>
</tbody>
</table>

Source: Sealy, 2005

Like most Family Island communities, Guana Cay had few inhabitants until the opening up of the second home market; after which time it experienced rapid tourism growth which the existing infrastructure has proved ill-equipped to accommodate. The second home market has also pushed the estimated costs of land and construction upwards of $300,000, while the average wage is about $21,000. (Sealy, 2005). This speaks to the fact that though Guana Cay was originally a traditional fishing community, economic development is increasingly dependent on tourism, second-home developments, and rental properties. Through small scale tourism, the majority of Bahamians on Guana Cay remain gainfully employed, and in court documents residents describe Guana Cay as a “self sufficient community” with many “successful small businesses.”

**Discovery Land Company and the Bakers Bay Development Site**

Discovery Land Company (DLC) is a real estate development firm that specializes in luxury residential communities centered on world class golf facilities. Headed by Michael Meldman and four partners, Discovery Land Company has ten existing projects throughout the United States within its portfolio. The company’s objective as stated in its website is “to seek out new lands and new opportunities in uniquely beautiful locations where we may explore and create truly exceptional golf communities” (Discovery Land Company, 2007).
In the Bahamas, the developer’s mission of discovery and opportunity translated into the creation of a luxury, large scale mixed-use residential anchor property on Guana Cay that would come to be known as Bakers Bay (also referred to as Passerine). The development site would be located about 2.7 miles away from Guana Cay’s main settlement to the south, and would cover the northern end of Guana Cay - occupying roughly 1/3 of the island.

According to court documents, land tenures to be used in the Bakers Bay development include 105 acres of Crown Land and 43 acres of Government Land - neither of which the Government claims to have officially granted or leased to developers, though activists maintain that development on these properties has already commenced. In addition, a small 8-acre offshore private island called Gumelemi Cay would be acquired and used as the site for an average of six oceanfront home sites. The Crown and Government tenures lie..."
adjacent to 452 acres of undeveloped private land, which DLC acquired from German investor Ludwig Meister - an absentee landlord that failed to improve the property.

**Project Land Use Area in Acres**

<table>
<thead>
<tr>
<th>A</th>
<th>Great Guana Cay</th>
<th>Land Assembly</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sago Investment Limited Purchase</td>
<td>452 +/-</td>
</tr>
<tr>
<td></td>
<td>Government Transfer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Crown Land</td>
<td>105.5 +/-</td>
</tr>
<tr>
<td></td>
<td>Treasury Land</td>
<td>43.9 +/-</td>
</tr>
<tr>
<td><strong>Total Area Required</strong></td>
<td>601 +/-</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B</th>
<th>Guamelezi Cay</th>
<th>Land Assembly</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>TOTAL PROJECT AREA</td>
<td>609 +/-</td>
</tr>
</tbody>
</table>

---

**Eco Areas Components**

- Joe's Creek Preserve: 89
- Mangrove Marsh: 16
- Buffer Setback Dunes Preservation: 53

**Total Eco Area**: 158

**Marina Basin and Waterways**: 33

**Total Services Area**: 27

**Total "Eco", Marina and Services Area**: 218

**Total Residential, Golf, Club and Resort, Retail**: 383

**Great Guana Project Total**: 601

*Source: Sealy, 2005*
Prior to DLC’s interest in these properties, the Crown Land and Government Land had functioned as a local hunting, fishing, and crabbing ground, while the private land had briefly served as a cruise shore facility for Disney’s Treasure Island in the 1980’s – though

Source: Sealy, 2005
later abandoned as a port of call in 1993 and as such sat vacant until DLC purchased it in 2005 (Sealy, 2005). This purchase agreement was made official on February 11, 2005 by the Bahamas Investments Board under the International Persons Landholding Act of 1993, and both a deed and Heads of Agreement – which granted approval in principle subject to certain terms, conditions and concessions – were signed on March 1, 2005, effectively sealing the deal.

According to court documents, in exchange for Crown Land and Government Land and as part of the Heads of Agreement, the developer would provide the following public benefits to the Guana Cay community:

- Retail commercial center with authentic Abaconian farmers market
- Solid waste disposal facility which the developer would operate at its expense
- Public Beach Park of no less than 5 acres, with unrestricted access to five hundred feet of beach frontage on the Sea of Abaco.
- Preserve comprising of 66 acres to be used for research and educational purposes to include walking trails and boat observation sites which would remain undeveloped
- Community center within the Marina Village to include space for meetings, police, fire, medical clinic, customs and immigration, and housing for customs and immigration; the particulars of the site would be agreed upon by the Government via the Office of the Prime Minister and the developers
In terms of attracting potential clients to the Bakers Bay development, marketing materials on the Bakers Bay Golf & Ocean Club touted the natural beauty of The Bahamas with its pristine virgin coastline, and the investor friendly climate. The Discovery Land Company website also emphasized the low population within Guana Cay and the development’s geographic proximity to the United States; inferring that The Bahamas’ real estate market could easily be viewed as an extension of the Florida market, where there was pressure to fill the void in available waterfront real estate (Discovery Land Company, 2007):

Bakers Bay is 150 miles off the coast of Florida and offers a perfectly unhurried and solitude way of life that can only be found on sparsely populated islands; it also offers the convenience of a location that is less than three hours by air from half the population of the United States.

Source: Discovery Land Company Website
Bakers Bay (and The Bahamas as a whole) is a perfect way to fill a void in the supply of master-planned golf and oceanfront properties in South Florida and elsewhere in the United States.

We're offering the type of oceanfront, beachfront property that you just can't get anymore, especially in Florida and in large part, the world, the world's third largest barrier reef lies just 100 yards off the island's eastern beaches.

The democratically-elected government of the Bahamas (formerly a British colony) welcomes sensible development and is amenable to visitors owning real estate. Property laws typically mirror those on the mainland United States.

The Bakers Bay development would be a guard gated, luxury second home community featuring 244 custom home sites and 115 high end single family residences with oceanfront home sites ranging from $2 million to $10 million. It would also offer members and residents leisurely lifestyle options via the provision of the following amenities:

- Private golf course
- Private beach club
- Private residence club
- A 33 acre marina to accommodate mega yachts
- Six miles of oceanfront with world’s third largest reef just 50 feet offshore
Bakers Bay Site Plan

Source: Discovery Land Company Website
In developing the Bakers Bay site, DLC hoped it would serve as a model of environmental and corporate stewardship, and stated that their project would represent “a paradigm shift from the old means of which development projects come about in this country to something new, something that is a bit more sustainable” (Gay, 2006).

Court documents show that DLC planned to achieve more sustainable development by first working to mitigate the negative environmental damage resulting from the poor regulation and management of the (now abandoned) cruise facility. They also planned to build the golf course and marina in such a way that they would have little impact on the maritime environment.

The development would be integrated into the local and regional community via the establishment of the Great Guana Cay Foundation and Fig Tree Foundation. The Great Guana Cay Foundation would be established by DLC to monitor, manage and regulate the environment and ecological impacts of their development on Guana Cay. The Fig Tree foundation would be more philanthropic in nature, providing support for community development projects throughout Guana Cay.

DLC’s developmental vision did not turn out as smoothly upon implementation however; plans were thwarted when a group of residents got wind that the company had entered into a Heads of Agreement with the Government of the Bahamas. This group of resident activists, who would become known internationally as the Save Guana Cay Reef Association (SGCRA), protested the development at the highest levels of Government. In April of 2005, just one month after having signed the Heads of Agreement, the developers found themselves in the midst of what would be a long, controversial lawsuit filed against them by the SGCRA.
Save Guana Cay Reef Association (SGCRA) vs. Discovery Land Company (DLC)

According to court documents, on April 4, 2005 the Save Guana Cay Reef Association (SGCRA) led by Troy Albury, filed a motion for Judicial Review of the March 1, 2005 Heads of Agreement between the Government of the Bahamas and Bakers Bay. The motion focused on five main points of contention (Smith, 2005):

1. The fact that the individual that signed the Heads of Agreement on behalf of the Government - namely the secretary of the National Economic Council (NEC)\(^1\) — had no authority to do so.
2. The decision to enter into the Heads of Agreement was irrational, as no rational Government having regard to the catastrophic environmental degradation that would occur would sign such an agreement.
3. The Heads of Agreement bound the Government and its agencies, improperly fettering the statutory authorities of their discretion.
4. Residents had not been given full, frank, and proper consultation, and the Prime Minister’s office had deliberately sought to discourage public consultation prior to final approval. Additionally, public disclosure and consultation of the environmental review done by BEST was never carried out before the Heads of Agreement was signed. As such, the Heads of Agreement was entered into without notice to any persons directly affected by the development.
5. The development would destroy marine and land environment, as the decision to enter into the Heads of Agreement failed to take into account land use and the marine and terrestrial environment including flora and fauna.

In addition to these five main points, SGCRA sought an Order of Prohibition against the Prime Minister and the Treasurer from disposing of the Crown Land and Government Land being sought after by the developers, and an Order of Prohibition to stop the Government from granting the various concessions, permits and exemptions allowed to the developer under the various Acts as contained in the Heads of Agreement (Smith, 2005).

Prior to this legal motion being filed, SGCRA had created a website, and had sent letters and petitions to various Government leaders expressing their concerns about the

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\(^1\) The NEC is comprised of Cabinet members who formulate economic policy and accepts or rejects major economic proposals after determining their consistency with general economic and social objectives.
Bakers Bay development on Guana Cay. In general, these resident activists felt the Anchor Project model was inappropriate for Guana Cay, and the environmental footprint of the development was too large and would be too destructive for the small cay (Ambrister, 2007).

SGCRA attorney Fred Smith likened the Anchor Project initiative to the “glitzy, fast and unabashedly trashy lifestyle defined by the Miami and greater Florida development booms of the 1980's and 1990's” (Smith, 2007). Smith went further in his analogy to state:

(Prime Minister) Christie imagined creating mega developments in the small, wayward islands called Out-Islands (Family Islands) - and turning them from sleepy white-sand beaches with pristine reefs into gambling centers, swanky clubs, golf resorts and marinas. The economies will boom, he thought. The money will pour in! Christie's plan to build the Bahamas through the image of low-rent American developers like Michael Meldman would mean that the Out-Islands would lose the very qualities that made them tourist destinations: coral reefs would be lost, mangroves would be bulldozed, small communities would have dance clubs, gambling halls and giant airports plopped on land they had always rightly and legally believed were theirs for eternity (Smith, 2007).

In addition to taking issue with the Anchor Project model of development, court documents state that SGCRA was convinced the Bakers Bay development would not positively and significantly impact the economy, as the local economy of the Abacos would not be able to support the developer’s construction and workforce needs. Furthermore, they saw that the density of the development would increase the population in favor of non-Bahamians to Bahamians by nearly 4:1.
The allegations made by SGCRA were strongly refuted by the developers, who stated in court documents that first and foremost, at least three public meetings were held prior to the signing of the Heads of Agreement, and as such the community had been adequately consulted. SGCRA reported that these public forums were very limited meetings at which the signing of a Heads of Agreement was never mentioned. Representatives for the developers reminded the courts that public consultation was not a requirement of Bahamian law. Furthermore, Bakers Bay representatives claimed that the majority of persons against the development were non-Bahamian landowners and residents who simply did not want the development in their back yards. They stated in a court document that consultation was really not the issue, rather SGCRA was simply dissatisfied with the decisions Government had arrived at after having consulted with the community.

Developers pointed to the fact that the decision to scale back from a 240-slip marina to 180-slips, expansion of the public beach park, and adding a drainage system that would prevent runoff from the golf-course contaminating the reef (Symonette, 2006), were all a result of their response to issues that were raised over the course of the public meetings. Furthermore, the developer’s rejected the view that their project was a mega development; rather it was a smart growth project at an appropriated scale with a density of 1.5 homes per acre.
General Comments & Issues Raised
Minutes from Guana Cay Public Meetings

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<td>1</td>
<td>Has the project already been approved</td>
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<td>2</td>
<td>Can the island handle the amount of people coming in to work</td>
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<td>3</td>
<td>Will residents be able to use the beach</td>
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<td>What area will be used for the garbage site</td>
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<td>5</td>
<td>Will there be business concessions for Bahamians</td>
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<td>Will a Bahamian company be hired to do construction</td>
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<td>7</td>
<td>Has a study been done by BEST</td>
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<td>8</td>
<td>Do people of Guana Cay have a say in the decision making</td>
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<td>9</td>
<td>Where will our children and grandchildren live if the remaining Crown Land is taken away</td>
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<td>10</td>
<td>Have any geological studies been done</td>
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<td>11</td>
<td>How will the grass for the golf course be irrigated</td>
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<td>12</td>
<td>What would the island look like with another 350 homes</td>
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<td>13</td>
<td>Would the project have its own sewerage and solid waste treatment or will it be barged to the mainland</td>
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<td>14</td>
<td>Are they going to hire Bahamian or Haitian workers</td>
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<td>15</td>
<td>Would residents be able to access the dirt road after the project is completed</td>
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<td>16</td>
<td>Will the company provide their own ferry service</td>
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<td>17</td>
<td>Is the project being advertised</td>
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<td>18</td>
<td>Is the Government offering duty free concessions</td>
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<td>19</td>
<td>What will happen to the beaches</td>
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<td>20</td>
<td>Retention of Crown Land</td>
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<tr>
<td>21</td>
<td>Full Bahamian participation in the construction of this project</td>
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<td>Residents should consider the fact that since the development of the private land would be inevitable, they should review the DLC proposal with an open mind, determining whether they would be in favor of ad-hoc development or planned development</td>
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<td>22</td>
<td>Though I would prefer to keep the pristine environment, economic forces have forced locals to move to New Providence, and reiterating the fact that development on private land was inevitable, the community should seek a level of development that they were comfortable with</td>
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<tr>
<td>23</td>
<td>Residents were generally opposed to the project, though some were in favor of a scaled-down version, eliminating the marina</td>
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Source: Court Document
In the end, the judge in this litigation dismissed all the charges brought against the developers by SGCRA; however, the judge did make an interesting commentary on the exclusivity of the Bakers Bay project before closing out the case:

I see that all the land in that northern section of the island belongs now to the developers. This would mean that if a person from a settlement of Guana Cay wishes to access the north or northwestern shoreline by land, which he might have traditionally been able to do, he would either have to do so by traipsing and trespassing over the raw un-tracked land itself or by driving up to the gate and asking permission of some security officer there to be allowed to do so. Putting myself in the shoes of the quite reasonable Guana Cay resident finding himself in that situation, I would not find it a happy experience. It appears likely, if my own experience with my Bahamian, Out-Island heritage and mentality allows me to guess correctly, that the presence of such a gate, would create a real feeling of apartheid anew. I would expect the Guana Cay person at the gate to feel like that even though the Developers bought that whole section of the island from other non-Bahamians and even though it would have been legitimately sold to the prior owner -- or to some person or persons or company or companies before him -- by Bahamian citizens or an earlier Bahamas government administration. Such a gate will not allow the people from the Guana Cay Settlement to pass freely, to tread along the roads of the Development; but the newcomers would be able to move freely onto and along the public roads of the settlement. The effect would be to create a foreign enclave and very effectively to divide the island, both physically and psychologically. The island appears to be too small for such a division, so near to hand. And yet, should illness or strife or natural disaster of any kind befall the Development, it would be expected that the inhabitants of the settlement should go to the assistance of their otherwise inaccessible neighbors. It appears to me that the creation of this kind of enclave poses this kind of social danger. Of course, the Developers own the land; and in this country that means that they can, subject to few laws do basically pretty much what they like on it. They can keep whom they like off their land; from entering their houses or yards or their condominiums. I am reasonably convinced that the law is -- and if not, it ought to be -- that no Bahamian citizen or anybody else legally breathing Bahamian air, can be lawfully prevented from freely traversing the public roads of any Bahamian town to which any section of the public has free access. A development of 350 homes is a town, whether or not such a town is actually built as yet. This is obviously not a judicial finding. It is a guess, so far and so I do not feel able to quash the Heads of Agreement because it contemplates the erection of a gated station; but I strongly recommend to the Government and the Developers that for good social reasons they revisit this particular component of the proposed Development.
Again, while all charges against the developer as previously mentioned were thrown out, SGCRA continues to fight the court’s ruling through the court of appeal and remains prominent in the media. Recently, the conflict reached an international scale when SGCRA presented their case to the United Nations (UN) during the 15th session of the UN Commission for Sustainable Development (Ambrister, 2007). SGCRA members continue to maintain that they are not opposed to development; rather they would like to see development that is better planned, better monitored and environmentally safe for the surrounding reef (Ambrister, 2007).

For now, developers are continuing on with their work, though the project has fallen about 3-4 months behind schedule and productivity has been lost due to at least two stop work orders issued since the legal battle began. The first was a voluntary stop work order in which the developer refrained from activities such as road construction and clearing of vegetation; later a mandatory injunction was issued by the Privy Council, but the mandatory injunction was later removed. These stop work orders have prompted a counter-demonstration by approximately 150 individuals consisting of friends and employees of Bakers Bay. These persons voiced their own concerns and displeasure in regards to the stop work orders, namely that they were being negatively affected financially due to layoffs since the standstill. One individual who had been deprived of work was quoted as saying “we need a yes or no decision on this project. I have a child, mortgage to pay, car payments and other bills to pay and it’s been really rough since I’ve been laid off” (Symonette, 2006).
Is The End Near?

On May 2, 2007, the political power within The Bahamas once again shifted to the Free National Movement party, and Hubert Ingraham returned to power once again as the leader of the FNM. Though fifteen years earlier Ingraham had established the International Persons Landholding Act to open up the real estate market to foreign developers, investors, and second-homeowners, the social, economic and political tide has obviously shifted once again - evident by Ingraham’s new attitude towards foreign landholding. “The FNM welcomes and encourages foreign investment and this includes the purchase of land by non-Bahamians; however, they are against the sale of Crown or Government lands to foreigners for large scale non-productive purposes, such as the development of private-gated residential enclaves” (McKenzie, 2007).

Ingraham added that “the FNM is not opposed to private-gated residential enclaves, but we don't believe they ought to be developed on Crown Land purchased from the government at concessionary rates” (McKenzie, 2007). He accused former Prime Minister Perry Christie of “misusing” the International Persons Landholding Act and promised that while he “would not restrict the right of any private landowner to sell his land freely, if the purchase is in respect to commercial usage, approval of Government will be required” (McKenzie, 2007).

In this way, Ingraham seems to imply that the Anchor Project model of economic development will be discontinued. The goal now seems to be an attempt to achieve a more balanced and improved mix of both foreign and local ownership. Absent once again it seems however, is any reference made to improving land management and administration,
clarifying tenures, and formulating a mandate for the creation of a national development plan for all the islands of The Bahamas.

Ingraham did promise however, that his government would be reviewing various projects implemented under the PLP administration (McKenzie, 2007); but as the Government has taken a backseat to the Guana Cay case since it entered the court system, it is unclear if the Bakers Bay development will be one of those projects that will be redressed.

For SGCRA, the organization seems hopeful that after being “stonewalled” for two years, the new FNM leadership will commit to providing freedom of information by allowing the Association access to “normal information which citizens of a country should be entitled to” – namely transparency in regards to “what permits, approvals, concessions and/or licenses may have been issued to the Bakers Bay Developers” over the past two years. The group also calls upon the Minister Responsible for Crown Lands to “protect Crown Lands for Bahamians” (Smith, 2007).

Summary & Implications

For centuries The Bahamas has lacked any form of long range comprehensive planning, land use regulation, reliable spatial data, environmental protection laws, or tradition of public participation in planning and development; therefore, the fact that a major development initiative such as the Anchor Projects came in the form of a verbalized mandate, rather than a written policy with accompanying regulations related to size, scale, access, environmental monitoring or other related physical, social and economic impacts of development, should come as no surprise. This oversight however, as shown in the Guana Cay case, means that even the best laid plans or best intentions of Government or developers are susceptible to becoming major sources of conflict.
While the Bakers Bay development strived to be a model of environmental and corporate stewardship, and desired to shift the development paradigm to something new and more sustainable, it was unable to do this considering the existing planning realities within The Bahamas. In the absence of a comprehensive national development plan, like all other developments before it, the provision of public infrastructure and services via the Bakers Bay development and the Crown and Government land allocated for it, was largely concession and investment driven. As such, the development remains site specific with local residents having to fit into the plans for the development, rather than the development adhering to pre-defined plans of the local community. Furthermore, the onus for environmental management and monitoring for this project is left to the developers, in the absence of a legally mandated regulatory authority to manage land and marine resources and ensure access to beaches and customary sites (in the case of Guana Cay, Joe’s Creek is an area popular with locals for its marine resources).

Another implication is that in terms of adequate spatial planning, there is obviously a development mismatch between the size and the scale of this development and the available resources and employment needs within the community, even though the density of this project is quite low by most standards. Within the context of The Bahamas however, this small influx of newcomers could overwhelm and outnumber the native community, possibly bringing social and economic change, negative externalities such as increasing home prices, and perhaps will raise questions of exclusivity that could potentially lead to further conflict.

Most obvious however, is the absence of any institutionalized planning forum or means of public engagement in the development process. As such, the Guana Cay case has played out in the media and in the courts. Without improvements to the public planning
process, Bahamians might remain frustrated with Government as it pursues development policies without public input or consideration of the long term environmental and social implications, such as access and equity between citizens and foreigners. Furthermore, the scarcity of information that is available to the public means Bahamians will most likely continue on in a perpetual state of ignorance, heavily dependent on the rhetoric that saturates the media.
CHAPTER 5
CONCLUSION

The history of land management and administration in The Bahamas has from the start been rife with complications arising from mismanagement, lack of surveying and cadastral mapping, inaccurate and incomplete spatial information, the existence of informal tenures, and a preference for social customs and norms rather than conforming to legalized landholding regulations. Furthermore, town planning in the modern Bahamas is myopic and piecemeal, with little coordination between agencies or regard to the social and environmental impacts of development. The onus for planning is based on investment and concessions, with development policies limited to regulations on who can and cannot invest. Additionally, there is an absence of a strong tradition of public participation in government planning and development decisions.

These factors exacerbate the current pressures The Bahamas is currently experiencing on its Crown Land resources, external pressures which are the result of a surge in large scale resort development and second home demand, aging Baby Boomers, lack of (affordable) waterfront properties in outside markets, and increased foreign direct investment being brought about by the International Persons Landholding Act and concessions of the Anchor Project initiative. Internally, these pressures are due to depopulation of the Family Islands, growing pains in the capital city of Nassau, and the need to develop and improve infrastructure throughout the Islands.

As the previous chapters demonstrate, The Bahamas currently faces important public planning and urban governance challenges in its current development state. The pace of development in The Bahamas continues to rapidly exceed financial and human resources and
technological capacity, and current systems, policies and procedures related to land management and tenure administration are ill-equipped to effectively handle modern day realities. While the current system has served to benefit areas of the economy such as construction, real estate, lawyers, and title experts, and has allowed central Government to make development decisions more quickly in the absence of a requirement for public consultation and input, it fails to address issues such as spatial planning, comprehensive land use plans, environmental management and conservation, protection for landowners for whom development brings negative impacts, and would-be landowners who risk being shut out of access to land ownership and wealth building due to current development trends. It also speaks to the need for more comprehensive, innovative solutions. This includes establishing policies and procedures that adequately address the social, political, legal and economic outcomes of development and mitigate tensions between native landholding versus landholding by foreign newcomers, the use value of Crown Land versus its exchange value, and informal custom versus formal Crown tenures.

The greatest challenge in effectively planning for growth and development however, is addressing ways to more adequately and equitably value, price, manage and allocate the greatest public good the Government possesses – its Crown Land resources.

The following recommendations are ways in which the Government can better equip itself to manage and promote sustainable growth and development on Crown Land, while building greater capacity and equity in landholding amidst the pressures of the 21st century.

Create and Implement a National Development and Land Use Plan for The Bahamas

One of the distinctive comments made of nearly all persons interviewed over the course of this study was the call for a National Development and Land Use Plan for The
Bahamas from Tourism directors, businessmen and financiers, to developers and environmental activists - despite their various interests and areas of expertise:

We need a national development plan before anything else happens (Interview).

We have to be more careful with the Family Islands where potential growth is. There is not much more that can be done in New Providence in terms of regulating because that horse has already bolted from the farm. The Government needs to put together a National Development Plan to take into account how they wish the other islands of the Bahamas to develop. We need to be careful not to overwhelm the islands with mega resorts that will be foreign to these communities. We need to make sure we get the right size of developments and make sure we also educate the people in the islands of what is coming their way. (Interview)

What is lacking and what needs to happen is we have no real planning ministry so there is no specific master plan development for the country and everything you do you are just reinventing many things all over again - that delays the process. We really need a planning institute or master planning corporation for development of The Bahamas and Family Islands that would eliminate bottlenecks and timing; otherwise you find yourself in great delays and it would allow you to look at economic and social impacts in the community. (Interview)

Our education system and workforce development is not lining up with the vision the country is pursuing…but again we do not have an outlined vision. What we have is schizophrenic growth. In order for true economic development there has to be a plan in place that says in twenty years this is what we want our country to look like. That sort of a plan is not going to come from politicians, its going to come from all of us because politicians come up with 5-year plans. We need a visioning process that examines our strengths and weaknesses and opportunities and comes up with plan for 20, 30, 50 years from now - like in China, Trinidad and other countries around the world. We could potentially have the resources but we need a plan first, so if something comes up and it does not fit our vision, we don’t have to spend 6 years debating it because we already know for example that we are focusing on small resorts here, fishing there, manufacturing in Grand Bahama. There is no confusion. (Interview)

The planning process should be so simple here, we are only about 300,000 persons, but we are not proactive in finding solutions so the planning paradigm has not yet shifted. (Interview)

In The Bahamas, much of the onus for master planning has fallen to developers and policies are investment driven. Furthermore, there is no spatial planning to ensure
development is balanced with the resources and trends evident in a community. As such
master planning is often site specific, and sustainability is limited as it does not consider a
regional or national context, creating development mismatch.

Rather than responding to those who come shopping, Government should prioritize
setting land use objectives via a National Land Development and Land Use Plan, and should
utilize this framework to explore the most logical and sustainable means of achieving both
social and economic goals as laid out in the plan. Any development should tie in closely to
the goals and objectives of the overall plan.

A national policy would consist of basic land use plans for all the islands of The
Bahamas and would include elements such as zoning regulations, densities, identification of
necessary public works easements, siting of infrastructure including schools, clinics and
affordable housing, and identification of environmentally sensitive areas and those of
significant importance to the local community. Another key element would be establishment
of areas to be preserved for parks and recreation, and safeguarding access to the sea for the
enjoyment of residents and visitors alike.

More detailed plans should be created for those islands that have already been heavily
developed – namely areas in the Northern Bahamas which must now be managed within the
limitations of preexisting conditions.

The national plan should speak to the uniqueness of each island, while being
comprehensive in nature; tying into the overarching economic, social and environmental
goals. It should also be accompanied by appropriate legislation and proper enforcement
measures. In addition, while political buy-in will be important, it should transcend the five
year political life of any particular party, taking on long range view that does not bow to the
temptation at the political level for instant results. It should be a plan by the Bahamian people, not that of any particular party. This might include the incorporation of a city manager, non-partisan body, or public-private entity that ensures momentum for a national plan is sustained and both short term and long range goals are carried through.

The work that has been done and is ongoing in terms of the LUPAP and BNGIS projects should be supported as part of the plan’s development effort, and strategies for ensuring these initiatives are properly implemented should be prioritized in order to avoid the common, historical outcome of most similar projects – they become nothing more than expensive data gathering exercises that are never fully executed.

A national plan will not only give Bahamians the opportunity to formulate how their islands will be developed and constructed for citizens, residents, tourists, and businesses, it would also serve to improve the development process, as there would exist clearly established development guidelines, policies and objectives that can be shared in advance to eliminate delays. Furthermore, a national plan would improve efficiency as it would be unnecessary to reinvent the development wheel on a case by case basis; thus avoiding bottlenecks and lessening the amount of time spent on negotiation.

Improve Agency Integration

In order to achieve viable, more comprehensive solutions to today’s urban problems, decisions cannot be made in a vacuum; they require a close analysis of the impacts of various elements on the development process. Worldwide, the so-called "new public management" has not only diffused information technology throughout government operations but revolutionized the expectations and tools for sharing data and knowledge across different
parts of government (Kettl 2000). In The Bahamas however, the approach to land use planning and administration within The Bahamas remains myopic and piecemeal. As has been stated in previous chapters, various agencies are responsible for different aspects of land management and administration throughout The Bahamas; however, there is often limited coordination and data sharing amongst these bodies. This makes it difficult to conduct planning that is comprehensive and that includes data sets which are useful, accurate and complete.

The Government should seek ways to improve cross-sector coordination so as to create a paradigm shift within the planning discourse that takes on a more holistic view. Improved coordination and data sharing will help ensure that whenever it is necessary to make informed decisions, data is on hand and there is an awareness of the negative externalities that may result on a number of levels. In the words of Rabley and Turnquest, "poor information leads to poor decisions and greater risk in the management of the environment. Without a review and restructuring of policy and institutions new tools and techniques will become expensive short term solutions. Where agencies have evolved in isolation with purposes designed for other eras, it is now necessary to recreate an integrated and focused institution from disparate parts (Rabley & Turnquest, 2003)."

**Clarification of Land Tenures**

A National Development and Land Use Plan cannot be properly implemented unless there is knowledge of what land is available to be managed and developed, what is the nature of tenure, and who holds ownership status. Once established, this data can be cross-referenced with statistical trends such as population growth, employment rates and housing
prices, in order to conduct appropriate spatial planning that more adequately addresses community needs. As such, there should be a simultaneous effort to firmly establish and identify what land resources exist in The Bahamas, who are their owners, and what are their legal tenures. Clarification of tenure, particularly as it relates to Commonage and Generational properties, will require out of the box thinking however, in order to provide security and titling that allows these lands to be unlocked for use while ensuring against exploitation or rapid alienation of uses that are contrary to goals outlined in the national plan. Options such as transforming alternative tenures to real estate trusts, or land swapping these parcels for Crown Land (which can be used as collateral) should be explored.

Tenure clarification should not be limited to mere property identification however, as there is also a need to establish clear policies and define the function and limitations of each tenure system, including for whom and for what purposes such tenures can and should be used and what are the limitations of disposition. In establishing clear policies on tenure management, disposition, valuation, and approvals, the need to rely on discretionary principles would be limited. This is especially true for Crown Land, where there is much confusion over who Crown Land belongs to and for what purposes it should be used.

Efforts should also be made to clarify and improve the system of registration, avoiding further confusion by implementing a true title system and requiring properties to be mapped and surveyed by a common property identifier. In addition, pertinent statistical data that can be used as an important tool in spatial planning – such as median home price throughout The Bahamas (which currently is not tracked by the Department of Statistics) – should be recorded and incorporated into statistical reports.
Tenure clarification, a shift to a true title registration system and statistical record keeping will no doubt will be an arduous process; however, it is a necessary step towards sensible management and administration of lands that can not only provide the Government with the information it needs to conduct long range land use planning, but it would also serve to provide the security of tenure many Bahamians have struggled to obtain since the colonial era.

The National Land Agency of Jamaica, Land Data in Victoria, Australia, and Crown Land Use Policy Atlas of Ontario’s Ministry of Natural Resources all provide good examples of strategic planning and management of Crown Lands and can be used as points of reference on how The Bahamas may wish to better clarify, dispose, and manage its land resources, ensuring a more efficient, transparent, and user friendly system of administration for locals, public and private agencies, and investors alike.

Source: http://www.nla.gov.jm/
Implement Legislation and Programs for Environmental Protection and Management

Currently, the majority of policies and regulations related to the environment within The Bahamas are focused mainly on environmental health issues such as waste management.
In addition, environmental policies that are in existence, such as the Bahamas marina policy, are only guidelines - rather than legislation, which is more difficult to change and can be regulated and legally enforced – and as such they are subject to individual discretion and are not as effective or sustainable.

Furthermore, there is an absence of any type of regulatory authority that exists to formulate environmental policy, manage its outcomes, and conduct due diligence by assuring regulations are being enforced and adhered to. This being the case, it would seem appropriate that the BEST Commission, having previously advised on issues related to the environment, should be reestablished and legally recognized as an independent governing authority on environmental management, regulation and protection.

The BEST Commission would continue in most of its current responsibilities, adding to it the responsibility for creating effective legislation in terms of environmental conservation, and leading the way in the development of an Environmental Management and Protection Plan for The Bahamas.

All the necessary investments should be made to ensure BEST has the necessary human and technical resources to properly carry out its mandate. The work of the BEST commission would be incorporated into the National Development and Land Use Plan for The Bahamas.

**Fiscal Management of Land Resources**

Property valuation, services, and fees related to land resources should be more closely aligned with the development goals as identified in the national plan. This would include reviewing the property tax structure and improving collection – particularly the “severe leakage” that is occurring due to revenue in arrears (Dames, 2007), analyzing
alternative revenue streams such as implementation of local taxes or impact fees, and better valuation and pricing of Crown Land for Bahamians and non-Bahamians alike.\(^1\)

Without better systems of fiscal management and pricing that more accurately reflect current needs, the financial onus for improvement falls on developers. This creates little opportunity for development that is driven by the Bahamian people and that is reflective of their desires or needs. Development driven by heavy reliance on foreign capital will most likely reflect investor needs, trumping that of the local population.

**Deepen the Democracy**

While historically the British Crown and traditionally the Central Government has represented or spoken for the majority of localities throughout The Bahamas, in the face of rapid development, more and more localities wish to have a say on the type of development they do or do not want to occur within their communities. These citizens should have the right to easy access to information, and should be involved in the planning and development decisions that directly affect their lives and impact their communities. As such, local capacity within The Bahamas should be strengthened and appropriate methods for notification, consultation, and dispute resolution should be implemented. Such steps would improve transparency and accountability and most likely minimize the legal battles and development rhetoric that often plays out in the media. It would also ensure that those who

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\(^1\) This is not to suggest that Crown Land should be priced so prohibitively expensive as to be out of reach for Bahamians in particular, but at the same time, it should not be so undervalued that is sold for $1 as shown in earlier documents. This hardly covers the administrative costs alone of issuing such a grant and cannot under any circumstance be justified as the true market value of any property in existence in the Bahamas at this time. Prices should reflect the fact that Crown Land is a valuable resource, and should incorporate fees that help to fund long range goals such as complete surveying and mapping of all Crown Land resources, and incorporating an improved, more modernized system of Crown Land management and administration.
may be otherwise disenfranchised due to inability to access legal systems will have an equal opportunity to have their voices heard.

Furthermore, a national plan within the Bahamian context will most likely not be as successfully implemented if consultation remains optional – rather than by right; additionally, there would most likely be severe planning deficiencies and oversight if local knowledge and insight remains largely ignored or overlooked.

Sovereignty & Social Structure

With second home demand on the rise, this raises issues of sovereignty and immigration. The Bahamas is a largely homogenous country in terms of its race, class, culture, and religion. Through Anchor Projects however, The Bahamas has become more and more a playground for affluent foreign second home owners. These Anchor Projects are occurring on islands that have limited population, where in some cases – particularly the southernmost islands such as Mayaguana and Rum Cay – non-Bahamian residents will far exceed the number of local residents. These residents and second home owners are usually of Caucasian descent, have an enormous amount of disposable income, and often have cultural values that emphasize privacy and exclusivity over community or shared space. In addition, development needs in terms of workforce often exceed the availability of Bahamians; available human resources on smaller islands cannot meet the needs of large scale projects. This means the majority of labor will most likely have to be imported. As such, a new social structure is emerging that has the potential to create race and class schisms within the Bahamas. Already, Government is finding it difficult to manage the illegal immigration (of Haitians namely) to The Bahamas and there exists much contention between Bahamians and these immigrants.
Immigration and foreign policy will no doubt have to be addressed; from a comprehensive planning perspective, managing the changing face of a community and integrating those who are economically, socially, and physically different from the native population will be an important piece of a national development plan. Government will have to be clear about their goals and expectations, and how conflicts will be addressed; otherwise, there will most likely be increased resentment and worsening social discord as the Bahamian community changes.

Summary & Implications

Proper management and administration of Crown Land and effective land policy will be one of the most important means of achieving equality and upward mobility for Bahamians, and ensuring progressive – rather than regressive – economic and social policies that benefit Bahamians and non-Bahamians alike for generations to come. It is imperative that at this time the Government take a hard look at all issues related to Crown Land tenure, Crown Land development policy, and the overall management and administration of Crown Land including value, pricing, and allocation.

After centuries of mismanagement, poor administration and weak Crown Land policies, now is a critical point to take a step back and evaluate long range goals of where the country should like to be 10, 20, 30 years from today, what types of economic development it wishes to pursue, how will the environment be managed, and what accompanying workforce development and social initiatives it wishes to achieve via a comprehensive, multi-stakeholder National Development and Land Use Plan for The Bahamas.
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