

It Wasn't 'Expropriated', Says Antigua's AG

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A DOW JONES NEWSWIRES COLUMN



Antigua's Attorney General, the Honorable Justin Simon, sounded angry when he returned my call on Tuesday afternoon.

I had asked in an email about the status of Half Moon Bay, a hurricane-damaged resort that the island nation had seized from its American owners in 2002.

"You said the land was "expropriated," he complained. "I hate that word. ...Is that what you call it in the United States?"

The correct term, he said, was "compulsorily acquired."

My first reaction was, "Oh." I hate bickering over the meaning of words with lawyers.

Merriam Webster online defines expropriate as "to deprive of possession or property rights" and "to transfer (the property of another) to one's own possession." But the word has a Marxist connotation, hinting at confiscation to achieve social equality. And that is not quite what has been happening in this Caribbean island nation.

[As I reported in my last column](#), Half Moon Bay's disenfranchised owner, Natalia Querard, claims -- with an impressive load of documentation -- that Antigua's former Prime Minister Lester Bird took her hotel so that his good pal Sir R. Allen Stanford, now accused of an infamous \$7 billion Ponzi scheme, could develop it.

Antigua's current Prime Minister, Baldwin Spencer, seemed to think it was a credible story when he was running against Bird in 2004. "Lester wants to sell someone else's property for a huge profit to pay off a deficit created by his mismanagement," he'd said.

Stanford, who'd forgiven tens of millions in loans he made to Antigua, never denied his interest in Half Moon Bay, but he did deny arranging a sweetheart deal with Bird. On the other hand, he's now in prison awaiting trial on a litany of fraud charges for allegedly running a Ponzi scheme, second in scope only to Bernie Madoff's.

Simon said the change in Spencer's position regarding the long-standing Stanford conspiracy theory came with more information.

"Apparently, there seems to have been some verbal communications with Allen Stanford," Simon said. "I have not seen any written communication between the two. It appears, too, that Allen had conducted some aerial survey of the property. But I cannot confirm because I have seen no documentation..."



Prime Minister Spencer and Stanford

"And I can state quite clearly that at no point in time has Allen Stanford approached us .. in respect to obtaining the property," Simon said.

Half Moon Bay Hotel, nestled on what TV's Travel Channel has named one of the best beaches in the world and a former haunt of Elton John, closed after hurricanes damaged it in 1995.

Querard has been dealing with disputes with her co-investors and a management company, inadequate insurance and difficulty in raising financing, which she blames on Antigua's underhanded attempts to take her property for the benefit of Stanford.

At 71, Querard has spent her golden years, and millions of dollars, fighting for the return of the small, luxurious resort her parents acquired in 1971.



Justin Simon

"Ms. Querard has gone through the whole legal process right up to our final appeal court, which is the Privy Council, challenging the acquisition by the government, and she lost," Simon said.

In 2007, the Privy Council disagreed with Querard's claim that Antigua's government interfered with her attempts to restore her hotel: "The history showed that the government had been bending over to help."

A member of Bird's administration had referred to her as an "enemy of the state" and "that white woman," but the Privy Council ruled those comments were not evidence of bias driving the compulsory acquisition because they came after the decision was made.

The Privy Council also saw nothing wrong with taking the property from one developer and handing it over to another.

"It's a question of developing the property, which she has been unable to do since the hurricane," Simon said.

"We have to .. go forward in terms of ensuring that we have an investor who is going to develop the property," he said. "This is a tourism-based country, and (the property) sits on one of the best beaches. .. It is a very quiet, exclusive part of the island. We think it's important that this area is developed into a proper resort.

"And now the question of title is no longer an issue," Simon said. "That has been resolved by the court. The only issue is compensation."

Which is now before an assessment board.

Antigua wants to pay \$14 million. Querard has presented a valuation from CB Richard Ellis of \$60 million. And within this chasm lies a box of legal extension cords for the assessment board to untangle.

"What has come out during the hearing, is that her price of \$60 million is based upon a development plan that .. has never been tendered for approval," Simon complained.

"She is a difficult woman," he said. "Even before the assessment board, she's still saying that the property should not have been compulsorily acquired, notwithstanding the fact the Privy Council has ruled on it."

The Privy Council, however, did note in its ruling that the law provides "for the payment of fair compensation within a reasonable time," which Querard considers a victory since she and her investors have yet to be paid.

With sugar daddy Stanford gone, global tourism down and unprecedented scrutiny bearing down on Antigua's offshore banking system, Querard told me she thinks Antigua will find ways to keep its legal machinery rolling to avoid the required payment. She said she thinks the island nation will end up so broke it may one day find it easier to just return the property.

Simon said there's no chance of that.

"I don't think she was able to establish the credibility sufficient to invite serious investors," Simon said. "I see an aggressive woman. But I don't see an aggressive businesswoman."

Like I said before, I hate to argue with a lawyer over words, but in a case involving expropriation, what's the difference?



Natalia Querard