



Government of Aruba

Ministry of Tourism,
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To:
Sjiem Fat & CO Law Offices
Attn. Mr. Johan Sjiem Fat
J.G. Emanstraat 49-A
Oranjestad
Aruba

Our Reference
MinTTEM/735/17

Date:
August, 29th 2017

Subject:
petition to amend conditions of long lease of domain land issued to Caledonia Properties N.V.

Dear Mr. Sjiem Fat,

Introduction

This is in response to the petition made on behalf of your client, **Marriott International Inc. (hereafter "Marriott")**, to advise you whether the Government can agree to the amendment of certain conditions of the long lease of domain land established by notarial deed, dated May 3, 2017, to **Caledonia Properties N.V. (hereafter "Caledonia")**. Copy of the aforementioned notarial deed and the official plot plan are hereby attached for easy reference.

In connection with this petition, you have informed us as follows.

History and background

Caledonia was an affiliate of Starwood Vacation Ownership Inc. ("SVO"), a division of Starwood Hotels & Resorts Worldwide ("Starwood Hotels").

Marriott has recently acquired Starwood Hotels and is now therefore the ultimate beneficial owner of Caledonia.

Marriott intends to promote development of a 4 or 5 star Hotel & Casino on the Caledonia long lease parcel by selecting a reputable developer with the operational and financial capability to successfully complete development and construction of such a 4 or 5 star Hotel & Casino. The hotel will be managed by a Marriott affiliate under one of the hotel brands in its portfolio.

Marriott currently intends to promote development of a WESTIN hotel on the Caledonia-parcel, but would like to have the flexibility to select another 4 or 5 star brand in its portfolio if the developer should choose one of Marriott's other upscale brands.



Marriott's request for amendment of certain terms and conditions of the Caledonia long lease

The conditions of the Caledonia long lease that Marriott would like to see amended are the following.

Designated Use (hotel instead of time share)

Marriott requests a **change in the designated use** of the Caledonia long lease parcel from development and construction of a Time Share Resort, as it currently reads, to **development and construction of a 4 or 5 star Hotel & Casino, consisting of up to 350 keys, including the customary facilities and amenities belonging thereto.**

Timeline for commencement of construction (24 months after amendment of the long lease instead of 18 months after establishment of the long lease)

The long lease currently stipulates :

- that the lessee must start construction within 18 months after establishment of the long lease;
- that failure to start construction within 18 months after issuance of the building permit and establishment of the long lease, constitutes an event of default, which may lead to cancellation of the long lease;

In the first place Marriott requests a **waiver of** the above described stipulated start date for construction of 18 months after establishment of the long lease.

Furthermore Marriott requests the establishment of **a new start date for construction of 24 months after the date on which the notarial deed**, containing the requested amendments to the terms and conditions of the long lease, has been executed and recorded.

Permission to transfer the long lease and/ or the shares of Caledonia

The long lease currently requires permission from the Minister of Infrastructure

- (i) to transfer the long lease rights to the parcel, if such transfer takes place before construction of the hotel is completed and the hotel is open for operation;
- (ii) to transfer the shares of the Caledonia-entity, which permission shall not be unreasonably withheld;

Marriott would like an amendment of the long lease terms and conditions to provide for the Minister of Infrastructure's permission in advance, **for a one time transfer of the long lease rights and/or the shares of the Caledonia entity at Marriott's reasonable discretion to a non-related reputable developer of undisputed integrity and solid professional and financial capability, in order to promote a smooth selection of the developer for the Caledonia parcel, who will build the hotel.**

Such transfer of the long lease rights and/or transfer of the shares of the Caledonia entity, to the extent it occurs prior to finalization of construction of the hotel and opening of the hotel for business, shall be contingent on the transferee/new lessee under the long lease



and/or the new owner of the Caledonia entity, having signed the Marriott Hotel management and related agreements, in order to ensure that the new owner is committed to adhere to the Marriott development and management standards.

Marriott would furthermore like to incorporate a stipulation in the long lease that provides that, once construction of the hotel has been completed and the hotel has opened for operation, the owner shall have the unrestricted right

- (i) to transfer the long lease rights to a new owner; and/or
- (ii) to transfer the shares of the Caledonia entity to a new owner; and,
- (iii) to encumber the long lease rights, or his shares in the Caledonia entity, in any manner whatsoever.

The right of the owner to encumber the long lease or shares of the Caledonia entity after completion of construction of the hotel and opening of the hotel, as described under paragraph (iii) above, shall be without prejudice to his right to encumber the long lease and the shares of the Caledonia entity prior to completion of construction and opening of the hotel.

Confirmation that the long lease is in full force and effect

Marriott requests confirmation in the notarial deed containing the amendment of the long lease,

- (i) that the long lease is in full force and effect; and,
- (ii) that the Government of Aruba has waived all rights to claim the existence of potential prior defaults of Caledonia, under the long lease and under any other agreements between the Government of Aruba and Caledonia; and,
- (iii) that the Government of Aruba has waived all rights to exercise any remedies in connection with such potential prior defaults.

The Government of Aruba's response to Marriott's petition to amend the terms of the Caledonia long lease

The Government hereby confirms, that it agrees in principle to the requested changes of the conditions of the Caledonia long lease, described above. This confirmation is given subject to the following conditions:

- (i) that this Letter of Intent, regarding changes to the Caledonia long lease that Marriott requests, is non-binding in nature and subject to negotiation of a detailed and complete contract between the Government and Marriott;
- (ii) that the Government's agreement to the requested changes is therefore preliminary in nature and subject to negotiation of a detailed and complete written contract between the Government and Marriott;
- (iii) that the Government, Caledonia Properties N.V. and Marriott will not have any binding legal obligations towards each other with respect to the requested changes to the Caledonia long lease, until they have negotiated a complete written contract.
- (iv) that Marriott's team in charge of this project must still obtain the formal corporate approval for the contemplated transaction, required under Marriott's



organizational procedures, before it can begin to participate in negotiations for the aforementioned contract.

You have however advised us that Marriott's team expects to get a decision regarding the corporate approval soon and that you will advise the Government immediately once this approval has been given.

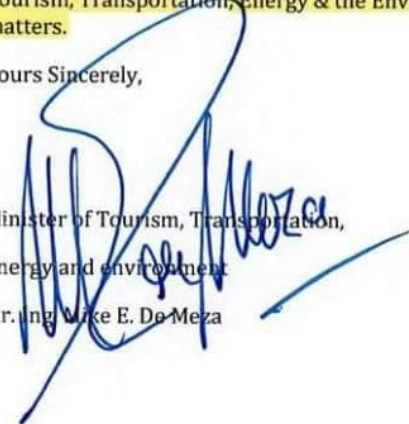
Apart from the above described changes to the conditions of the long lease, the aforementioned contract between the Government and Marriott or Caledonia, may provide for other points that (i) are customary in transactions of this type; (ii) are necessary to protect the public interest; and (iii) are acceptable to both parties.

The abovementioned contract will be negotiated between officials of the Department of Infrastructure (DIP) on the Government's side and Marriott's designated representatives.

After negotiation of this written contract, the parties will proceed to preparation and execution of the notarial deed containing the proposed amendments of the Caledonia long lease.

This letter is being signed by the Minister of Urban Planning, Infrastructure and Integration as the official in charge of long leases of domain land and by the Minister of Tourism, Transportation, Energy & the Environment as the official in charge of tourism matters.

Yours Sincerely,


Minister of Tourism, Transportation,
Energy and Environment
Mr. Mike E. De Meza


Minister of Urban development,
Infrastructure and Integration
Mr. O.B. Sevinger