

OMBUDSMAN OF TRINIDAD AND TOBAGO

**SPECIAL REPORT NO. 1 OF 2015
UNDER SECTION 96(4) OF THE CONSTITUTION**

**Complaint of Alexander Holder
against the Housing Development Corporation**

Mr. Alexander Holder approached my Office in 2006 seeking my assistance to be relocated from his home and that consideration be given to his request that payments on his first mortgage be used to offset subsequent mortgage payment when he was relocated.

Mr. Holder entered a mortgage agreement with the Housing Development Corporation (HDC), then known as the National Housing Authority (NHA) in 1980 with respect to a property at No. 1A Redwood Drive, Morvant. In 1993, the main drain in the area collapsed and this led to structural damage and erosion of his property.

I wrote to Chief Executive Officer, HDC on behalf of Mr. Holder in 2006 highlighting the fact that since 2004 the Technical & Planning Services Superintendent of the then NHA had recommended that Mr. Holder be relocated since the house was deemed uninhabitable. The house needed to be demolished as its structural integrity had been compromised. Pictures of property are attached at **Appendix I**.

Additionally, I expressed my disagreement with the position taken by the HDC as to its request for Mr. Holder to clear off his subsisting mortgage and to enter into a new mortgage on relocation to other premises. It was recommended that

in the interest of fairness, monies still payable on the original premises should be channelled towards the property to which Mr. Holder would be relocated.

It was noted that the Corporation held the view that since Mailbrol Insurance Brokers Ltd, the Insurers for the Corporation had paid compensation to Mr. Holder for damages sustained to his property in the sum of ninety-two thousand, five hundred dollars (\$92,500.00), which monies were paid through Royal Bank of Trinidad and Tobago (RBTT) cheque No. 028608 dated May 25, 2005, it assumed that the said monies had been used to complete the remedial works. Therefore Mr. Holder was expected to liquidate his mortgage debt on the said property.

It should be noted that in a Report dated July 22, 1994, on the damage to Mr. Holder's property, Lauriston Lewis & Associates, Consulting Engineers cited inadequate drainage as the cause of the problem. The Report stated that:

“drainage of the adjoining land was facilitated by the public drain at the back of Lot 1 which would seem to have been inadequate to accommodate the volume of water carried as additional houses were built in the neighbourhood, subsequent to its construction.”

It was the view of the Consultants that remedial works could prevent further damage to the property if undertaken immediately. The works were to include **“Construction of a retaining wall on the southern boundary, underpinning of the structure and the filling in where necessary of the surrounding ground.”**

During the period 1994 to 2004, despite numerous requests by Mr. Holder to NHA for assistance, including letters from Wilson & Company, Attorneys-at-Law, nothing was done to remedy the problem.

In November 2004, after heavy rains, the house was deemed **“uninhabitable”** by Dr. Rupert Williams, Technical & Planning Services Superintendent at NHA. It was recommended that Mr. Holder be **relocated** and the said house should be demolished as **“the structural integrity has been compromised.”**

“The present state of the house can be attributed to the collapse of a main drain in the area and severe erosion, which has undermined the foundation system of the structure.”

Earth Investigation Systems Ltd. was contracted by NHA to prepare proposals for a Geotechnical Investigation and Remedial Design for Mr. Holder’s residence and a Report dated March 17, 2005 was submitted. Mr. Holder said that on May 31, 2005, engineers drilled three (3) boreholes on his premises but no further action was taken to effect repairs. He claimed that further heavy rainfall led to the collapse of other sections of the house.

Subsequently, HDC officials held discussions with Mr. Holder with regard to relocation and by letter dated May 19, 2006 he submitted a letter stating his preferences. However, by September 2006, when Mr. Holder had not been relocated or compensated, he approached my Office for assistance.

In my letter to the then Chief Executive Officer, HDC dated October 25, 2006, I recommended that:

“...since Mr. Holder was unable to live at his house, through no fault of his, it will be unfair to expect him to clear off a mortgage on a property which is uninhabitable. The property must be merchantable and since it is not suitable for the purpose for which it was bought, no further monies should be paid towards liquidating the debt on that property.”

In respect to that letter, the Attorney-at-Law at the HDC stated that Mr. Holder had been compensated in the sum of ninety-two thousand, five hundred dollars (\$92,500.00) on May 25, 2005 and that the Corporation assumed that **“the said monies were used for the purpose of carrying out the relevant remedial works.”**

Mr. Holder stated that he received a cheque dated July 13, 2005 from the NHA in the sum of seventy-seven thousand, six hundred and fifty dollars (\$77,650.00). He was informed that fourteen thousand, eight hundred and fifty dollars (\$14,850.00) had been deducted for arrears of the mortgage.

A letter dated April 2, 2007 was sent to the Minister of Housing stating that the money had been used to effect repairs but that there was a further collapse of the building.

It was my view that the Corporation had **“no intention to effect any restorative work to the environment in this area... therefore, to expect Mr. Holder to continue to pay a mortgage on an uninhabitable property and not to take the necessary steps to relocate him is unreasonable.”**

Based on the information submitted by letter dated July 2, 2012, I recommended that the Corporation review its earlier position with respect to the relocation of Mr. Holder to another property.

I subsequently received a response from the HDC by letter dated October 17, 2012 stating the following:-

“It is noted that the Complainant opines of structural damages to his property situate at No. 1 Redwood Street, Morvant and has requested that the Corporation effect repairs on same and/or offer relocation to another housing unit.

Please be guided that the Corporation does not consider itself liable to effect repairs on said property as it is no longer owned by us but it is instead a private residence. Kindly note further that this decision has already been relayed to the Complainant by letter dated 11th December, 2011, addressed to his Attorney-at-law. Mr. Prem Persad Maharaj. A true and correct copy of this document is hereto attached for your perusal.”

Mr. Holder was contacted by the Office in July 2014 and he provided the following information:-

- He had stopped the mortgage payments when he was told that the balance was twenty-one thousand dollars (\$21,000.00).
- The HDC had not been in contact with him on the matter since the engineers had visited the property and dug three (3) boreholes on the land.
- The property remains uninhabitable. He no longer lives at the property situate at No. 1 Redwood Street, Morvant.

Section 96(4) of the Constitution of the Republic of Trinidad and Tobago provides **inter alia**, “**that where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him, no sufficient action has been taken to remedy the injustice, then subject to such provision as may be made by Parliament, the Ombudsman shall lay a Special Report on the case before Parliament.**”

This, I now do.

Lynette Stephenson, S.C.
Ombudsman of Trinidad and Tobago

Date: