



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN**

CAUSE NO: UF 20__

In the matter under Section 30 (1) of the Immigration Law (2014 Revision), (the "Law").

And in the matter of the dismissal of an Application for Permanent Residency of Gossett Lee Hilton pursuant to Section 23 (2) of the Immigration (transition) Law 2018 by the decision of the Immigration Appeals Tribunal made by their dismissal letter dated 21 December 2020.

BETWEEN:	Gossett Lee Hilton	Appellant
AND	1. The Immigration Appeals Tribunal	Respondent
	2. The Attorney General	Co-respondent

NOTICE OF ORIGINATING MOTION

TAKE NOTICE that the Court at the Law Courts, George Town, Grand Cayman will be moved on _____ 2021 at _____ or as soon thereafter as counsel can be heard, by counsel on behalf of Gossett Lee Hilton for the following relief, namely:

1. That until such time as the substantive matter is heard and determined by the Court the Appellant shall be permitted to stay and work in the Cayman Islands.
2. Leave of this Honorable Court to exercise its discretion to permit an extension of time pursuant to GCR Ord 3 r. 5 for the applicant to lodge a Notice of Motion if the Court considers that the time for lodging the application has expired.
3. Alternatively, that this Application stand as a Notice of Motion for an application that the decision to reject my permanent residency is unreasonable, contrary to the principles of natural justice, erroneous and at variance with the Regulations.
4. The factual background is as follows:
 - i. My application to the Cayman Status and Permanent Residency Board ("the Board") was made on 25th September 2019 and was heard and refused on the 13th December 2019 on the grounds that the I attained a total score under the point system of 72.5 (and thus did not receive the 110 points necessary under section 30 (1) of the Immigration Law to be qualified for the grant of permanent Residence.

- ii. On 15th January 2020 an appeal was filed to the Immigration Tribunal (IAT).
- iii. On 21st December 2020 the Tribunal proceeded to a hearing and records that the appellant accumulated seventy two point five (72.5) points under the criteria set out in the points system contained in Schedule 2 of the Immigration Regulations (2019 Revision). Therefore, the appeal was dismissed and permanent residency was not granted (copy of IAT statement is enclosed).
- iv. Under Factor 3 in accordance with Schedule 2 of the Immigration Regulations (2019 (Revision)). I was entitled to 30 points for my investment in a locally licensed company. On March 18, 2020, I provided proof of my shares in the company Original Small Engine Repair Ltd., and was not awarded any points under this category.

The Appeals Tribunal noted in their letter that proof of my shares in a locally licensed company was not before the CS/PR Board at the time of the application. However, my reason for submitting this appeal to the Appeals Tribunal Board is to provide these documents as proof so that change in my circumstances can be taken into consideration in support of my appeal.

The Tribunal was unreasonable to not consider proof of my investment in a locally licensed company and to not award the appropriate points for this category; therefore, **I am claiming 30 points under Factor 3 for investment in a locally licensed company.**

- v. The Tribunal was unreasonable to not consider evidence of my local property which was submitted to the Board on March 18, 2020, and no points were awarded. The Tribunal acknowledged in their letter that evidence of my property was presented to their Board; however, they did not take this evidence into consideration because it was not before the CS/PR Board. Again, this is an appeal therefore my change in circumstances should have been taken into consideration especially when this evidence confirms my Investments.

As stated in the Immigration Laws Section (i) Investment in Local Property. Points shall be awarded by taking into account the amount of the applicant's monetary investment relative to his actual means. Total investment requires a minimum of CI\$50,000. My total investment in this property is CI\$86, 196.00 and **I believe that I should receive the maximum points of 30 under this category.**

- vi. Under Factor 5 in accordance with Schedule 2 of the Immigration Regulations (2019 Revision). The Tribunal claimed that at the time of my application to CS/PR Board, I did not declare any community involvement which is untrue. I declared community involvement; however, the letter from Ms. Dorlin Welcome was latter submitted to the CS/PR Board (before my application was heard) as due to a medical emergency Mrs. Dorlin Welcome had to leave the Island.

I would like to put forward that I contribute more than the minimum fifty (50) hours per year to Ms. Dorlin Welcome organization which falls under the Special Needs Unit. For the past 5 years I contributed 78 hours annually and has been totally dedicated to this organization. **Therefore, I am claiming 20 points under Factor 5 for Community Involvement.**

- vii. Notwithstanding subsection (2), the Immigration Appeal Tribunal or the pertinent Board, may, in its absolute discretion, call upon either party or any persona as it deems necessary and relevant to address it.
- viii. I was not given the opportunity to attend the hearing with my representative. If this had been permitted what is not only a statutory right but a fundamental right to be heard and thus ensuring a fair hearing I could have addressed the issue. Even though these documents were independently submitted to the IAT Board it is completely unfair that my investments were not taken into consideration by the honorable Board. If the Board had needed clarifications of my investments I should have been given the opportunity to address the Board and to provide additional documents if so needed.
- ix. Given the passage of time, much has happened in my life. This is an application submitted in September 2019 which has finally been determined in December 2020. This delay in resolution of this matter has prejudiced me and that prejudice has been compounded by IAT knowingly taking the decision that there was a basis for a grant of additional points. This was ignored as was consideration of my significant investments.

Just as I am duty bound to make full and frank disclosure of information to support my application and thus update the Tribunal of any change in my circumstances, whether they are in my interest or not the IAT is equally duty bound as a matter of fairness to ensure that the correct information is before it, especially before it renders a decision where there is clear evidence that supporting documents/information are before them.

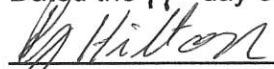
- x. I should not be unfairly cloaked with error or failure of the Tribunal when it was clear that proof or evidence of my investment was before them and they proceeded with same CS/PR decision from my original application to the Permanent Residency Board when this is an appeal and my change in circumstances should have been taken into consideration.
- xi. The fact that I was not permitted to attend the hearing where such error on the part of the Tribunal could have been corrected in short order evidences that I have not been treated judiciously and have not had a fair hearing.

AND FURTHER TAKE NOTICE that the grounds of this appeal are:

5. In light of the above, the Grounds for the Application for this Appeal is to reconsider IAT decision to refuse to grant permanent residency pursuant to Section 23 (2) of the Immigration (Transition) Law 2018.
6. Alternatively, the Board having not awarded any points as seen in the IAT points system under Factor 3 (i) (ii) where I should have been awarded 30 for my investments in a locally licensed company and real property this decision is unfair and should be corrected.
7. Alternatively, the requisite statute being silent on the issue of reconsideration the IAT has failed as a matter of law to properly exercise its discretion either administratively or as a matter of common law to reconsider the application where it was clear on its face that their decision was wrong.
8. Alternatively, the Tribunal acted in bad faith as no reasonable Tribunal would have acted as such in the circumstances.

And for an order that the costs for indemnity of this appeal may be paid by the Immigration Appeals Tribunal (IAT).

Dated the 11th day of January 2021



Signature of Appellant

TO: The Clerk of the Court.

AND TO: The Respondent: c/o Legal Department.

Filed by Gossett Lee Hilton address for services P.O. Box 11583 KY1-1009, George Town, Grand Cayman, Cayman Islands, services@mpcs.ky