



- ii. THAT the whole of the said decision of the First Respondent dated 17th June 2022 is unreasonable, irrational or amounts to a Breach of Natural Justice and therefore the matter is to be remitted to the First Respondent to reconsider its decision and reach a decision in accordance with the Law and Natural Justice.
- iii. A DECLARATION THAT the First Respondent and any decision maker, when considering an application for Permanent Residence where the Applicant has been resident in the Islands for over their term limit must consider an Applicant's right to a family life and private life pursuant to Section 9 of the BOR when considering whether or not to grant or reject an application for Permanent Residence, or
- iv. A DECLARATION THAT Section 37 (3) Immigration (Transition) Act 2021 ("the Act") is incompatible with Section 9 of the Bill of Rights for this Appellant on the true facts of her case; and
- v. if needed THAT this matter be stayed pending Judicial Review of the failures of the Second Respondent/Cabinet to provide for the section 9 Rights of this Appellant on the true and full facts of her case;
- vi. and if needed that, absent an undertaking from the Second Respondent to protect the Appellant from any attempts to remove her or to require her to pay for "time", that the Respondents, their servants or agents or their principals be restrained from such actions pending this Appellant being concluding a fair and just process to ensure protection of her Rights under the Constitution given the exceptional facts of her case.

And for an order that the costs, of and incidental, to this Application be paid by the Respondents.

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

1. The Appellant has resided in the Cayman Islands since 25<sup>th</sup> November 2005. Her term limit as determined by and set out by WORC is 25<sup>th</sup> November 2014.
2. The Appellant is a 56 year-old Christian Pastor for The Church of The Ark of The Covenant of God.
3. The Appellant during her 16 years and 8 months life in these Islands has developed both a Private and Family Life that engage section 9 of the Bill of Rights.
4. It is the Appellant's case that the decision to not award her Permanent Residence breaches her right to a private life and family which she had established in the Cayman Islands. It is averred that this decision is not reasonably justifiable / proportionate in the circumstances.

**Wrong in Law**

5. It is the Appellant's case that prior to the said decision she had established both a private life and family life in the Cayman Islands over her 16 years and 7 months residence in these Islands which was protected by Section 9 of the BOR.
6. Furthermore, it is the Appellant's case that the decision of the First Respondent dated 17 June 2022, is wrong in law / not in accordance with the Law in that:
  - a. The decision of the First Respondent without reasonable justification breaches the Appellant's right to a private life in the Cayman Islands; and
  - b. The First Respondent failed to carry out his obligations to this Appellant, on the exceptional facts of her case, to protect her rights under Section 9 of the BOR.
7. It is the Appellant's contentions that (a) each and every case/applicant must be considered on the unique facts of each and every case and (b) both the Board and the First Respondent were, given the facts of her case, required to consider her right to a private and family life in the Cayman Islands pursuant to Section 9 of the BOR when considering whether or not to grant her PR. Any failure to consider Section 9 of the BOR (and Article 8 of the ECHR), on the facts of this Appellants' case, and/or afford her a process with a reasonably justifiable test / proportionality test rendered the decisions unlawful and unconstitutional.
8. It is the Appellant's position that the said decision breaches her Section 9 BOR rights due to the fact that she will be required to leave the Cayman Islands, leaving behind, her Pastoral Post and sacred duties to her Spiritual Family and a wide circle of friends. This further offends both the Preamble and Section 1 of the Constitution of these Islands which enshrines for our Island Community its historical Christian values and heritage which this Appellant advanced and continues to advance, and preserve, through her Ministerial presence here.
9. In the event that Section 37 (3) of the Act is alleged to prevent the First Respondent from carrying out a proportionality / reasonably-justifiable assessment, it is averred that Section 37 (3) of the 2021 Act, is incompatible with Section 9 of the BOR and therefore the Court is required to make a declaration to that effect.

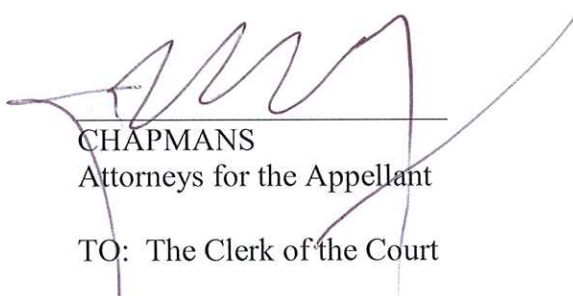
**Unreasonable / procedurally unfair / breach of natural justice.**

10. The First Respondent at all material times knew, of (a) the Constitutional challenges to its rulings, (b) the facts of this Appellant's case and her 2020 application being made 6 years after her 2014 term limit expired and (c) that the Second Respondent had failed in his duties to the Appellant to protect her Constitutional Rights grounded in her residence in these Islands now more than 8 years past her purported "term limit".

**Conclusion**

11. Further to the above, it is averred that the First Respondent acted erroneously and unlawfully and in breach of natural justice. Accordingly, the decision of the First Respondent should be set aside and the relief sought herein granted.

DATED: 15 July 2022



---

CHAPMANS  
Attorneys for the Appellant

TO: The Clerk of the Court

AND TO: The Chairman  
Immigration Appeals Tribunal  
Government Administration Building Elgin Ave,  
George Town  
Grand Cayman

AND TO: Attorney General of the Cayman Islands.

This **MOTION** is filed by Chapmans, Attorneys-at-Law for the Appellant whose address for service is  
81 West Church Street, P.O. Box 742, West Bay, Grand Cayman, Cayman Islands, KY1-1303