

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2025

IN THE MATTER OF SECTION 23 (2) OF THE IMMIGRATION (TRANSITION) ACT (2022 REVISION)

IN THE MATTER OF ORDER 55 OF THE GRAND COURT RULES

AND IN THE MATTER OF AN APPLICATION FOR A RESIDENCY AND EMPLOYMENT RIGHTS
PURSUANT TO SECTION 37 (1) IMMIGRATION (TRANSITION) ACT (2022



MARGELLA EDWARDS

PLAINTIFF

-v-

DIRECTOR OF WORC

Defendant

NOTICE OF
ORIGINATING MOTION

TAKE NOTICE that the Grand Court at the Law Courts, George Town, Grand Cayman will be moved on the _____ day of _____ 2025 at _____ a.m./p.m. or as soon thereafter as counsel can be heard, by counsel on behalf of the Plaintiff for an order in the following terms:

- i. The decision of the Defendant dated 9 April 2025 was erroneous in law, unreasonable and / or a breach of natural justice.
- ii. The decision of the Defendant dated 9 April 2025 is quashed and is to be remade.
- iii. The matter be remitted to the Defendant for the reconsideration of the Plaintiff's points.

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

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

1. On 26 October 2013, the current Permanent Residence system was introduced. Save for a change to Factor 1, the System has essentially remained the same since 2013. No Permanent Residence applications submitted post 26 October 2013 were considered until 2017. When the Plaintiff applied for Permanent Residence, the relevant Act was the Immigration (Transition) Act (2022 Revision) ("the Act") and the Points system was found in the Immigration Regulations (2019 Revision) ("the Regulations").
2. To obtain Permanent Residence, an applicant is required to be awarded 110 points in total, after the various factors are considered.
3. Despite the ability for various decision makers to consider PR applications and reach different conclusions based upon the same information, no policies have ever been published in regard to the consideration and determination of applications. As a result, it is averred that the points system, in the absence of policies can be arbitrary and opaque.
4. While it is correct to say that the application from that an applicant uses to apply for permanent residence says reference "see the Guidance Notes". There are no Guidance Notes which are published. Furthermore, there is no definition contained within the Act of the Regulations of:
 - i. A Non-profit organisation.
 - ii. A Charitable organisation.
 - iii. A voluntary organisation.
5. Equally, there is no requirement in Act or the Regulations for any of the above organisations to be registered as a non-profit organisation.
6. In an application dated 4 December 2023, the Plaintiff applied for Permanent Residence of the Cayman Islands pursuant to Section 37 of the Immigration (Transition) Act (2022 Revision) ("the Act").

7. As part of the application, the Plaintiff sought points based upon her involvement with Mr. Fitzgerald Squire. Mr Squire has spent more than 10 years cooking and donating food to persons in need. He does this for free and he does it very weekend. Between 2014 and 2023, the Plaintiff had volunteered more than 50 hour per annum helping Mr Squire. If the Plaintiff had been awarded points for her involvement with Mr Squire, she would have been awarded **12 points**.
8. It is the Plaintiff's position that her and others involvement with Mr. Squire can be regarded as a unincorporated association, i.e. a group of people organised for a shared purpose and not for profit. This would be supported by the definition of Non-Profit Organisation ("NPO") in the Non-Profit Organisation Act 2017 ("NPA") which defines as NPO as:

"non-profit organisation" includes a company or body of persons, whether incorporated or unincorporated, or a trust —
 - (a) *established or which identifies itself as established primarily for the promotion of charitable, philanthropic, religious, cultural, educational, social or fraternal purposes, or other activities or programmes for the public benefit or a section of the public within the Islands or elsewhere; and*
 - (b) *which solicits contributions or raises funds from the public or a section of the public within the Islands or elsewhere;*
9. As such an unincorporated association would qualify as a NPO, a Charitable Organisation or a voluntary organisation.
10. In a decision dated 21 August 2024, the Director of WORC rejected the Plaintiff's application only awarding her 101.50 points. The Plaintiff was not awarded any points for her involvement with Mr Squire.
11. The Director of WORC in a document entitled Permanent Residence Points Assessment provided no explanation as to why no points were awarded for the Plaintiff's involvement with Mr Squire. Furthermore, the Appeal Statement which was provided also was wholly silent as to why it was that no points were awarded for the Plaintiff's involvement with Mr. Squire.
12. The Plaintiff appealed that decision and Grounds of Appeal were submitted.

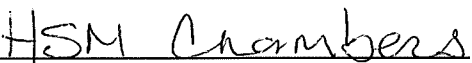
13. As part of the Grounds of Appeal, the Plaintiff made reference to the NPA and contended that she should have been awarded points for her involvement with Mr. Squire.
14. If Grounds of Appeal had been made out, i.e. if the Immigration Appeals Tribunal (“the Tribunal”) accepted that the Defendant had:
 - i. Acted erroneously in Law.
 - ii. Acted Unreasonably.
 - iii. Acted contrary to the principles of natural justice.
 - iv. Acted in variance with Regulations;
15. The Tribunal **have to** proceed to a de novo hearing as per Section 22(4) of the Act.
16. As part of the Grounds of Appeal which were submitted, the Plaintiff provided a letter from Barbara Conolly, a then Member of Parliament confirming that she was aware of Mr. Squires charitable actions and community involvement. A further letter of confirmation was also provided from PC Burke.
17. In a decision dated 9 April 2025, the Tribunal did not accept that the decision of the Defendant was flawed. In particular the Tribunal stated;

*“Fitzerald Squire, letter dated 6th November 2023, does not meet the criteria set out in the Regulations to allow for the assessment of points when considering that it is **not** a local service club; a local church programme; or a registered Non-Profit Organisation;*

18. It is not clear how the Tribunal reached the above decision, when the Defendant did not set out their rationale for why they rejected the information contained within Mr. Squire’s letter. Equally, it is not clear why the Tribunal did not consider whether the help that the

Plaintiff and Mr. Squire provided to the need could be considered as a Voluntary Organisation or a Charitable Organisation.

19. It is respectfully averred that the decisions to reject the award of points for the volunteering that the Plaintiff spent with Mr. Squire, is wrong in Law and contrary to the Regulations. If the Plaintiff has been awarded 12 points for the volunteering she did with Mr. Squire, then the Plaintiff would have been awarded Permanent Residence.
20. If it is the case that the Defendant or the Tribunal are relying upon a "new" policy that a organisation has to be a registered Not for Profit organisation before points are awarded for Factor 5, the fact that this policy has not been disclosed means that the decision is not in accordance with the Law and as such, is wrong in Law.
21. Furthermore, the original decision of the Defendant leaves substantial doubt as to whether a policy has been applied with the Plaintiff was not aware of and as such, the Plaintiff has been adversely affected. It is therefore contended that the truncated nature of the decision means the decision is wrong in Law.
22. Further to the above, it is the Plaintiff's case that the original decision should be quashed and the matter remitted to the Tribunal for further consideration.



HSM CHAMBERS