



PUBLIC LANDS
COMMISSION
CAYMAN ISLANDS GOVERNMENT



ANNUAL REPORT 2019

Public Lands Commission

Email: PL@gov.ky

Website: www.education.gov.ky

Tel: (345) 244-2467

133 Elgin Avenue, P.O. Box 108,
Grand Cayman KY1-9000



PUBLIC LANDS
COMMISSION
CAYMAN ISLANDS GOVERNMENT

TABLE OF CONTENTS

1. About the Public Lands Commission

Vision & Mandate

2. Who We Are

Membership

Meetings

Staffing

Organization Chart

3. Laws, Regulations & Policy

4. Operational Overview

Beach Access

Registered Public Rights Of Way to the Beach / Shoreline

Unregistered Public Rights of Way to the Beach / Shoreline

Commercial Vending

Seven Mile Public Beach Improvement Works

Coastal Works

Enforcement

5. Finances

6. Administration / Correspondence

7. Media Coverage

1. ABOUT THE PUBLIC LANDS COMMISSION

Our Vision & Mandate

Vision: To regulate the use of public lands to the benefit of the people of the Cayman Islands

Mandate: The mandate of the Public Lands Commission, set out in Section 5 of the Public Lands Law (2020 Revision) is to regulate the use of public land in the public interest, and in particular;

- To regulate the use and enjoyment of public land by members of the public;
- To protect the right of access to and use of public land by members of the public, including the enforcement of public rights of way over private land;
- To respond to complaints regarding the use or misuse of public land;
- To issue permits for the use of, and activities on public land; and
- To advise the Chief Officer of the Ministry presided over by the Minister on general policies respecting the enforcement of the Law and in particular enforcement matters; and
- To exercise the powers and carry out the functions delegated to it by the Minister for Lands.



2. Who We Are

Commission Membership

Through to 30th November 2019 membership comprised the Cabinet-appointed inaugural members, completing an initial term of appointment, pursuant to the Cabinet's authority contained in Section 6 Public Lands Law (2019 Revision).

Chairperson

- Director of the Lands & Survey Department (or designate) – Rupert Vasquez

Members

- Chairperson of the Tourism Attraction Board (or designate) - Ms. Carla Reid
- Chief Officer, Ministry of Tourism (or designate) – Stran Bodden
- Ms. Christina McTaggart – Pineda
- Ms. Ezmie Smith
- J. Robert Bodden
- Teddy Ebanks
- Temple Cleveland Tatum (representing Cayman Brac and Little Cayman)*
- Ms. Elsie Kynes (representing Cayman Brac and Little Cayman)**

*Resigned effective 25th January 2019

**Appointed 26th May 2019

In August 2019 the Public Lands (Amendment) Law, 2019 was passed in the Legislative Assembly and assented (see the “Laws, Regulations & Policy” section). This amendment to the Law restructured the Commission membership to comprise members of the public representing the Districts, including the Chairperson.

To comply with the amended Law the Cabinet then appointed the following replacement members for two year terms commencing 1st December 2019;

Chairperson

- Member of the Public representing George Town– Mrs. Terrence Caudeiron

Members

- Member of the public representing Bodden Town – Mr. Ernest Peterkin Berry
- Member of the public representing West Bay – Ms. Ezmie Smith
- Member of the public representing Cayman Brac & Little Cayman – Ms. Elsie Kynes
- Member of the public representing East End – Mr. Shane Edwards
- Member of the public representing North Side – Mr. Teddie Ebanks
- Director, Lands & Survey Department, or designate – Mr. Jon Hall
- Chief Officer, Ministry of Lands, or designate – Ms. Cetonya Cacho
- Chief Officer, Ministry of Tourism, or designate – Mr. Stran Bodden
- Chief Officer, Ministry of Commerce, or designate – Mr. Alan Jones



Commission Meetings

Under Section 7 Public Lands Law (2019 Revision) the Commission shall meet at least six times annually. Members are remunerated in the amount of CI\$ 100 per meeting attended (civil servant members receive no remuneration). All meetings are minuted.

During 2019, the Commission met on 6 occasions, all meetings being held in the first half of the year. The replacement members, appointed by the Cabinet in December 2019, did not hold a first meeting until January 2020. Member attendance & total remuneration in 2019 is shown below;

Member (January – May)	# Meetings attended	Remuneration Received CI\$
Rupert Vasquez / designate	6	nil
Stran Bodden / designate	5	nil
Carla Reid / designate	4	400
Teddy Ebanks	6	600
Christina McTaggart- Pineda	3	300
J Robert Bodden	6	600
Ezmie Smith	6	600
Temple Cleveland Tatum	0	0
Elsie Kynes	1	100



Staffing

Under Section 11 Public Lands Law, 2019 the Chief Officer of the Ministry of Lands is authorized to appoint a Secretary to the Commission, a Chief Inspector, and such additional Inspectors as deemed necessary. These appointments are to be employees of the Ministry.

Ms. Jerray Brown is the Secretary to the Commission.



Ms. Jerray Brown, Secretary

On 7th January 2019 the Chief Officer appointed Mrs. Winsome Prendergast as Chief Inspector to the Commission.

No Inspectors were appointed to the Commission in 2019.



Mrs. Winsome Prendergast, Chief Inspector

The Secretary and Chief Inspector are based at the Government Administration Building 133 Elgin Avenue, George Town, Grand Cayman.

The contact details for the Public Lands Commission Secretary are as follows;

Box 108
2nd Floor Government Administration Building
133 Elgin Avenue
George Town Grand Cayman
KY1-9000

Telephone: (345) 244 2467

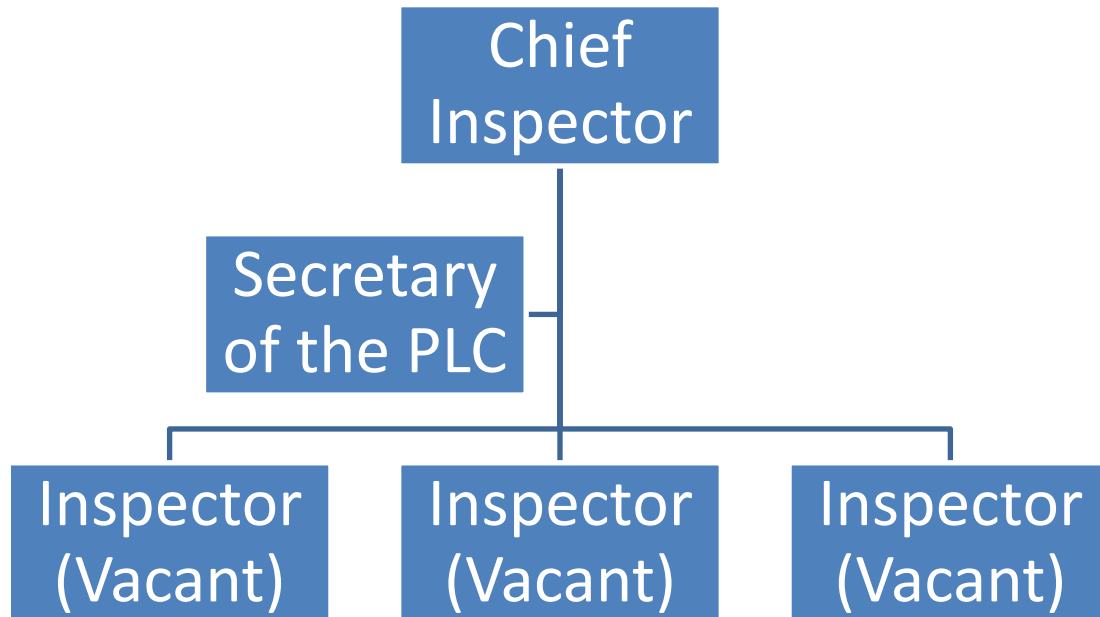
Mobile: (345) 925 5739

Email: PLC@gov.ky

In 2019 the Commission did not have a website, although efforts continue to establish a website through the Computer Services Department.



Organizational Chart – Public Lands Inspectorate



3. Laws, Regulations & Policy

During the year the Public Lands Law, 2017 was amended. The Public Lands (Amendment) Law, 2019 was passed in the Legislative Assembly and assented by His Excellency the Governor. A consolidated version of the primary Law was then published in the Cayman Islands gazette; the Public Lands Law (2019 Revision).

The Public Lands (Amendment) Law, 2019 restructured membership of the Public Lands Commission, such that it shall consist of:

- (a) six Caymanian members of the public, among whom shall be one from George Town, West Bay, Bodden Town, East End, North Side, and Cayman Brac and Little Cayman;
- (b) the Director of Lands and Survey or the Director's designate;
- (c) the Chief Officer of the Ministry of Lands or the Chief Officer's designate;
- (d) the Chief Officer of the Ministry of Tourism or the Chief Officer's designate; and
- (e) the Chief Officer of the Ministry of Commerce or the Chief Officer's designate.

The Cabinet, on the recommendation of the Minister, shall appoint the Chairperson and the Deputy Chairperson from among the six Caymanian members of the Commission who are not civil servants.

A copy of the Public Lands Law (2019 Revision) can be viewed and downloaded online at the Lands & Survey Department's website www.caymanlandinfo.ky as at the time of writing the Commission does not have its own website.

Section 39 of the Public Lands Law gives the Cabinet authority, after consultation with the Commission, to make Regulations. During 2019 Regulations have not yet been passed, although considerable work has been undertaken towards production of a final working draft. It is anticipated that Regulations will be passed by Cabinet soon.

Section 3(3) of the Public Lands Law gives the Minister responsible for Lands, after consultation with the Commission, authority to give such general directions as to the policy to be followed by the Commission in the performance of its functions as necessary in the public interest. During 2019 a policy directive was given to extend the pre-existing Cabinet-approved beach vendor licences until such time as the Cabinet passes Regulations under the Public Lands Law.



4. Operational Overview

Beach Access

The Cayman Islands Government appreciates that the beaches and seashore of the Cayman Islands are an outstanding natural and cultural resource that play an integral social and recreational role for the local population. Therefore, during 2016-2017 the Survey team in the Lands & Survey Department located, inspected and mapped all existing registered and unregistered beach accesses on Grand Cayman, Cayman Brac, and Little Cayman and compiled a comprehensive Beach Access Report. This finalized Report was brought to Cabinet on 13th February 2018 and approved for public release.

The findings from the Survey team are presented in the form of a comprehensive 1,174 page Report detailing each access individually, including photographs and map extracts. The Report has been cross-checked against the Lands Register, and notes the legal width and status of the accesses. In regard to public accesses, the Report notes whether the accesses are clear or obstructed and the nature of any obstruction, and the presence or absence of public beach access signage.

The report can be found online for public viewing on the Lands & Survey Department's website www.caymanlandinfo.ky (Document Library / Beach Access Report) and as a link on the Ministry of Education, Youth, Sports, Agriculture & Lands website www.education.gov.ky. It may also now be viewed in hard-copy binder format at the Lands & Survey Department's public counter on the ground floor of the Government Administration Building, at the Lands Office, Cayman Brac, and at the Post Office, Little Cayman.

The Ministry of Lands anticipates that this report will allow the Commission to:

- 1) Clearly identify and arrange clearance of any registered public rights of way on Crown land that are currently overgrown.
- 2) Arrange erection of beach access signage for all registered public rights of way to the beach.
- 3) Take action under the Public Lands Law 2017 to ensure existing registered public rights of way to the beach over private land are clear and unobstructed.
- 4) Ensure the regular maintenance of all registered public access ways by the Recreation, Parks & Cemeteries Section of the Public Works Department.
- 5) Effectively intervene on behalf of the public to bring disputed cases to the Grand Court in seeking to register prescriptive public rights of way to the beach, by inviting affidavits from the general public evidencing continuous and regular use.

It is expected that the roll out of these initiatives by the Commission will significantly improve public access to the beaches.



Registered Public Rights of Way to the Beach / Seashore

Initial actions taken upon completion of the Beach Access Report were, firstly, to check and clear all registered public rights of way over Crown land, and secondly, to review the signage of these accesses.

The 2017 Beach Access Report found there to be 121 registered public beach accesses in the Cayman Islands, of which only 17 were clear and had identification signage in place. Most of these were clear but unsigned. An updated beach access sign was ordered and roll-out commenced in 2018. A few registered beach accesses still do not have signs erected yet. This is deliberate, in situations such as where the 'beach access' actually leads to iron-shore cliff where diving and swimming is considered dangerous. Custom signage is to be prepared for these rights of way.

It should be noted that where registered public rights of way are classified as obstructed, these rights are over privately-owned land, where pathways may be fully or partially obstructed by mature trees, shrubs, overgrown vegetation and / or utility poles/cabinets. It is unclear if ensuring these rights of way are kept clear is the responsibility of the landowner. Some registered public rights of way were found to be obstructed by man-made obstacles such as fences, walls or structures.

Legal advice received indicated some uncertainty with regards to the extent of the Commission's existing rights to clear obstructions of public rights of way registered over private land. The legal recommendation was to specifically address this in Regulations, ie provide the explicit right for the Commission to enter private land to clear obstructed public rights of way, and to recover associated costs where considered appropriate. As such, the passing of the Regulations is considered a key action required to move forwards with the priority of clearing all obstructed registered pedestrian public rights of way to the beach/shoreline.

During the year the Chief Inspector worked with new condominium strata developer's, such as The Tides in South Sound, to advise on compliance with the planning conditions regarding the provision of public access. Inspections of all registered rights of way were undertaken to assess the extent of any obstructions, and several property owners have been contacted to address obstructions.

Upon the passing of Regulations, the Commission will liaise with the Recreation, Parks and Cemeteries Unit (RPCU) to ensure regular maintenance of all registered public rights of way by trimming vegetation to facilitate public access at all times. The RPCU only maintain a small number of registered public beach accesses at present.

On the initiative of the Chief Inspector, a project commenced to check that all public rights of way to the beach/sea - where to be granted and registered by a developer as a condition of planning consent for development - are in fact registered with the Land Registry and signage is erected on site. Resources permitting, it is intended to check the planning consent granted for all sea frontage development on Grand Cayman, with the priority being Seven Mile Beach.



Finally, the Chief Inspector investigated two instances where newly installed signage was removed or covered by persons unknown, apparently deliberately.

Unregistered Public Rights of Way to the Beach / Seashore

Progress to formally protect public beach access rights through the registration of unregistered prescriptive public rights of way to the beach/shoreline has been facilitated, in principle, by the enactment of recent amendments to the Prescription Law. These amendments enable the Commission to act on behalf of the public to instigate applications to the Grand Court for the registration of prescriptive beach accesses that can be proven to have been used by the public without interruption for at least 20 years. The Commission expects to launch this key project soon by way of a public campaign of evidence gathering.

Commercial Vending

Private commercial vending, generally uncontrolled, has historically been a prevalent issue at certain Crown land locations, in particular at Seven Mile Public Beach and West Bay Public Beach, and from various public docks.

In December 2016 Cabinet approved the issuance of one year licence (permits) to existing Seven Mile Beach, Beach Vendors, to all watersports users of public docks, and to the Cayman Turtle Centre at West Bay Public Beach, pending the forthcoming enactment of the Public Lands Law. This Law would then pass responsibility for authorizing and managing beach vending on Crown land to the Public Lands Commission.

The Public Lands Law came into effect in June 2017 and now requires a vendor who wishes to carry on a commercial activity on public land to apply to the Public Lands Commission for a Permit in respect of each location where the activity is proposed to take place. The Commission may grant Permits for a maximum two year term, and may charge Permit fees in accordance with Regulations. The Commission also has powers of enforcement in this respect under the Law.

The Commission has sought specific policy direction from the Honorable Minister for Lands on the matter of beach vending and the commercial use of public land including docks and parks, for commercial, semi-commercial, promotional, sporting, and Not for Profit events. Notwithstanding policy direction, the Commission is unable to grant vendor permits or charge permit fees until Regulations are passed.

In the interim, on the direction of the Minister for Lands, the beach vendor permits approved by Cabinet prior to the existence of the Commission have been extended until such time as Regulations are passed.



Between January and March 2019, being high tourist season, the Inspectorate of the Public Lands Commission embarked on an exercise to establish the identity of vendors trading from public lands/ beaches, and of those, who were approved and who not. Information was garnered from enquiries conducted from multiple site visits to the beaches on Cruise Ship visiting days, to produce a list of names of persons and companies operating from Seven Mile Public Beach and West Bay Public Beach. Documents were sought from the Lands and Survey Department and the Ministry of Tourism to assist with identifying the vendors approved by Cabinet to be offered licence agreements.

The exercise found that;

- 27 Companies/Trading Names were operating from West Bay and Seven Mile Public Beach (4 West Bay, 23 Seven Mile Public Beach)
- The 27 Entities/Trading names consist of 50 individuals.
- Only 13 persons have a duly executed Vendor's License.
- 4 approved vendors did not sign the Vendor Agreement offered but were still operating.

Seven Mile Public Beach

- 10 Beach Chair vendors
- 5 Wave Runner/ Jet Ski Operators
- 5 Food Truck/Food Vendors
- 1 hair braiding
- 7 unapproved vendors were found to be operating

West Bay Public Beach & Ramp

- 2 Souvenir Vendor
- 1 Beach Chair Vendor
- 1 Coconut Vendor

It is the Commission's intent to regularize the vendor/vending situation, and a policy on this matter is currently awaited from the Ministry so that a strategy can be implemented to control the vendors. In the meantime, the Hon Minister for Lands directed that Cabinet-approved vendors at Seven Mile Public Beach and West Bay Public Beach be granted approval to remain trading from the public land.

The Chief Inspector also investigated the Taxi embarkation / disembarkation situation at Seven Mile Public Beach. It was found to be chaotic and aggressively competitive on busy Cruise Ship days, and steps will be taken to establish order. There is also a problem with vendors leaving storage containers on the beach, which need to be removed.

Seven Mile Public Beach Improvement Works

In 2019 DECCO completed a \$3 million improvement plan to the Seven Mile Public Beach Park, including construction of a 'vendor village' area off the beach to be set aside for the beach vendors to operate from kiosks. The project also included improved landscaping, vehicle parking, entrance wall, walkways, beach football, beach volleyball, and new public restrooms. The Chief Inspector worked to ensure beach vendors and the public safely respected the phased temporary closure of the facility whilst the works were undertaken.





Site Plan - Seven Mile Public Beach Park – Phased Improvement Works - Completed

Condition of Seven Mile Public Beach Park Prior to Improvement Works





Improved facilities and “Vendor Village” – Post Redevelopment





Coastal Works

Under the Public Lands Law, the definition of public land includes the seabed and territorial waters of the Cayman Islands. This expressly excludes Cayman waters designated as marine Protected Areas under Section 7 of the National Conservation Law, 2013.

All coastal works require a permit to be granted by Cabinet or its delegates, under Section 21 of the National Conservation Law, 2013.

The Public Lands Commission has a mandate to issue Permits for commercial use of Crown land. However, the Commission is unable to grant any permits until Regulations under the Public Lands Law are passed.

To date the Commission has confined itself to providing the Ministry of the Environment with comments on applications that the latter prepares for Cabinet, rather than issuing permits, which may only be for a maximum two year duration.

Going forwards, the Commission may ask the Ministry of Lands to recommend that Cabinet clarifies the role expected of the Commission with regards to coastal works, pursuant to Cabinet's authority under Section 40 Public Lands Law.

Enforcement

The effectiveness and enforcement of the Public Lands Law is dependent upon the passing and implementation of Regulations. These regulations are currently under Ministerial review and are expected to be finalized for Cabinet soon.

The Commission will require Inspectorate staffing to take the enforcement action where appropriate, once Regulations are passed. Approval has been sought to fill budgeted Inspectorate posts in 2020. Given the lack of an Inspectorate & Regulations, no penalty tickets were issued during 2018, and thus no fines were collected.

Notwithstanding the lack of Regulations, during the year 2109 the Chief Inspector of the Public Lands Commission dealt with a considerable amount of enforcement matters. While no prosecutions were initiated regarding the identified breaches, there were several warnings issued by the Chief Inspector arising from a lack of public awareness surrounding the Public Lands Commission and its mandate. A public education campaign would be of benefit, to improve public awareness of the functions of the Commission.

The Chief Inspector and the secretary responded to many concerns and queries received from the public throughout the year, principally about beach access, unauthorized beach signage, and unauthorized beach vendors. A report of unauthorized occupation of Crown land in West Bay was received and investigated, and at the time of writing a Report is with the Ministry for instructions. Several reports of encroachment were investigated and resolved. One instance of damage to a public boat dock was investigated & resolved.



5. Finances

During the 2019 financial year the Commission had no funding budgeted specifically to it. As employees of the Ministry of Education, Youth, Sports, Agriculture & Lands, the salaries for the Secretary and Chief Inspector are funded by that entity. The Ministry also funded Commission member remuneration. The Commission has taken possession of a second vehicle, which was purchased in 2018. The Commission has applied for budgeted funding for financial year 2020.

6. Administration / Correspondence

The following table summarizes the quantities of issues that were passed to the Commission in 2019;

Request for Use of Crown Land	Coastal Works	Complaints	Correspondence
15*	7**	4***	206****

*This is a representation of the number of requests received by the Commission regarding the request for use of public lands for events, fundraisers etc.

**The number of Coastal Work Applications submitted to the PLC for their review and comments.

***The approximate number of complaints received regarding public lands and or registered right of ways (Beach Accesses).

****Approximate number of correspondences received by the Commission from members of the public and other Government agencies.



7. Media Coverage

During 2019 there were a total of nine (9) press releases pertaining to the Public Lands Commission and the Public Lands Law.

These reports consist of the following:

- \$3 million Public Beach improvement plan includes ‘vendor village’
- Concerns raised over fencing on Seven Mile Public Beach
- Lands Commission OKs 7MB fencing
- CPA orders 7MB fence moved
- Sign appears on 7MB denying access
- Traders to get slots in public beach revamp
- \$3M 7MB upgrade in final phase
- Beach access signs being erected
- Dart’s vendor huts for 7MB revealed

A public education campaign is to be planned with assistance from the Ministry’s Communications Manager.

