



CPR CAYMAN
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PRESS RELEASE

CPR Statement on Referendum Judicial Review Ruling

19 February 2020

On Wednesday 19 February 2020 Justice Tim Owen, QC issued his ruling in the judicial review challenge brought by Shirley Roulstone, a member of CPR Cayman, challenging the legality of the law enacted by Government to establish the process and procedure for the conduct of the referendum on the proposed cruise ship berthing facility. He found that the law is inconsistent with the requirements of the Cayman Islands Constitution, which confers a right on the people of the Cayman Islands to have referendums that are carried out in a manner that is fair and effective, not just a right to have referendums.

The Grand Court held that the Constitution required the legislature to enact a “general law” governing the conduct of people-initiated referenda rather than a specific law that it can tailor to suit its agenda in any particular referendum because “*Section 70 of the Constitution confers a direct democratic right on the people to veto the policy choices of their democratic representatives*” and “*allowing the democratic representatives to change the ground rules every time there is a referendum risks the rules being changed to promote their policy choice*”.

This decision shows that your voice counts and that your vote in the referendum will count. The citizens of the Cayman Islands can challenge the Government and challenge the status quo to bring about a precedent setting, positive outcome that protects the democratic rights of all citizens.

Shirley Roulstone was represented in the judicial review by Kate McClymont of Broadhurst LLC. Ms. McClymont stated: “*The fairness and effectiveness of referenda, like elections, is one of the cornerstones of democracy. This is a landmark decision that is likely to result in the referendum on the proposed cruise ship berthing facility, and future people-initiated referenda, being conducted more fairly than would otherwise have been the case. Provided the Legislature adopts the recommendations made by the Hon. Justice Owen QC, it is also likely to result in the public being provided with more balanced information on which to make an informed decision when the time comes to vote in the referendum*”.

The decision of the Court requires the Government to draft a general law that provides a framework for the conduct of all people-initiated referenda and made recommendations regarding some types of provisions that should be included in that law to protect the people’s constitutional right to have referendums conducted fairly. The Government has acknowledged that it would be preferable to have a general law in place, rather than passing specific legislation for each



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referendum as it did in this case, and that is has already started the process of drafting the type of general law that the court has said is required. Despite this, they have also indicated their intention to appeal today's judgment.

Whether or not their appeal is successful, it appears the legislative is likely to pass a general framework law for the conduct of referenda. We encourage our elected officials to engage with stakeholders and seek input on the drafting before passing the next Referendum Bill into law; the next referendum legislation should strive for the highest standards of good governance and to provide equality, fairness, transparency, objectivity on the part of Government.

CPR's Johann Moxam said: *"We would like to thank Shirley Roulstone for her bravery, tenacity and dedication to her country as a humble, concerned citizen. She stood up against an attempt at injustice at the highest level and won. We are proud to include her amongst our executive committee and to have her represent us and the people of the Cayman Islands in this important case"*.

Ms. Shirley Roulstone said: *"Today's ruling is proof that citizens can and must monitor the actions of their Government and be ready to challenge the Government when its action or inaction is contrary to the standards of fairness, good governance and democracy that we have the right to expect"*. She added *"I would like to thank my legal team, Kate McClymont and Richard Parrish of Broadhurst LLC and Chris Buttler and Helen Mountfield QC of Matrix Chambers, for having the conviction to represent me despite political adversity and for providing clear, logical and legally sound advice throughout this process. I would also like to sincerely thank The National Trust for joining the judicial review proceedings as an interested party and providing important evidence on the devastating environmental impact that the proposed cruise berthing facility will have and the way the Government has mislead the public about that impact."*

The issue of the proposed cruise berthing project, which brought more than 6,000 registered voters out to petition for a referendum, remains a current and critical threat to our islands. We are more convinced than ever that we can reach the threshold of >50% of registered voters voting NO in the referendum, which will prevent the Government proceeding with the project. All it takes is for the people of these islands to exercise their right to vote. Shirley has proven through today's decision that one person can make a difference. Your vote will count!

To ensure every Caymanian has the information they require to make a fully informed decision when it comes time to vote in the referendum we ask the Government to commission a fully updated environmental impact statement on the revised project, in consultation with the Department of Environment and the National Conservation Council, and encourage the Governor



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to convene a public enquiry to examine the economic, environmental and social implications of the proposed facility. We also ask that the elections office start now on the preparation of a document addressing the procedures and practices for the referendum including, amongst other things, economic assistance for overseas voters to return ballots; the need to audit the electors list to remove deceased persons, mentally impaired persons and anyone else not entitled to vote; the procedure to ensure anyone needing mobile voting assistance is provided with that assistance; a clear indication to employees of public authorities and statutory authorities that they have the right to campaign for either a “yes” or “no” vote without fear of retribution, recognizing that they are distinct from core civil servants and not bound to impartiality.

Finally, as we draw closer to an election year, CPR would like to acknowledge that it is not opposed to the referendum being held at the same time as the next general election, in May 2021. Campaigning, whether for a general election or a referendum takes government focus and energy away from the many other pressing social and economic issues currently faced by the community. There is therefore an economy achieved by consolidating those two campaigning periods into one.

As a non-profit organisation, we are guided by the principles of accountability, transparency and good governance and we will continue to question the referendum process and advocate to ensure the referendum is conducted fairly.

For more information the public can contact cprcayman@gmail.com or visit www.cprcayman.com

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