

BERMUDA

DISCOVER HOW THE JEWEL OF THE ATLANTIC IS SEALING
A SPARKLING FUTURE AS A LEADING OFFSHORE JURISDICTION





A very warm welcome

Jonathan Dunlop introduces the supplement and contemplates Bermuda's increasing prominence on the global economic stage



*I feel privileged to have the opportunity to introduce this Bermuda supplement to the *STEP Journal*. It is the product of efforts from across Bermuda, and*

elsewhere, as you will see from our contributors. On behalf of our STEP branch, I would like to thank our writers and our sponsors. I would also like to thank the Bermuda Association of Licensed Trustees (BALT) and Bermuda's Business Development Association (BDA) for co-sponsoring this publication, along with STEP Bermuda.

In recent years, members of the Bermudian trust and private client industry have started working together to develop, improve and market Bermuda. Their efforts have been decidedly successful. We have new legislation. We sponsored the STEP Private Client Awards 2013/14 in London, the Transcontinental Trusts 2014 conference in Geneva, and the STEP LATAM Conference 2014 in Mexico City this year, and we are in the process of developing plans to expand our reach further into Asia in 2015.

Changes in the world economy in recent years have led to an expansion in Bermuda's global profile. While we continue to value established markets in the US, the UK and Europe, Bermuda is increasingly attracting business from Asia and Latin America. The quality and reliability of Bermuda's regulatory structure, coupled with its proximity to the US, makes it a valuable international partner in the world economy. And Bermuda's stable legal environment reflects the jurisdiction's close relationships with the UK (the Privy Council in London being our final court of appeal) and thus

offers familiarity and predictability to the international business community.

The trust industry has worked closely with government over the past year on a range of legislative reforms. New legislation on settlor reserved powers and a statutory *Hastings-Bass* rule has recently come into force, and it will allow us to better serve families in regions beyond our traditional markets, as discussed in this supplement.

I had hoped for an opinion piece from one of Bermuda's famous resident Michaels – Douglas or Bloomberg – on the joys of Bermuda's beaches and rum swizzles. This did not prove possible but we did manage to get an article from another famous Michael, the Hon Michael Dunkley JP, MP, our Premier, and a strong supporter of our industry. Premier Dunkley opened our local STEP conference two years ago and we hope to welcome him back in future.

Bermuda is lucky to have many supporters around the word. Our hope is that, with this publication, those STEP members who are not already aware of Bermuda's charms and sophistication will become interested in how we are adapting to a new business environment, and how we can do business together.

I have worked in the trust industry since 1994. The changes since then are too many to list here. Many, but not all, have strengthened our industry. For smaller international centres, the future is about quality and reputation. We have a long, proud history of providing sophisticated and innovative financial and professional services to international businesses and families, and we hope and expect that to continue long into the future.

JONATHAN DUNLOP IS DIRECTOR OF WEALTH PLANNING FOR HSBC PRIVATE BANK, BERMUDA AND CHAIR OF STEP BERMUDA

Contents

- 04** **Open for business**
Michael Dunkley, Premier of Bermuda, on reforms that will keep the jurisdiction at the head of the pack
- 06** **Hastings-Bass rule reborn**
Alec Anderson and Andrew Holden welcome new legislation
- 10** **Super-powered settlors**
Alec Anderson examines Bermuda's innovative legislation on reserved powers
- 12** **Advantage Bermuda**
Bermuda's variation of trusts legislation gives it the edge over England and Wales, write Keith Robinson and Anthony Poulton
- 14** **Asian aspirations**
Joe Field explains Bermuda's appeal for Asian clients
- 17** **Why Asia trusts in Bermuda**
Nicholas Jacob on why Asian families are looking offshore
- 19** **Sun, sand and succession planning**
Edmund W Granski, Jr on Bermuda's offering for Latin American families
- 21** **A cut above**
Ross Webber investigates the ingredients that make Bermuda a top trust jurisdiction
- 22** **Islands of opportunity**
Penny MacIntyre and Fozeia Rana-Fahy note rising interest in Bermudian commercial property



Islands of opportunity

Bermudian commercial properties are proving increasingly alluring to foreign individuals and corporations, write **Penny MacIntyre** and **Fozeia Rana-Fahy**

An increasing number of high-net-worth individuals are considering commercial real estate opportunities in Bermuda. Investors and developers are being attracted by the chance to get value for money, with a handful of trophy commercial properties selling for highly competitive prices over the past 30 months, such as:

- The 32-acre, three-beach property formerly operated for 35 years as Sonesta Beach resort. Bermuda's Green family purchased the freehold in 2013 for almost a third of the anticipated trading price, closing at USD10.5 million.
- The long-lauded private Coral Beach and Tennis Club and Horizons and Cottages properties, which combined cover 52 acres, sold at the end of 2013 as a leasehold interest to US-based Three Wall Capital and ROC Group.
- The Pink Beach Club and Cottages, a beach cottage colony, was sold to Sardis Developments Ltd for USD12.5 million, and will be redeveloped as a boutique hotel.

Other signs of interest in the tourism sector include the Desarrollos Hotelco Group being awarded the development opportunity for the old Club Med site in St George's. Similarly, there is international interest in the Rosewood Tucker's Point resort (currently in receivership) and the proposed development of Ariel Sands.

High-net-worth individuals and companies are also considering city-centre commercial properties (from USD800,000 to USD14 million for retail and office buildings,

and potentially upwards of USD40 million for new-to-market properties).

LEGISLATIVE CHANGE

Recent legislation allows companies to wholly own the commercial properties they occupy.

While high-net-worth individuals were already able to individually purchase residential properties with an annual rental value (ARV) of USD177,000 and above, on 27 March 2014 the Bermuda government enacted the *Companies Amendment Act 2014*, affecting the ability of local and exempt companies to acquire land in Bermuda.

Under previous legislation, exempt companies were only able to acquire land by way of a lease or tenancy agreement. Subject to ministerial consent and other provisos set out in an accompanying policy issued by the Bermudian government (e.g. restrictions regarding renting to third parties), the recent changes allow for the following:

- local and exempt companies can now acquire residential properties with an ARV of USD177,000 and above;
- local and exempt companies can now hold commercial property if it is to be used for business purposes;
- local companies may acquire and hold land that is defined as mixed-use property (i.e. a combination of offices and residential units).

This legislative change, in tandem with changes to immigration policy in Bermuda (e.g. the introduction of the global work permit) and immigration law (e.g. amendment to the *Incentives for Job Makers*

Act 2011), has helped to promote Bermuda as a more competitive jurisdiction in which to undertake business and make investments, by making it easier, for instance, for certain senior executives to obtain work permit exemptions and in certain circumstances to qualify for long-term residency.

The Bermudian government this year has also started investigating the possibility of allowing commercial immigration, potentially opening Bermuda's doors to an increasing number of high-net-worth individuals who wish to distribute their wealth in, and obtain access to, another jurisdiction with a strong regulatory and legal reputation.

Bermuda's private client industry, property industry and government all continue to work together to develop opportunities for individual and corporate investment in Bermuda. As Mark Twain said: 'You can go to heaven if you want. I'd rather stay in Bermuda.'



PENNY MACINTYRE IS EXECUTIVE VICE PRESIDENT AT REGO SOTHEBY'S INTERNATIONAL REALTY



FOZEIA RANA-FAHY IS DIRECTOR AT MJM LTD

STEP

Society of Trust and Estate Practitioners, Artillery House (South), 11-19 Artillery Row, London SW1P 1RT

t +44 (0)20 7340 0500

f +44 (0)20 7340 0501

www.step.org

www.twitter.com/STEPsociety

Managing Editor Hannah Downie

e editor@step.org

Editor-in-Chief Louise Polcaro

Lead Editor Jonathan Dunlop

Editorial Board Stephen Arthur,

Stanley A Barg, Maureen Berry, Nicholas Dale, Thomas Dumont, Chris Erwood, Martyn Gowar, Rosemary Marr, Simon Rylatt
Chief Executive David Harvey

Think

The Pall Mall Deposit, 124-128 Barby Road, London W10 6BL

t +44 (0)20 8962 3020

f +44 (0)20 8962 8689

www.thinkpublishing.co.uk

Publisher Polly Arnold

Account Manager Kieran Paul

Senior Sub-editor Charles Kloet

Senior Designer Clair Guthrie

Group Advertising Manager Tom Fountain

t +44 (0)20 8962 1258

e tom.fountain@thinkpublishing.co.uk

© 2014 Society of Trust and Estate Practitioners.

All rights in and relating to this publication are expressly reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means without written permission from STEP. The views expressed in this supplement are not necessarily those of STEP and readers should seek the

guidance of a suitably qualified professional before taking any action or entering into any agreement in reliance upon the information contained in this publication.

Whilst the publishers have taken every care in compiling this publication to ensure accuracy at the time of going to press, neither they nor STEP accept liability or responsibility for errors or omissions therein however caused. STEP does not endorse or approve any advertisement and has no liability for any loss caused by any reliance on the content of any such advertisement.

Print Wyndeham Southernprint