

## **“THE BARBADOS REVENUE AUTHORITY IS ACTING ULTRA VIRES”**

The Barbados Revenue Authority has taken a policy decision that it will not issue a land tax certificate evidencing the fact that all current and arrears of land taxes due on property have been paid to Government until the owner of that property has paid the municipal solid waste tax being now levied on that property.

The major and immediate direct implication of this stance is that no sale or other transfer of property in Barbados can be completed until the municipal solid waste tax being now charged thereon has been paid since, under the Land Tax Act, the Registrar of Titles can only stamp and record the document of sale or transfer if a valid land tax certificate is produced.

The Authority is clearly acting ultra vires in law by taking this policy decision. The Municipal Solid Waste Tax Act has not given it the legal power to adopt this position. The Authority cannot act on its own whim and fancy outside of the laws as enacted by the Parliament of this country.

Furthermore, the Minister of Finance, who has cabinet responsibility for the Authority, has been at pains on numerous occasions to contend that this municipal solid waste tax, easily one of the most pernicious taxes ever passed in the 375 years of Barbados' parliamentary history, is not a land tax. He immediately ought to, as he is empowered to do under the new Act, give written directions to the Authority that it has no legal power whatsoever to adopt such a policy that is so contrary to and is in breach of the existing Laws of Barbados. Again, under the new Act, the Authority will have to comply with his directions.

The Authority will surely very shortly be the Respondent in a Court case brought under administrative law if it does not reverse its stance in the very near future. This will certainly incur very high legal costs to the Government when the Authority loses the case.

On another but connected issue, Minister Sinckler during his interview last Sunday has given the public the impression that the Municipal Solid Waste Tax Act has to be given parliamentary approval to be extended beyond one

year. That impression is erroneous since nowhere in the Act does it say that it will only be of one year's duration. What the Order which was made under the Act by Minister Sinckler on 12<sup>th</sup> May this year says is that the rate of the tax at 0.3 per cent of the site value of improved land shall be applicable for one year between 1<sup>st</sup> April this year and 31<sup>st</sup> March next year. The Finance Minister can in fact either lower or raise this percentage rate without parliamentary approval.

The only parliamentary approval which he requires is to repeal the Act which we in the Opposition will readily agree to and support at next Tuesday's sitting of Parliament.

**July 10, 2014**

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