



GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

DEPARTMENT OF PLANNING AND NATURAL RESOURCES

**Coastal Zone Management Division
4611 Tutu Park Mall Ste. 300
St. Thomas, U.S. Virgin Islands 00802**

Telephone: (340) 774-3320

Fax: (340) 714-9524

ASSIGNMENT

Major CZM Permit Nos. **CZT-127-88(L) and CZT-02-08(W) ("Permits")**

Permit Holder: **Sugar Bay Club & Resort Corp. ("Assignor")**

Assignee: **DV USVI Investment LLLP ("Assignee")**

- I. **AUTHORITY:** This Assignment applies to Major CZM Permits Nos. CZT-127-88(L) and CZT-02-08(W) and is requested pursuant to the Virgin Islands Code, title 12, section 910(e)(12) and the Virgin Islands Rules and Regulations, title 12, section 910-15. The Assignment is effective on the date of the signature by the Commissioner of the Department of Planning and Natural Resources ("DPNR").

II. **SCOPE:**

CZT-127-88(L) – This permit authorizes the construction of a 300 room – three (3) and four (4) story hotels; two (2) restaurants and bars with a seating capacity of 486; banquet and conference facilities with a total seating capacity of 800; 10 retail stores (5,000 sq. ft. maximum); seven (7) tennis courts; one (1) swimming pool; a desalination plant, maintenance facilities; a sewage treatment plant; off street parking for 502 vehicles and site improvements per Master Site Plan, drawn by Archeon, Inc. on Parcels Nos. 2A, 2B, 2C, and 2 Remainder, Estate Smith Bay, St. Thomas, Virgin Islands.

CZT-02-08(W) – This permit allows the Permittee to construct an "L" shaped pier approximately ninety (90) feet long (with 80 feet seaward on the shoreline) and eight (8)

feet wide to be composed of 2" x 6" wood decking. The project is located at Plot No. 2, Estate Smith Bay, St. Thomas, U.S. Virgin Islands. The pier will be placed along the rocky shoreline, east of the beach area.

This Assignment releases the Assignor from permit compliance requirements and places permit compliance requirements with the Assignee.

- III. TERM: This Assignment is effective upon the Director's written acceptance of the documents submitted and written consent of the Commissioner of the Department of Planning and Natural Resources, pursuant to V.I. Rules & Regulations, Title 12, Section 910-15.

CZT-127-88(L) became effective on July 3, 1989, and the transfer to Sugar Bay Club and Beach Corp. became effective on January 27, 1997.

CZT-02-08(W) became effective on November 23, 2010.

- IV. ASSIGNOR: The Assignor has filed their requests to assign the Permits to Assignee. All documents required by 12 V.I.R.R. § 910-15(b) have been received by the Department of Planning and Natural Resources Division of Coastal Zone Management.
- V. ASSIGNEE: The Assignee's mailing address is ATTN: George Dudley, Dudley Newman & Feuerzeig, 1000 Frederiksberg Gade, Charlotte Amalie, St. Thomas 00801.

The Assignees have executed all documents required in accordance with 12 V.I.R.R. § 910-15(b).

- VI. CONDITIONS OF PERMIT: The Assignee must comply with all conditions of the original and assigned Permits.

VII. DOCUMENTS INCORPORATED BY REFERENCE FOR CZT-127-88(L):

- a. Application for consent to Assign or Transfer of Minor CZM Permit No. CZT-127-88(L).
- b. Fee receipt of FIVE HUNDRED and 00/100 DOLLARS (\$500.00) for the Assignment of the permit.
- c. Assignor's Affidavit dated February 03, 2023.
- d. Assignee's Affidavit dated February 08, 2023.

e. Copy of Major CZM Permit No. CZT-127-88(L).

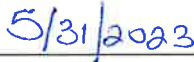
VIII. DOCUMENTS INCORPORATED BY REFERENCE FOR CZT-02-08(W):

1. Application for consent to Assign or Transfer of Minor CZM Permit No. CZT-02-08(W).
2. Fee receipt of FIVE HUNDRED and 00/100 DOLLARS (\$500.00) for the Assignment of the permit.
3. Assignor's Affidavit dated February 03, 2023.
4. Assignee's Affidavit dated February 08, 2023.
5. Copy of Major CZM Permit No. CZT-02-08(W).

IX. APPROVAL: I have accepted the documents submitted in support of the application for the Assignment of the Permits.

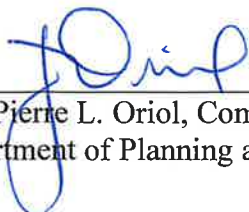


Marlon Hibbert, Director
Coastal Zone Management

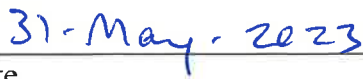


Date

The Assignment/Transfer of the Permits is hereby **APPROVED** pursuant to Virgin Islands Rules and Regulations, Title 12, Section 910-15.



Jean-Pierre L. Oriol, Commissioner
Department of Planning and Natural Resources



Date

ADDENDUM I

Additional Special Conditions for CZM Permit No. CZT-02-08(W) in accordance with 12 V.I.R.R. §§ 910-15(e) and 910-14(b)

1. If the dock or any portion of the dock for CZM Permit No. CZT-02-08(W) is rebuilt in the future, the Permittee must immediately contact the Department of Planning and Natural Resources Division of Coastal Zone Management ("CZM") for the renegotiation of permit fees. If the dock or any portion of the dock has already been rebuilt, Permittee must also immediately contact CZM for renegotiation.

RECEIVED
VICZM PROGRAM



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

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DEPARTMENT OF PLANNING AND NATURAL RESOURCES

Division of Coastal Zone Management

Charles Wesley Turnbull Regional Public Library
4607 Tutu Park Mall
St. Thomas, Virgin Islands 00802
Telephone (340) 774-3320

No. 45 Estate Mars Hill, Frederiksted
St. Croix, Virgin Islands 00840-4477
Telephone: (340) 773-1082
Website: dpnr.vi.gov

APPLICATION FOR CONSENT TO ASSIGN OR TRANSFER A COASTAL ZONE PERMIT



MAJOR PERMIT



MINOR PERMIT

Sugar Bay Club & Resort Corp.

Name of Applicant-Current Permit Holder

CZT-127-88 (L)

Permit Number and Expiration Date

DV USVI Investment LLLP

Name of Assignee (Person transferring the Permit to)

Mailing Address:

George Dudley

Dudley Newman & Feuerzeig

1000 Frederiksborg Gade, Charlotte Amalie, St. Thomas 00801

Physical Address:

Same

Tel: (340) 774-4422

Email: gdudley@dnfvi.com

State Why You Wish Permission to Assign or Transfer:

The property that is the subject of the Major CZM Permit is being sold from the Assignor to the Assignee



Signature of Applicant-Current Permit Holder

Joseph Moinian

Print

Please attach the Application Fee or Receipt: \$500.00 for Major Permit, \$50.00 for Minor Permit. Make Certified Check or Money Order payable to the Department of Planning and Natural Resources.

*Required Supporting Documents:

- Proof of Legal Interest of all Assignees. (If transfer stems from bankruptcy, then a copy of all papers filed in the bankruptcy must be attached).
- Assignor's affidavit requesting assignment and transfer.
- Assignee's affidavit stating that they have read and are familiar with the permit and will comply with all the terms and conditions of the Permit.
- Tax clearance letter from the Bureau of Internal Revenue
- Property tax clearance letter from the Lieutenant Governor's Office.
- Corporations and Associations: Certificate of Good Standing or equivalent, organizational documents & amendments (Articles, Bylaws, Operating Agreement, Declarations, etc.)



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES
DEPARTMENT OF PLANNING AND NATURAL RESOURCES
Coastal Zone Management Program
4011 TURTLE PARK MALL, STE 200
ST. THOMAS, VI 00802

Tel: (340) 774-1120

Fax: (340) 714-9534

Date: 2/22/2022

Applicant/Payee: DV USVI Investment LLP

Please Verify:

Application Fee (Major/Minor)

☐

Amount: _____

Modification (Major/Minor)

☐

Amount: _____

Permit/Lease Number: _____

~~(Major/Minor)~~

Transfer/Assignment/ Amendments

☒

Amount: \$ 500.00

Permit/Lease Number: (2T-127-88LL)

Submerged/ Filled Land Lease

☐

Amount: _____

Check No: _____

Permit Plaques

☐

Amount: _____

Permit/Lease #: _____

NOVA Violations:

☐

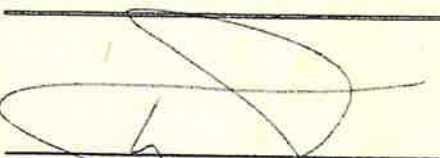
Amount: _____

Number of Copies: _____

☐

Amount: _____

Permit/Lease #: _____


Office Personnel's Signature

FOR OFFICIAL USE ONLY


Cashier's Signature

4931174
Receipt Number:

02/23/22



AFFIDAVIT

I, JOSEPH MOINIAN, in my capacity as President of SUGAR BAY CLUB & RESORT CORP., a U.S. Virgin Islands corporation in good standing, being duly sworn, depose and state as follows:

1. I am an adult resident of New York City, State of New York and I am competent to make this Affidavit.
2. SUGAR BAY CLUB & RESORT CORP ("SUGAR BAY"), is the permit holder of the following Permits issued by the Virgin Islands Department of Planning and Natural Resources:
 - Major Coastal Zone Management Permit No. CZT-2-08(W)
 - Major Coastal Zone Management Permit CZT-127-88(L)

concerning the following real property;

Parcel No. 2 Remainder (30.1 U.S. acres) of Estate Smith Bay, Nos. 1, 2 and 3 East End Quarter, St. Thomas, U.S. Virgin Islands, as shown on P.W.D. Drawing No. D9-1394-T78 dated April 7, 1978; and Parcel No. 2A (0.50 U.S. acre) 2B (0.50 U.S. acre) and 2C (0.50 U.S. acre) of Estate Smith Bay; Nos. 1, 2 and 3 East End Quarter, St. Thomas, U.S. Virgin Islands, as shown on P.W.D. Drawing Number D9-1184-T73 dated October 29, 1973

3. Pursuant to the sale of the Property on February 8, 2022 from SUGAR BAY to DV USVI INVESTMENT LLLP, SUGAR BAY hereby requests the assignment and transfer of the aforescribed Permits to DV USVI INVESTMENT LLLP.



SUGAR BAY CLUB & RESORT CORP.


Joseph Moinian, President, duly authorized

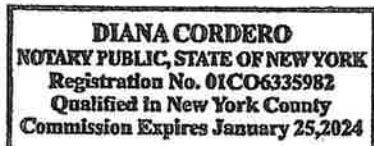
ACKNOWLEDGMENT

STATE OF NEW YORK)
BOROUGH OF MANHATTAN)

The foregoing Warranty Deed was acknowledged before me this 3rd day of February 2022, by JOSEPH MOINIAN, known to me and known to be the person who executed the foregoing instrument, in his representative capacity as the President of Sugar Bay Club & Resort Corp., and he acknowledged to me that he executed the same for the uses and purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(Notary Seal)




Notary Public
My commission expires: January 25, 2024

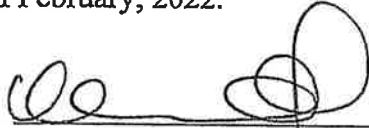


DV USVI INVESTMENT LLLP
By: D&V Management LLC

By: 
Digvijay "Danny" Gaekwad, Member

DATED: February 8, 2022

Subscribed and sworn to before me this 8 day of February, 2022.


Notary Public

William S. McConnell
My Commission Expires November 17, 2022
LNP-40-18

MAJOR COASTAL ZONE PERMIT NO. CZT-127-88L

1. **AUTHORITY.** This permit is issued by the Department of Planning and Natural Resources of the Government of the Virgin Islands (hereinafter "The Department") on behalf of the Coastal Zone Management Commission pursuant to Title 12, Chapter 21, Virgin Islands Code. As herein, "Permitter" is the Government of the Virgin Islands and "Permittee" is KRISCH AMERICAN INNS.

2. **SCOPE.** This permit authorizes the construction of a 300 room -three (3) and four (4) story hotels; two (2) restaurants and bars with a seating capacity of 486; banquet and conference facilities with a total seating capacity of 800; 10 retail stores (5,000 sq. ft. maximum); seven (7) tennis courts; one (1) swimming pool; a desalination plant, maintenance facilities; a sewage treatment plant; off street parking for 502 vehicles and site improvements per Master Site Plan, drawn by Archeon, Inc. on Parcels Nos. 2A, 2B, 2C, and 2 Remainder, Estate Smith Bay, St. Thomas, Virgin Islands.

3. **TERM.** This permit is effective upon its signing by the Chairman of the St. Thomas Committee of the Coastal Zone Management Commission, pursuant to V. I. Code, Title 12, Chapter 21. Authorization for construction under this permit shall expire if the Permittee fails to commence work within twelve (12) months from the date this permit becomes effective.

4. **DOCUMENTS, INCORPORATED BY REFERENCE.**

Exhibit A - Letter of Application to Commissioner dated September 8, 1988.

Exhibit B - Environmental Assessment Report prepared by W.F. McComb Engineering dated August, 1988, Revised December, 1988.

Exhibit C - Cultural Resources Survey, Phases IA and IB prepared by OSM Archaeological Consultants, Inc. dated February, 1989.

Exhibit D - Master Site Plan
Typical Guest Rooms and Hillside Section
Restaurant Floor Plan
Typical Elevations and Cross Sectional Views



5. GENERAL CONDITIONS.

- (a) **Liability.** The Permittee agrees to assume full and complete responsibility for all liability to any person or persons, including employees, as a result of its control of the area described in paragraph 2 of this permit, and all improvements thereon (which area and improvements are hereinafter referred to as "the premises"), and to hold the Permitter free and harmless for civil or other liability to any kind during the time the Permittee is in control of the premises-pursuant to this permit.
- (b) **Personal Property and Damage.** All personal property of any kind or description whatsoever located on the premises shall be there at the Permittee's sole risk.
- (c) **Assigned or Transfer.** This permit may be transferred or assigned as provided in Section 910-15 of the Regulations of the Coastal Zone Management Act.
- (d) **Permit to be Displayed.** A placard evidencing the permit shall be posted in a conspicuous place at the project site during the entire period of work.
- (e) **Reliance on Information and Data.** The Permittee affirms that the information and data which it provided in connection with its permit application is true and accurate, and acknowledges that if subsequent to the effective date of this permit such information and data proves to be false or inaccurate, the permit may be modified, suspended or revoked in whole or in part, and that the Commissioner or the Committee may, in addition, institute appropriate legal action.
- (f) **Development to be Commenced.** Any and all development approved by this Coastal Zone Permit shall be commenced within twelve (12) months from the date this permit becomes effective. Failure to perform substantial work within such period and thereafter until the completion of construction shall cause the permit to lapse and render it null and void unless an extension is granted by the Committee.
- (g) **Notification of Completion.** Upon completion of any activity authorized or required by this Coastal Zone Permit, the Permittee shall promptly so notify the Director of the Division of Permits ("The Director") and, where the services of a professional engineer

where required in undertaking the activity, a certificate of compliance provided by the project and all applicable Virgin Islands Code required have been met, shall be filed with the Director.

- (h) Inspection. The Commission, its Committee, the Commissioner or their authorized agents or representatives shall have the power to enter at reasonable time during projects working hours upon any lands or waters in the coastal zone for which this Coastal Zone Permit has been issued. The Permittee shall permit such entry for the purpose of inspection and ascertaining compliance with the terms and conditions of said Coastal Zone Permit. The Permittee shall provide access to such records as the Commission, its Committee, or the Commissioner in the performance of its or duties under the Act may require the Permittee to maintain. Such records may be examined and copies shall be examined and copies shall be submitted to the Commission, its Committee or the Commissioner upon request.
- (i) Conditions of Premises. The development authorized by this permit shall be maintained in a safe, attractive and satisfactory condition and in accordance with the description, plans or drawings approved by the Committee.
- (j) Public Access to Shoreline. To be consistent with Section 910-10(9) of Title 12, V.I. Code, Chapter 21 Rules and Regulations, the development shall not be operated so as to unreasonably restrict public access to any recreational areas of the shoreline.
- (k) Restoration of Area. The Permittee, upon revocation or expiration of the permit, shall upon order of the Committee or the Commissioner, and in their sole discretion, remove all structures authorized by the permit and restore the area to its original condition, and/or modify such structures, and/or comply with any directive of the Committee or the Commissioner in satisfying the original permit condition in such time and manner as the Committee or the Commissioner may direct.
- (l) Notices. All notices sent or required to be sent hereunder must be certified mail, return receipt requested. If addressed to the Permittor, same shall be sent to the Commissioner of the Department of Planning and Natural Resources, Nisky Center, Suite 231, St. Thomas, U.S. Virgin Islands, 00804

or to such other place as the Permitter, may hereinafter designate by certified mail. If addressed to the Permittee, same shall be sent to such place as the Permittee may hereinafter designate by certified mail, return receipt requested.

- (m) Nonwaiver. One or more waiver by the Permitter of any covenant or condition of this Permit shall not be construed as a waiver of a further breach of the covenant or condition, and the consent or approval of the Permitter to or of any acts by the Permittee requiring the Permitter's consent or approval shall not be construed as approval of any subsequent similar act by the Permittee.
- (n) Revocation. It is specifically understood that all the foregoing covenants and agreements, as well as other terms and special conditions hereby agreed to by Permittee and that any failure by Permittee to keep same will result in revocation of this Permit.
- (o) Other Approval. If the development covered under this permit requires separate and distinct approval from the United States Government or any agency, department, commission or bureau thereof, then no development is allowed under this permit until such permits or approvals have been obtained.
- (p) Abandonment. If the Permittee abandons, deserts or vacates the premises for a period totalling six (6) consecutive months without written notification to the Director and receipt acknowledge, then the permit will terminate automatically and be rendered null and void.
- (q) Damage and Repair of Premises Described in Paragraph 2.
 - (i) In the event of damage to or destruction of the premises described in Paragraph 2 hereof, repair work may be done only after a request to do so has been submitted in writing has been to the Department and permission in writing has been granted. Repair must duplicate the original work, and must be in accordance with applicable law, rules and regulations.
 - (ii) General maintenance or repair resulting from normal wear and tear of operations may be carried out as a matter of right under this

it, but must be limited to the structural portion of the premises.

6. SPECIAL CONDITIONS.

1. Should Phase II investigations necessitate the redesign or relocation of any project facilities and infrastructure, the revisions shall be submitted to DPNR for processing as a permit modification.
2. The Permittee shall survey the site for the presence of rare and endangered species in conjunction with the Division of Fish & Wildlife. The survey and any mitigating measures shall be accomplished prior to issuance of building permits.
3. A detailed drainage, erosion control, and sedimentation plan shall be submitted to the V.I. Soil and Water Conservation District and the Office of Technical Review for review and approval prior to issuance of building permits. The plan shall include:
 - a. Oily water separators and a maintenance schedule for all parking areas.
 - b. A sedimentation pond at the seaward end of the tunnel under the lagoon.
 - c. Detailed drawings of the tunnel, including clean out points. A maintenance schedule shall also be included.
 - d. Provisions for erosion and sedimentation control during and post construction.
4. The full extent of the former dump shall be delineated. This area shall be tested for methane gas, EPA listed toxics, heavy metals, etc. as approved by the Division of Environmental Protection. Any disturbance and construction in this area shall be subject to Division of Environmental Protection requirements. The testing shall be completed prior to issuance of building permits. Should further testing require the relocation of facilities on the site, the revised locations shall be submitted as a permit modification.
5. The design, installation, and sizing of the sewage treatment plants, electrical generators, and desalination plant shall be approved by the Division of Environmental Protection prior to commencement of construction. All necessary Division of Environmental

Protection permits shall be obtained and copies provided to the Division of Permits prior to occupancy of any project facilities.

6. The electrical generators shall be muffled to reduce noise impacts. Operating noise levels shall be subject to Department of Environmental Protection approval.
7. A Fire Protection Plan for the project shall be approved by the V. I. Fire Service prior to issuance of building permits. The plan shall certify that all access roads are wide enough for fire trucks, constructed to support the weight of the trucks, and that the pedestrian walkway between the 3 and 4 story structures has an unobstructed width to accommodate fire service trucks. All buildings shall be fully sprinklered.
8. The Permittee shall record and dedicate to the public a pedestrian access right-of-way from the parking lot to the beach along the access roadways. Signs shall be posted in the parking lot informing the public that free public access to the beach is available, that free jitney service is available to the beach, and directing the public to the access right of way.
9. Free jitney service shall be available to the public all reasonable hours to all public structures on the property.
10. There shall be no gate, gatehouse, or guardhouse on this property.
11. The Permittee shall obtain a driveway permit from the Department of Public Works prior to issuance of building permits.
12. The 3 and 4 story hotel structures shall be divided into at least 4 separate structures with a 35' landscaped area between structures.
13. A detailed landscaping plan including a tree survey and delineation of the nursery shall be submitted to the Committee for review prior to issuance of building permits. All major trees to be removed shall be placed in the nursery for subsequent replanting on site. No trees shall be sold. The landscaping plan shall include a buffer

streets between the eastern property line and the service roadway. Landscaping shall be substantially complete prior to a Certificate of Occupancy and completed within sixty (60) days from the Certificate of Occupancy.

14. A new survey of the MHWL shall be submitted before the permit becomes effective. All structures, pool decks, and water sports storage areas shall be a minimum of 50' from the MHWL. The final site plan shall also specify a distance to upland monumentation for any structures in proximity to the 50' setback.
15. No placement of sand is permitted seaward of the MHWL. The location of any sand placement shall be approved by staff prior to placement. No sand shall be placed in mangrove areas and the mangroves shall not be trimmed or removed.
16. A helicopter landing area is not permitted.
17. All tennis facilities shall be available for public use in accordance with Act 4848.
18. The existing structure at the top of Footer Point may be used for guest services but shall not be used for a restaurant and/or bar.
19. All fuel storage shall be above ground as approved by the Division of Environmental Protection.
20. The size and occupancy figures of all facilities shall not exceed those indicated in the EAR, application materials, and site plans. 502 off street parking spaces shall be provided.
21. Water taxi service from the hotel is not allowed.
22. Revised site plans, elevations, and section views reflecting the above conditions of approval shall be submitted to the Division of Permits for approval prior to issuance of building permits.
23. The sum of \$6,500 shall be placed in escrow by the Permittee for inspection and monitoring for this CZM Permit. Any amount not expended sixty (60) days following a Certificate of Occupancy shall be returned to the Permittee.
24. The Permittee shall remove the remains of the two (2) breakwater structures located on either end of the beach.

IN TESTIMONY WHEREOF, the parties herein have hereunto set their hands and seals on the days and years appearing herein below.

GOVERNMENT OF THE VIRGIN ISLANDS, PERMITTOR

By:

Albert Paiewonsky

Albert Paiewonsky, Chairman
St. Thomas CZM Committee

Date:

7-14-89

KRISCH AMERICAN INNS

By:

Samuel J. Krisch, II

Samuel J. Krisch, II
President

Date:

July 3, 1989



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

DEPARTMENT OF PLANNING AND NATURAL RESOURCES
Division of Coastal Zone Management

Charles Wesley Turnbull Regional Public Library
4607 Tutu Park Mall
St. Thomas, Virgin Islands 00802
Telephone (340) 774-3320

No. 45 Estate Mars Hill, Frederiksted
St. Croix, Virgin Islands 00840-4477
Telephone: (340) 773-1082
Website: dpnr.vi.gov

APPLICATION FOR CONSENT TO ASSIGN OR TRANSFER A COASTAL ZONE PERMIT



MAJOR PERMIT



MINOR PERMIT

Sugar Bay Club & Resort Corp.

Name of Applicant-Current Permit Holder

CZT-2-08 (W)

Permit Number and Expiration Date

DV USVI Investment LLLP

Name of Assignee (Person transferring the Permit to)

Mailing Address:

George Dudley

Dudley Newman & Feuerzeig

1000 Frederiksberg Gade, Charlotte Amalie, St. Thomas 00801

Physical Address:

Same

Tel: (340) 774-4422

Email: gdudley@dnfvi.com

State Why You Wish Permission to Assign or Transfer:

The property that is the subject of the Major CZM Permit is being sold from the Assignor to the Assignee

EXHIBIT

1

Signature of Applicant-Current Permit Holder

Joseph Moirian

Print

Please attach the Application Fee or Receipt: \$500.00 for Major Permit, \$50.00 for Minor Permit. Make Certified Check or Money Order payable to the Department of Planning and Natural Resources.

*Required Supporting Documents:

- Proof of Legal Interest of all Assignees. (If transfer stems from bankruptcy, then a copy of all papers filed in the bankruptcy must be attached).
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GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES
DEPARTMENT OF PLANNING AND NATURAL RESOURCES
Coastal Zone Management Program
4011 TUTE PARK MALL STE 200
ST. THOMAS, VI 00802

Tel (340) 734-3120

Fax (340) 734-9528

Date: 2/22/2022

Applicant/Payee: DV USVI Investment LLP

Please Verify:

Application Fee (Major/Minor)

☐

Amount: _____

Modification (Major/Minor)

☐

Amount: _____

Permit/Lease Number: _____

(Major/Minor)

Transfer/Assignment/ Amendments

☒

Amount: \$ 500.00

Permit/Lease Number: CZT-2-08(W)

Submerged/ Filled Land Lease

☐

Amount: _____

Check No: _____

Permit Plaques

☐

Amount: _____

Permit/Lease #: _____

NOVA Violations:

☐

Amount: _____

Number of Copies: _____

☐

Amount: _____

Permit/Lease #: _____

FOR OFFICIAL USE ONLY

[Signature]
Office Personnel's Signature

[Signature]
Cashier's Signature

4931166

Receipt Number:

02/23/22



VICZM PROGRAM

AFFIDAVIT

I, JOSEPH MOINIAN, in my capacity as President of SUGAR BAY CLUB & RESORT CORP., a U.S. Virgin Islands corporation in good standing, being duly sworn, depose and state as follows:

1. I am an adult resident of New York City, State of New York and I am competent to make this Affidavit.
2. SUGAR BAY CLUB & RESORT CORP ("SUGAR BAY"), is the permit holder of the following Permits issued by the Virgin Islands Department of Planning and Natural Resources:
 - Major Coastal Zone Management Permit No. CZT-2-08(W)
 - Major Coastal Zone Management Permit CZT-127-88(L)

concerning the following real property;

Parcel No. 2 Remainder (30.1 U.S. acres) of Estate Smith Bay, Nos. 1, 2 and 3 East End Quarter, St. Thomas, U.S. Virgin Islands, as shown on P.W.D. Drawing No. D9-1394-T78 dated April 7, 1978; and
Parcel No. 2A (0.50 U.S. acre) 2B (0.50 U.S. acre) and 2C (0.50 U.S. acre) of Estate Smith Bay; Nos. 1, 2 and 3 East End Quarter, St. Thomas, U.S. Virgin Islands, as shown on P.W.D. Drawing Number D9-1184-T73 dated October 29, 1973

3. Pursuant to the sale of the Property on February 8, 2022 from SUGAR BAY to DV USVI INVESTMENT LLLP, SUGAR BAY hereby requests the assignment and transfer of the aforescribed Permits to DV USVI INVESTMENT LLLP.



SUGAR BAY CLUB & RESORT CORP.


Joseph Moinian, President, duly authorized

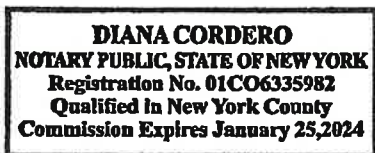
ACKNOWLEDGMENT

STATE OF NEW YORK)
BOROUGH OF MANHATTAN)

The foregoing Warranty Deed was acknowledged before me this 3rd day of February 2022, by JOSEPH MOINIAN, known to me and known to be the person who executed the foregoing instrument, in his representative capacity as the President of Sugar Bay Club & Resort Corp., and he acknowledged to me that he executed the same for the uses and purposes therein contained.

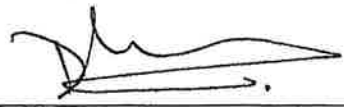
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(Notary Seal)



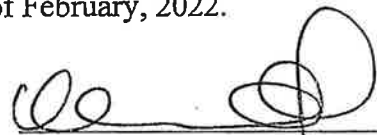

Notary Public
My commission expires: January 25, 2024

DV USVI INVESTMENT LLLP
By: D&V Management LLC

By: 
Digvijay "Danny" Gaekwad, Member

DATED: February 8, 2022

Subscribed and sworn to before me this 8 day of February, 2022.


Notary Public

William S. McConnell
My Commission Expires November 17, 2022
LNP-40-18

MAJOR COASTAL ZONE MANAGEMENT PERMIT NO. CZT-2-08(W)

1. **AUTHORITY** This permit is issued by the St. Thomas Committee of the Virgin Islands Coastal Zone Management (CZM) Commission and is administered and monitored by the Department of Planning and Natural Resources (the "Department") on behalf of the Coastal Zone Management Commission pursuant to Virgin Islands Code, Title 12, Sections 910 and 911, and any other provisions of Chapter 21 that apply. As herein, "Permitter" is the **ST. THOMAS COMMITTEE OF THE VIRGIN ISLANDS COASTAL ZONE MANAGEMENT COMMISSION** and "Permittee" is **SUGAR BAY CLUB AND RESORT, INC.**
2. **SCOPE** This permit allows the Permittee to construct an "L" shaped pier approximately ninety (90) feet long (with 80 feet seaward on the shoreline) and eight (8) feet wide to be composed of 2" x 6" wood decking. The project is located at Plot No. 2, Estate Smith Bay, St. Thomas, U. S. Virgin Islands. The pier will be placed along the rocky shoreline, east of the beach area.
3. **TERM** This permit is effective upon its signing by the Chairman of the St. Thomas Committee of the Virgin Islands CZM Commission, approval by the Governor of the Virgin Islands, and ratification by the Legislature of the Virgin Islands or by the Senate Committee on Planning and Environmental Protection, if the Legislature is not in session. As used herein, the "Effective Date" or "the date hereof" means the date of such ratification. This permit will expire twenty (20) years after the Effective Date. The Permit shall be renewed only if the requirements of Title 12 of the Virgin Islands Code, Section 911, are met.
4. **DOCUMENTS INCORPORATED BY REFERENCE**
 - Exhibit A: CZM Permit Application dated October 5, 2007.
 - Exhibit B: Joint Army Corps of Engineers Application dated October 5, 2007.
 - Exhibit C: Copy of Warranty Deed dated June 18, 1996.
 - Exhibit D: Site Plan dated October 11, 1990.
 - Exhibit E: Copy of the Environmental Assessment Report dated October 7, 2008.
 - Exhibit F: Water Quality Certificate dated December 30, 2008.
5. **GENERAL CONDITIONS**
 - A. **Liability** The Permittee agrees to assume full and complete responsibility for all liability to any person or persons, including employees, as a result of its control of the area described in Paragraph 2 of this permit, and all improvements thereon (which area and improvements are hereinafter referred to as "the premises"), and to hold the Permitter free and harmless



Major Coastal Zone Permit No. CZT-2-08(W)
Sugar Bay Club and Resort, Inc.

for civil or other liabilities of any kind during the time the Permittee is in control of the premises pursuant to this permit.

- B. Personal Property and Damage All personal property of any kind or description whatsoever located on the premises shall be there at the Permittee's sole risk.
- C. Assignment or Transfer This permit may not be transferred or assigned except as provided in Section 910-15 of the Virgin Islands R&REGS.
- D. Permit to be Displayed A placard evidencing the permit shall be posted in a conspicuous place at the project site during the entire work period.
- E. Reliance on Information and Data The Permittee affirms that the information and data which it provided in connection with its permit application are true and accurate, and acknowledges that if subsequent to the effective date of this permit such information and data prove to be false or inaccurate, the permit may be modified, suspended or revoked in whole or in part, and that the Commissioner or the Committee may, in addition, institute appropriate legal action.
- F. Development to be Commenced Any and all development approved by this Coastal Zone Permit shall begin within twelve (12) months from the date this permit becomes effective and shall be continuous until completion. Failure to perform at least fifty (50%) percent of the work within such period and continuously construct thereafter until the completion of construction shall cause the permit to terminate automatically and render it null and void, unless the Permittee requests an extension in writing and demonstrates to the satisfaction of the Committee that good cause exists for granting such extension.
- G. Notification of Completion Upon completion of any activity authorized or required by this CZM Permit, the Permittee shall promptly so notify the Director of the Division of CZM and where the services of a professional engineer were required in undertaking the activity, a certification of

compliance provided by the project engineer that the plans and specifications of the project and all applicable Virgin Islands Code requirements have been met, shall be filed with said Director.

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Major Coastal Zone Permit No. CZT-2-08(W)
Sugar Bay Club and Resort, Inc.

- M. Non Waiver One or more waivers by the Permittor of any covenant or condition of this permit shall not be construed as a waiver of a further breach of the covenant or condition. The consent or approval of the Permittor to or of any acts by the Permittee requiring the Permittor's consent or approval shall not be construed as approval of any subsequent similar act by the Permittee.
- N. Revocation It is specifically understood that all the foregoing covenants and agreements, as well as other terms and special conditions hereby agreed to by the Permittee, are to be well and faithfully kept by Permittee and that any failure by Permittee to keep same will result in revocation of this permit.
- O. Other Approval If the development covered under this permit requires separate and distinct approval from the United States Government or the Government of the Virgin Islands, or any agency, department, commission or bureau thereof, then no development or occupancy is allowed under this permit until such permits or approvals have been obtained.
- P. Abandonment If the Permittee abandons, deserts or vacates the premises or discontinues its operation at the premises for a period totaling six (6) consecutive months, the permit will terminate automatically and be rendered null or void.
- Q. Signatures on the Permit Document The applicant shall sign and return the permit document to the Department within sixty (60) days of receipt thereof. Failure to return the signed permit within the time period specified herein will be considered a rejection of the terms and conditions of the permit and will render the offer of the permit null and void, unless the applicant requests a written extension and the Department grants the written extension.
- R. Damage and Repair of Premises Described in Paragraph 2. In the event of damage to or destruction of the premises described in paragraph 2 hereof, repair work may be done only after a request to do so has been submitted in writing to the Department and written permission has been granted by the Department.

*Major Coastal Zone Permit No. CZT-2-08(W)
Sugar Bay Club and Resort, Inc.*

6. SPECIAL CONDITIONS

1. *The Permittee shall notify the Division of Coastal Zone Management (CZM) two (2) working days prior to the commencement of construction in accordance with the proposed activities.*
2. *A turbidity curtain shall be installed prior to pile driving activities, and shall be maintained throughout to avoid turbidity outside the confined area.*
3. *All necessary Territorial and Federal permits (i.e. Building Permits, Environmental Protection, etc.) must be obtained and copies submitted to the Division of CZM prior to commencement of any construction on the project.*
4. *The Permittee shall comply with the provisions of the Water Quality Certificate.*
5. *The fees and term for the occupancy of the submerged land associated with this permit shall be as negotiated with the Commissioner of DPNR.*
6. *The Permittee shall cease the work immediately and contact the V. State and Historic Preservation Office (VISHPO) if any submerged cultural resources or any historic features are found.*
7. *Pile driving activity shall be limited to working hours from 9:00 am to 3:00pm to minimize noise pollution around the area.*
8. *No other work is allowed.*
9. *This permit does not authorize the operation of jetskis /waverunners from the dock.*

Major Coastal Zone Permit No. CZT-2-08(W)
Sugar Bay Club and Resort, Inc.

7. **FEES**

Pursuant to Virgin Islands R&REGS, Title 12, Section 910-5(e)(8), the Commissioner of the Department of Planning and Natural Resources negotiated the following fees to be paid by the Permittee. Certified or bank draft checks shall be made payable to the Department of Planning and Natural Resources five (5) days after the Legislature ratifies the permit.

- A. A fee **Five Thousand Two Hundred Dollars (\$5,200.00)** per year, payable annually in advance, shall be charged for the use and occupancy of the submerged lands area occupied under this permit. The fee is assessed pursuant to Virgin Islands Code, Title 12, Section 911 (f).
- B. The annual fees payable under this permit shall be adjusted at the commencement of the second year of the permit term, and every year thereafter until the sixth year in accordance with the increase of the Consumer Price Index as established by the United States Department of Labor, Bureau of Labor Statistics, for "All Items, All Urban Consumers (1967-100%), (the "CPI") as follows, provided, however, that in no event shall the annual fee under any yearly adjustment be greater than 150 percent of the **Five Thousand Two Hundred Dollars (\$5,200.00)** per year fee during the initial sixty (60) months of the term of the permit.
 - (i) The CPI as of the first month of the second year of the term of the permit and the first month of each subsequent year of the permit shall be the "base price index" and the CPI as of the month immediately preceding the commencement of the second year of the permit term and the commencement of each subsequent year of the permit term until the sixth year of the permit term shall be the "current price index".
 - (ii) The current price index shall be divided by the base price index and the quotient thereof shall be multiplied by the sum of the annual fee of the prior year.
 - (iii) The resulting product shall be the Annual Base Fee for the current year.
 - (iv) At the end of the fifth year of the permit term, the annual fees shall be renegotiated. In no event shall any fee determined in the above manner be reduced below an annual fee of **Five Thousand Two Hundred Dollars (\$5,200.00)** per year.

IT IS EXPRESSLY UNDERSTOOD by the parties hereto that the title to all submerged or filled land which is altered or occupied on the basis of this permit is the Government of the Virgin Islands, and the Permittee shall have no right or interest therein, of any kind whatsoever, other than such rights as are expressly set forth herein, and that this instrument is not a lease.

ST. THOMAS COMMITTEE OF THE VIRGIN ISLANDS CZM COMMISSION
Permittor

01/05/10
Date

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Vernon Bellot, NOTARY PUBLIC
53-17A Smith Bay
St. Thomas, U.S.V.I. 00802
Commission Expires: JUNE 27, 2012
Commission Number: NP-071-08
12-30-09

12-30-80
Date

The Honorable John P. de Jongh, Jr.
Governor of the Virgin Islands

Date _____

President of the Legislature

Date _____

Chairman

Date _____

Major Coastal Zone Permit No. CZT-2-08(W)
Sugar Bay Club and Resort, Inc.

I, Kashmie Ali, General Manager SUGAR BAY CLUB AND RESORT, INC. do hereby certify that as General Manager of SUGAR BAY CLUB AND RESORT, INC., I am duly authorized and empowered to sign this Permit on behalf of SUGAR BAY CLUB AND RESORT, INC,


Kashmie Ali

12-30-09
Date

SWORN AND SUBSCRIBED before me
this 3 Day of December, 2009


Notary Public

Vanessa Bellot, NOTARY PUBLIC
53-17A Smith Bay
St. Thomas, U.S.V.I. 00802
Commission Expires: JUNE 27, 2012
Commission Number: NP-071-08