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To: All Media

FOR IMMEDIATE RELEASE

Information Commissioner Issues Decisions 25/2022 and 26/2022

Hamilton, Bermuda. On 26 October 2022, the Information Commissioner issued [Decision 25/2022](#), [Department of Public Lands and Buildings](#) (Public Lands and Buildings). The Applicant had submitted a public access to information (PATI) request for records relating to Tudor Farm's current tenants, tender records and decision making policies. This Decision is connected to [Decisions 01/2021](#) and [16/2021](#). In addition, the history and background on the importance of Tudor Farm can be found in [Decision 20/2022](#).

In [Decision 25/2022](#), the Applicant asked the Information Commissioner to conduct an independent review because they were not satisfied with Public Lands and Buildings' internal review decision and challenged the reasonableness of the public authority's search for responsive records. In her [Decision](#), the Information Commissioner partially upheld Public Lands and Buildings' internal review decision. While the Information Commissioner is satisfied that Public Lands and Buildings took all reasonable steps to locate records relating to the current tenants and tenders, she is not satisfied that Public Lands and Buildings conducted a reasonable search to locate the decision making policies before responding to the PATI request. In light of Public Lands and Buildings' additional searches during the Information Commissioner's review, however, the Information Commissioner is now satisfied that the Department has met the reasonable search requirements under the PATI Act and Regulations. Public Lands and Buildings identified additional responsive records, some of which have now been disclosed to the Applicant.

In her [Decision](#), the Information Commissioner has ordered the Department to process two additional responsive records that were not disclosed to the Applicant and issue an initial decision on or before Wednesday, 7 December 2022.

On 28 October 2022, the Information Commissioner issued [Decision 26/2022](#), [Department of Immigration](#) (Immigration). The Applicant had submitted a PATI request for all records created by Immigration for the Applicant's British Overseas Territory Citizen (BOTC) application. In [Decision 26/2022](#), the Applicant asked the Information Commissioner to conduct an independent review of Immigration's internal review decision because they believed the disclosures were incomplete.

This [Decision](#) provides a look at not only how this Applicant's BOTC application was handled, but how Immigration manages the process of BOTC applications generally. It also brings attention to

section 60(2) of the PATI Act which requires the Minister to “establish the codes of practice for public authorities regarding the maintenance and management of records of public authorities in a manner that facilitates ready access to the records”, as the Applicant expressed concerns on Immigration’s record keeping practices.

In her [Decision](#), the Information Commissioner finds that Immigration did not conduct a reasonable search for records responsive to the Applicant’s request, specifically the search of relevant individuals’ emails, Immigration’s electronic AS400 database or other non-email resources. As a result, the Information Commissioner orders Immigration to conduct a reasonable search and issue a new initial decision to the Applicant on or before Friday, 9 December 2022.

[Decisions 25/2022](#) and [26/2022](#) have been filed with the Supreme Court and the accompanying Orders are legally binding. If a public authority fails to comply with a decision, Commissioner Gutierrez will pursue enforcement of her decisions and accompanying orders to safeguard the rights of PATI requesters. To date, public authorities either have complied or are working towards compliance with all the orders accompanying decisions issued by the Information Commissioner. Both Decisions are available at ico.bm.

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Editor’s Notes:

About the ICO

The ICO is an independent public office responsible for promoting the use of and overseeing compliance with the Public Access to Information (PATI) Act 2010. The PATI Act gives the public a right to access records held by Bermuda’s public authorities, subject to listed exemptions and administrative grounds for denial of access. Individuals who are dissatisfied with the response of a public authority may seek a review by the Information Commissioner. The Information Commissioner shall investigate and the decisions by the Information Commissioner are legally binding.

Orders and Enforcement

When the Information Commissioner issues decisions with accompanying orders, the decision is filed with the Supreme Court, in accordance with section 48(3) of the PATI Act. If a public authority fails to comply with the decision, the Information Commissioner has the authority to pursue enforcement in the same manner as an order of the Supreme Court. The Information Commissioner shall take enforcement action when necessary to safeguard the right to access public records.

To date, public authorities either have complied or are working towards compliance with all the orders issued by the Information Commissioner.

Further information about the ICO is available at ico.bm.