

**AUDITOR GENERAL'S DEPARTMENT  
PERFORMANCE AUDIT REPORT  
NATIONAL HOUSING TRUST**

The Auditor General is appointed by the Governor General and is required by the Constitution, Financial Administration and Audit Act, other sundry acts and letters of engagement, to conduct audits at least once per year of the accounts, financial transactions, operations and financial statements of central government ministries and departments, local government agencies, statutory bodies and government companies.

The Department is headed by the Auditor General, Pamela Monroe Ellis, who submits her reports to the Speaker of the House of Representatives in accordance with Section 122 of the Constitution of Jamaica and Section 29 of the Financial and Administration and Audit Act.

This report was prepared by the Auditor General's Department of Jamaica for presentation to the House of Representatives.



Auditor General of Jamaica  
Auditor General's Department  
40 Knutsford Boulevard  
Kingston 5, Jamaica, W.I.  
[www.auditorgeneral.gov.jm](http://www.auditorgeneral.gov.jm)

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## Auditor General's Overview

Vision 2030 Jamaica recognizes that housing is an important component of the economic and social development of the country. It is an important part of national infrastructure and pivotal to social development, national competitiveness and economic growth. The Plan embodies the concept that shelter represents a broad continuum of affordable and appropriate housing options related to the income of target groups. It is proposed that, by the year 2030, every Jamaican will be living in a well constructed dwelling unit that is safe, sanitary and affordable and in an inclusive and aesthetically pleasing community.

The performance audit focus was restricted to investment and land acquisition activities in recognition of the inextricable link that the impact of decisions relating to these activities will have on the sustainability of NHT and its ability to deliver affordable housing solutions.

The audit identified that successive Boards of NHT granted approval for the acquisition of lands for \$2.27 billion, which are either zoned for agricultural purpose only or will incur exorbitant development costs. This may negatively impact on NHT's ability to utilize these properties to provide affordable housing solutions to its contributors. NHT entered into three investment ventures amounting to \$2.07 billion. One of the three investments (with expenditure of \$407 million) was transferred to the National Water Commission (NWC) for a consideration of \$1. Further, NHT acquired the Orange Grove property, through the purchase of the loan in relation to Orange Valley Holding Limited (OVHL). Except for the CWTC investment, NHT was unable to provide any evidence that, prior to the stated investment decisions, due consideration was given to the cash flow impact, expected rate of return and the assessed benefit that would arise from these ventures. Though the land acquisition activities reflect action undertaken over a 15 year period and may be considered dated, it is my view that the audit identified a pattern of questionable and possibly contentious decisions. I therefore implore NHT to re-examine the decision making process and the due diligence protocol to ensure prudent and evidenced based decisions.

This report also highlights the weakness in the implementation of the Cabinet approved Corporate Governance and Accountability Frameworks. It came to my attention during the review of the Orange Grove transaction, that despite the Ministry of Finance and the Cabinet Office instructions to implement the frameworks, some aspects were not implemented owing to a delay in the finalisation of related governance tools by the Ministry of Finance. The delay in fully implementing the frameworks across the wider public service could have negative implication for the robustness of the Country's public financial management system and the critical elements of accountability and transparency. Both frameworks have codified generally accepted best practices, which should already be in practice by Ministries, Departments and Agencies (MDA's) in accordance with good governance. Consequently, the Permanent Secretary in the Office of the Prime Minister should have instituted measures to receive copies of the Minutes of the NHT Board in compliance with the GOJ Accountability Framework. This would allow the Permanent Secretary to have knowledge of the deliberations of the Board and be more informed on a timely basis to advise the portfolio Minister on pertinent issues relating to the operations of NHT.

I wish to express my sincere thanks to the Management and staff of NHT for the cooperation and assistance given to the audit team.



Pamela Monroe Ellis, FCCA, FCA, CISA  
Auditor General

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## Executive Summary

NHT's mission is: *"to be effective stewards, caring for our contributors as we deliver housing solutions, build communities, refund contributions, and influence the market to make housing more affordable."* The audit sought to determine the level of due diligence undertaken by NHT, prior to investments and land acquisitions. The key findings are summarised below:

### Key Findings

1. As mandated by Parliament, NHT has committed \$51.6 billion of contributors' funds to provide budgetary support to Government. The NHT Act was amended in 2005 and 2013, to facilitate the payment of \$5 billion of contributors' funds to the Education Transformation Programme and \$45.6 billion into the Consolidated Fund over a four year period, 2013 to 2016. In addition, NHT has committed \$1 billion to the Ministry of Finance representing special distribution payment in keeping with the PBMA Act.
2. NHT invested \$2.07 billion in three ventures, namely; Jamaica Lifestyle Village, Central Wastewater Treatment Company (CWTC) and Harmonisation Limited, during 2004 to 2009. Except for the CWTC investment, we saw no evidence that NHT contemplated: the cash flow impact; the expected rate of return on the investments; the assessed benefit, and whether the investment decisions were in line with existing strategy of the Trust. In June 2010, Cabinet gave approval for the transfer of NHT's shareholding in CWTC to the National Water Commission (NWC) for the nominal sum of \$1. While the Jamaica Lifestyle Village investment has suffered full impairment, which suggests that NHT is unlikely to recover the sum invested. In relation to Harmonisation Limited, NHT has indicated that there is no other asset owned by NHT which has shown comparable significant capital gain based on market value. However, it should be noted that the land was not acquired for resale, but to facilitate the construction of a resort colony with 4,500 hotel rooms and 500 residential property, which would provide direct employment opportunities to approximately 16,500 individuals; however to date, the development has not materialised. All three investments were approved by Cabinet.
3. NHT has not initiated any plans for housing development on 28 parcels of land acquired for \$2.27 billion. NHT would have to incur exorbitant development costs to enable construction of housing solutions for 15 parcels of land acquired for \$1.38 billion. The price of housing solutions built on these lands could prove prohibitive to contributors and remain unsold for protracted periods. Further, NHT is unable to pursue housing solutions on six parcels of land acquired for \$342.6 million, as the designation of the lands use would have to be changed from agricultural to residential. Also, NHT was unable to indicate why there were no plans for housing development for the remaining seven parcels of land, acquired for \$612.2 million ([Appendix 1](#)). We also noted the Florence Hall property in Trelawny, was acquired for \$14 million in March 1997 for housing development. However, 63.03 acres (53 per cent) of the property were subsequently utilized for the construction of the Trelawny Multi-Purpose Stadium. Despite our request, NHT did not provide the terms and conditions which resulted in the facilities being built on the property.

4. We also found that NHT acquired two parcels of land from National Housing Development Corporation (NHDC) for \$1.07 billion at Point, Hanover and Ironshore, Saint James. NHT indicated that the acquisition of the properties was to boost NHDC's liquidity and ability to finance the implementation of several Operation Pride projects. However, NHT's failure to complete the requisite verification resulted in its purchase of the incorrect parcel of land at Ironshore, Saint James. The imprudent approach by NHT is evident in a letter dated October 06, 2006, informing NHDC that *"the NHT's decision to agree to the purchase of the subject and to disburse funds before completing verification was done in good faith to assist with relieving the cash flow challenges of the NHDC, relying on the integrity of a sister organisation."* However, NHDC responded that *"there was no mis-description of the land being sold in the executed Agreement for Sale dated 21<sup>st</sup> July 2005 and it was the Trust responsibility to ensure, prior to contract, that the land that it wished to purchase was properly described in the proposed agreement for sale. The Trust, is after all, an experienced developer and dealer in land with a host of professionals at its disposal."* Both parcels of land acquired from NHDC were characterized by steep slopes which would result in high infrastructure and development cost.
  
5. In December 2012, the NHT Board approved the purchase of the loan of \$180 million from a Merchant Bank in exchange for the assets owned by Orange Valley Holdings Limited (OVHL) valued at \$311.16 million. NHT and the Mortgagee signed the sales agreement on March 15, 2013 and finalised the transactions on May 27, 2013. During the course of the Board's deliberation in December 2012, the Chairman advised that several options could be contemplated for the use of the property. However, there was no evidence that the Board decided on the operational activities that would be undertaken at the property. We noted that the Managing Director's submission to the Board, dated November 28, 2012 states that *"an urgency was created because of a provisional order by the Court to sell the home of the guarantors for the loan and the final order was expected to be handed down on November 20, 2012 if Orange Valley Holdings Limited failed to settle the debt."* In January 2013, NHT conducted a site assessment of the property, which indicated *"that the property does not appear to facilitate the NHT's mandate for affordable housing solutions and is more suited for recreational/heritage type facility."* In February 2013, NHT commissioned a valuation appraisal, which valued the property at \$280 million; a difference of \$31.16 million (or 10 per cent) when compared with the valuation of \$311.16 million conducted in September 2011.

### **OPM's Oversight – Governance Responsibility**

6. Decision No. 17 of the Cabinet approved GOJ Accountability Framework for Senior Officers<sup>1</sup>, require that Permanent Secretaries, as accounting officers, receive copies of Board Minutes from all public bodies, under their portfolio. The Accountability Framework complements Section 23 and Part IV of the Second Schedule of the PBMA Act, which makes it a requirement for public bodies to prepare and submit other reports, as may be required, to the portfolio Ministry. However, we found that while the Office of the Prime Minister (OPM) receives quarterly, half-yearly and annual reports from NHT, the Permanent Secretary did not request copies of the Board Minutes, contrary to the Accountability Framework. Nonetheless, the OPM was represented on the Board of NHT. The Permanent Secretary indicated that *"it was anticipated that any matters of concern or significant matters"* would be communicated to her

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<sup>1</sup> Approved by Cabinet in January 2010

through the Chief Technical Director to whom OPM's representative on the NHT Board reports. The Permanent Secretary also indicated that the practice has been that some matters of concern have been brought directly to her attention by the OPM's representative on the NHT Board. However, the Permanent Secretary indicated that the Orange Grove transaction only came to her attention through "public disclosure".

### **Executive Summary: Decision 17 - GOJ Accountability Framework for Senior Officers (January 2010)**

*"The following are decisions of Cabinet that have been made to close some of the gaps identified and thereby strengthening the accountability framework. In this regard, Ministers, Senior Executive Officers and relevant entities of the Public Sector are mandated/ obligated to achieve the following commitments ..... The Permanent Secretary, as accounting officer, shall receive Board minutes, and corporate plans for Public Bodies shall be submitted for approval to the Portfolio minister through the responsible Permanent Secretary. This is to complement the powers conferred to the responsible Minister under the PBMA Act, to allow for more effective policy oversight."*

Source: Executive Summary: Decision 17 - GOJ Accountability Framework for Senior Officers (January 2010)

## Recommendations

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7. In keeping with its responsibility under Section 6 of the Public Bodies Management and Accountability (PBMA) Act, the Board should take the necessary steps to enhance its due diligence process undertaken prior to investments and acquisition of land so as to maximise return on investment and ensure that all properties acquired are suitable for housing development. This due diligence should include an appraisal of all investment opportunities to determine, at a minimum, the cash flow impact and the expected rate of return on the investment. The Board should also ensure that there is a robust records management system to provide evidence of the due diligence undertaken. NHT's Board should instruct management to develop an action plan for all properties that deemed unsuitable for deemed unsuitable for affordable housing development.
8. We encourage the Permanent Secretary in the Office of the Prime Minister to immediately institute measures to ensure that copies of the Minutes of the NHT Board are received, in a timely manner, in compliance with the GOJ Accountability Framework.

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# Part One

## Introduction

### Background

**1.1** The National Housing Trust (NHT) was established in 1976 through an amendment to the National Insurance Act. The Trust subsequently gained its own charter in 1979, when Section VII of the National Insurance Scheme Act was repealed to make way for the National Housing Trust Act. The core business objective of NHT is to “add to, improve the existing supply of houses, and enhance the usefulness of the funds of the trust by promoting greater efficiency in the housing sector.” The key performance areas of the NHT include mortgage creation, mortgage collection, contributions collections, housing starts and completions. NHT’s mission is to: *“to be effective stewards, caring for our contributors as we deliver housing solutions, build communities, refund contributions, and influence the market to make housing more affordable.”*

### Functions of NHT

- 1.2** Section 4 of the Act states, ‘The functions of the Trust shall be
- (a) to add to and improve the existing supply of housing by-
    - i. promoting housing projects to such extent as may from time to time be approved by the Minister,
    - ii. making available to such contributors as may be prescribed, in such manner and on such terms and conditions as may be prescribed, loans to assist in the purchase, building, maintenance, repair or improvement of houses; and
    - iii. encouraging and stimulating improved methods of production of houses;
  - (b) to enhance the usefulness of the funds of the Trust by promoting greater efficiency in the housing sector.”

### Background - promulgation of the NHT Act

**1.3** During the deliberations in the promulgation of the NHT Act in 1979, assurance was given that the National Housing Trust funds would not be used to support the Budget to the detriment of the operation of the Trust.

*“I would like to assure the Member that there is no intention to direct the investments of the Trust in this manner. The Trust intends to keep its obligation to pay a reasonable bonus to its contributors. We have pointed out that this would be related to the earnings of the Trust which would in turn be related to the general economic conditions. For these reasons the investments of the Trust will be directed to meet these obligations.”* To emphasize the point, the Minister went on to state that *“The Member from South Clarendon observed that the Trust was in effect a Statutory Corporation and not a Trust in the legal sense. The truth is, Mr. Speaker, that this observation is true but I would like to point out that the name is not a misnomer as the Government deliberately chose it to emphasise that the Trust is expected to operate with all care and due regard for the welfare of its contributors that a Trust requires. Mr. Speaker, I do not think I have to state to this House what the normal obligations of a Trustee are.*

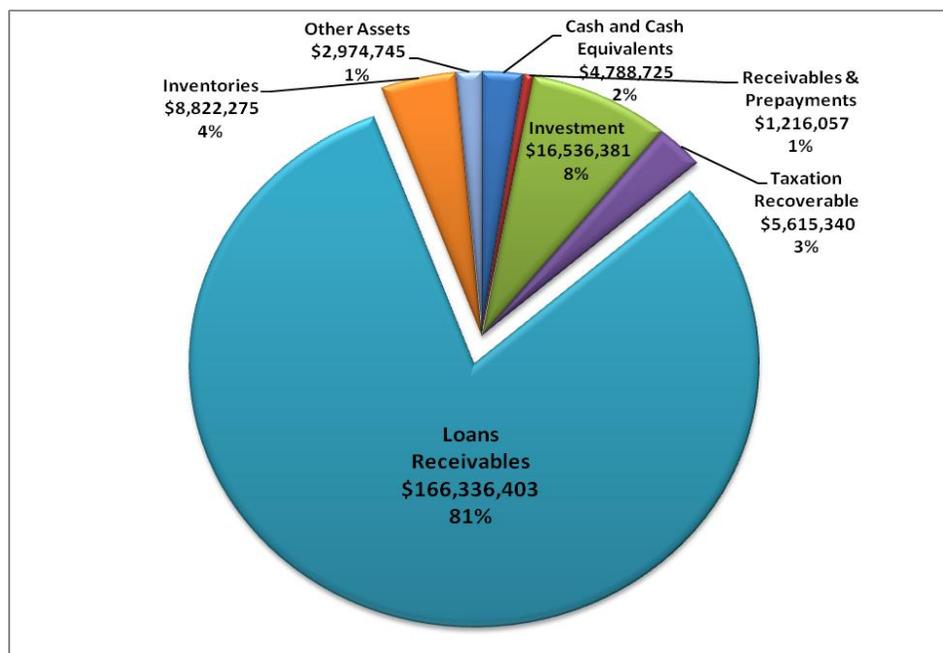
**Source: Hansard record of the deliberation of the Houses of Parliament - 1976**

## Financing

**1.4** The NHT Act requires that all persons between the ages of 18 to 65 years who earn a minimum wage to contribute to the NHT. NHT receives its main source of funds from contributions of employed persons: two per cent of gross salary; Corporate entities, three per cent of total salary; self-employed persons, two or three per cent of gross earnings and; volunteers, two per cent of gross earnings. The employers' portion of the contribution is non-refundable, whilst the employees' two per cent contribution is refundable. NHT also earns interest on the funds invested or loaned to individuals as mortgages.

**1.5** At March 2014, NHT's asset base totalled \$206.3 billion, representing a 6 per cent increase over the previous year (\$194.5 billion). NHT's core mandate to build affordable housing is reflected in its two major assets, mortgages and inventory of development land and housing stock<sup>2</sup>, representing 85 per cent of its total asset base. Loans receivable (mortgages), which amounted to \$166.3 billion, accounted for 81 per cent of the Trust's total assets. Meanwhile, inventories were valued at \$8.8 billion, representing 4.3 per cent of the total asset base. NHT's investments and cash and cash equivalents totalled \$20.2 billion, 9.8 per cent of the total asset base (**Figure 1**).

**Figure 1** Analysis of NHT's Assets



**Source:** NHT's Audited Financial Statements

<sup>2</sup> Includes housing under construction and stock of completed units

**1.6** We noted that Government and private entities owed NHT approximately \$18 billion in employees and corporate (employers') contributions. Government entities owe \$16 billion or 89 per cent; while, private companies are in arrears of \$2 billion (11 per cent). Interest charges increased the outstanding amounts to the Trust to a total of \$53 billion (**Figure 2**). NHT did not provide up to date figures for outstanding NHT contributions, despite our requests.

**Figure 2 Outstanding contributions between 2007 and 2013**

Years	Government Entities \$'000	Private Companies \$'000	Contribution Arrears \$'000	Interest as at Dec. 2014 \$'000	Grand Total \$'000
2013	936,421	383,582	1,320,004	361,705	1,681,709
2012	372,945	360,607	733,553	347,751	1,081,304
2011	131,100	308,586	439,687	296,598	736,285
2010	77,652	204,946	282,600	247,152	529,752
2009	50,311	169,063	219,376	235,734	455,110
2008	60,590	150,745	211,337	269,372	480,709
2007	14,381,321	424,964	14,806,285	33,607,464	48,413,749
<b>Total</b>	<b>16,010,340</b>	<b>2,002,493</b>	<b>18,012,842</b>	<b>35,365,776</b>	<b>53,378,618</b>
<b>Percentage</b>	<b>89%</b>	<b>11%</b>	<b>100%</b>		

Note: Outstanding amounts for 2014 were not included as the annual returns are not due until January 31, 2015, with a grace period up to March 31, 2015.

Source: AuGD Compilation of NHT data

### Audit Scope and Methodology

**1.7** We conducted the audit to determine the level of due diligence undertaken by NHT, prior to decisions pertaining to investments and land acquisitions. This audit did not focus on the management of other assets, such as loans receivables, and contributions. These areas will be the subject of other performance audits. For emphasis, the audit was restricted to the review of investment and land acquisition activities. Our audit was planned and conducted in accordance with the International Organization of Supreme Audit Institutions (INTOSAI) Auditing Standards for Performance Audit. The planning process involved gaining a thorough understanding of the operations of NHT. Our assessment is based on the review of internal and external documents, interviews with senior management and staff, observations and analysis of information provided by NHT.

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## Part Two

### Review of Investment Practices

**2.1** The NHT Act was amended in 2005 and 2013, to facilitate the payment of \$5 billion of contributors' fund to the Ministry of Education Transformation Programme and \$45.6 billion into the Consolidated Fund over a four year period, 2013 to 2016 respectively. In addition, under the PBMA Act, NHT is obligated to make an annual special distribution payment of \$1 billion to the Ministry of Finance. Over the period, amendments to the NHT Act and provisions in PBMA Act have resulted in \$51.6 billion being committed for non-housing expenditure (**Figure 3**).

**Figure 3 Sums committed to non-housing expenditure**

MDA/Public Bodies	Projects	\$(billion)
Ministry of Education	Education Grant	5.0
Ministry of Finance	Consolidated Fund	45.6
Ministry of Finance	Special Distribution	1.0
<b>TOTAL</b>		<b>51.6</b>

Source: NHT's Audited Financial Statement

**NHT's investments of \$2.07 billion have yielded nil return to contributors.**

**2.2** NHT invested \$2.07 billion in three ventures, namely; Jamaica Lifestyle Village, Central Wastewater Treatment (Soapberry) and Harmonisation Limited. However, up to the date of this report, NHT has not received any returns on the investment of \$2.07 billion (**Figure 4**).

**Figure 4 Investments in Ventures as at March 2014**

Ventures	Investment \$'000	Loans/Advances \$'000	Total \$'000
Harmonisation Limited	490 <sup>3</sup>	1,597,944	1,598,434
Central Waste Water Treatment	302,094 <sup>4</sup>	105,028	407,122
Jamaica Lifestyle Village	-	63,188	63,188
<b>Total</b>	<b>302,584</b>	<b>1,766,160</b>	<b>2,068,744</b>

**Note:** Loans/Advances include accrued interest

**SOURCE:** AuGD compilation of information from NHT's unaudited financial statements

<sup>3</sup> Amount invested in 2004-05 financial year

<sup>4</sup> Amount invested in 2005-2006 financial year

**2.3** We asked NHT to provide the rationale for investments made in the various ventures. We were presented with extracts from the related Minutes of the Meetings of the Board of Directors at which the investments were approved. The 2015-16 Publication of the Other Public Sector Bodies<sup>5</sup> and NHT's audited financial statements were also reviewed. The following information was gleaned from the documents.

### ***Lifestyle Villages of Jamaica - \$63.2 million***

**2.4** Lifestyle Villages of Jamaica Limited is the corporate vehicle created to implement the retirement communities envisaged by the Master Plan for Sustainable Tourism Development. The project would seek to look at means to provide residential accommodation for returning residents. The project was approved by Cabinet Decision No 12/06 dated March 27, 2006, which states that NHT should provide assistance to the project as a minority equity shareholder and developer, and that capitalisation of the company should be obtained primarily from the private sector. The minutes also named four building societies and an insurance company as prospective partners. The Minutes further noted that the necessary feasibility studies had been carried out and the Jamaican Diaspora had responded positively to the concept. However, to date, NHT is the sole shareholder having invested \$63.2 million, representing amounts advanced to facilitate the incorporation of company. In March 2015, NHT indicated that the *“project has been negatively impacted by the international financial meltdown of 2008 and with the best of investment information these variables were not foreseen.”* Review of NHT's financial records revealed that the investment has suffered full impairment, which suggests that NHT is unlikely to recover the sum invested.

### ***Harmonisation Limited - \$1.6 billion***

**2.5** NHT and the Development Bank of Jamaica (DBJ), through Harmonisation Limited, of which they are both shareholders, acquired 2400 acres of land at Harmony Cove in Trelawny. The mission of Harmonisation Limited is to influence the growth of the high-end market of the Jamaican tourism sector and to generate economic multipliers particularly in the areas of employment and enterprise creation.

**2.6** Our review of the Board Minutes dated April 25, 2003 revealed that the following issues were discussed by board members, prior to granting approval for the acquisition of Harmony Cove property.

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<sup>5</sup> published by the Ministry of Finance and Planning

- i. Based on industry benchmarks, at full development, the proposed resort would create direct employment opportunities for approximately 16,500 individuals.
- ii. The National Housing Trust, at the end of February 2003, had total assets of J\$52.3B, of which \$14.99B were in liquid or 'near liquid' assets. Most of the NHT's liquid assets were in cash and short term investments, in addition to longer term Government issued securities. The diversification of its portfolio through the investment in prime real estate was considered a prudent and financially sound decision.
- iii. The projected housing expenditure programmes of the NHT for the next five (5) years, including the expenditure of J\$5 Billion over the next three years on the Inner City Housing Programme, would not be affected by investing a portion of its liquid assets to partially finance the acquisition of the Harmony Hall Property.
- iv. The value of this property would appreciate significantly with the commencement of the development and would, therefore, offer a return on investment greater than income foregone by withdrawing current investments from the money market.
- v. Further benefit would accrue to the NHT through contribution collections from the estimated 16,500 individuals who were expected to gain employment resulting from this investment.

Source: NHT Board Minutes dated April 25, 2003

**2.7** We could not ascertain the projected timeline for the employment of the 16,500 individuals and the estimated NHT contributions from the prospective employees. The Minutes indicated that the property would appreciate significantly with the commencement of the development and would, therefore, offer a return on investment greater than income foregone by withdrawing current investments from the money market. However, the minutes did not indicate whether the Board had considered the financial projections of the development in concluding that the expected return would be greater than the rate which obtains in the money market.

**2.8** In September 2006, Harmonisation Limited partnered with an Investor, to design, develop, and own the luxury Harmony Cove Resort. The development would involve construction of a five-star resort colony, with approximately 4,500 hotel rooms and 500 residential units. Cabinet, by way of Decision No. 27/06 dated July 31, 2006 instructed that the NHT and DBJ be involved in the project. However, to date, the development has not materialised. Consequently, Harmonisation Limited intends to amend the Joint Venture Agreement (JVA) with the Investor to incorporate a new equity/financing structure for the Harmony Cove project.

**2.9** At March 2014, NHT's investment in Harmonisation Limited, representing loans and accrued interest totalling \$1.6 billion. However, since April 2009, NHT has ceased accruing interest on the amount advanced to the company. For the 2015-16 financial period, Harmonisation Limited expects to realize a net deficit of \$79.4 million (2014-15: \$99.51 million).

**Central Wastewater Treatment Company - \$407 million**

**2.10** The Central Wastewater Treatment Company (CWTC) was established to build and operate a sewage plant to treat the raw sewage being disposed in the Kingston Harbour. The CWTC should be equity financed by Urban Development Corporation (UDC), NWC, NHT and a private company, with GoJ providing a guarantee to CWTC in respect of the NWC payment for sewage treatment.

**2.11** The March 29, 2004 Minutes noted that the project analysis presented by UDC outlined financial projections detailing revenue, earnings, operating cash flow and dividend yield over the period 2004 to 2015. Further review showed that four worst case scenarios were developed and presented to the Board, which concluded that net cash flows after repayment of debt and dividends (US\$82 Million) would be US\$1M. The Minutes noted that the Project is critical to the provision of adequate sewage treatment facility to the Inner-City Housing Programme; NHT's management recommended that the Trust make an equity investment of USD\$4.8 million in CWTC. The Board approved investment by the Trust of up to USD\$4.8 million, with the first tranche being USD\$3.6 million.

**2.12** We noted that NHT in its response dated March 2015 classified the project as a social investment; however, there was no evidence in the Minutes that the Board treated the project as a social investment. The Minutes indicated that the project would be undertaken as a Build Own Operate and Transfer (BOOT) project, with NHT, UDC and a private company transferring their interest to the NWC after they have recouped their investment. To date, NHT has not received any income from the investment of \$302.09 million in equity and \$105.03 million in loans and advances.

**2.13** In June 2010, Cabinet gave approval for the transfer of NHT's shareholding in CWTC to the National Water Commission (NWC) for the nominal sum of \$1.

**2.14** We expected NHT to conduct an appraisal of all investment opportunities to better inform both management recommendations and Board decisions. This should include the preparation of cash flow analysis, whereby the cumulative inflows would be compared with the cost of the investment to determine the viability of the investments and the potential impact on NHT's financial position. However, NHT advised that they did not prepare cash flow projections for these investments. Consequently, NHT was also unable to present any forecast of the projected returns on the investments.

## Part Three

### Acquisition of land for housing development

#### NHT has no plans for development for 28 parcels of lands acquired for \$2.27 billion

**3.1** Boards should provide independent oversight and guidance to management. Equally, decisions taken by Boards should be evidenced based and fully informed by Management's research, analysis and reports. It is therefore incumbent on management to engage in robust planning, data analysis and formidable reporting requirements, which meet regulatory and international requirements to keep boards fully informed and facilitate prudent decisions. Commensurately, it is important that boards espouse a level of trust and due regard for recommendations informed by appropriate due diligence.

**3.2** NHT, in keeping with its mandate, acquires lands to fulfil contributors' needs for suitable and affordable housing solutions in the form of service lots and/or housing units. At December 2014, NHT had 44 parcels of land held for housing development, which were acquired for \$4.05 billion ([Appendix 1](#)). Fourteen of the properties were in the planning and or design stage of development. There were no immediate plans for the development of 28 parcels. While, the remaining two<sup>6</sup> properties were in the construction phase.

**3.3** NHT's land evaluation guidelines requires that the Trust conduct assessments such as: the land use, topography, hydrology, soil suitability, water availability, accessibility and to receive comments from other agencies to assist in determining the suitability of the land for housing development. However, we found that NHT acquired 21 parcels of land for \$1.66 billion, which now require exorbitant development costs or change of use from agricultural to residential to enable construction of affordable housing solutions. NHT did not present any plans for development or indicate the basis for the non-development of the other seven parcels of land acquired for \$612.2 million, one which was acquired in August 1991 ([Figure 5](#)).

**Figure 5** Properties without plans for development

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price \$
1	Barrett Hall	St. James	429.18	September 2005	279,000,000.00
2	Florence Hall	Trelawny	119.56	March 1997	14,000,000.00
3	Norbrook	KSA	51.84	August 1991	4,600,000.00
4	Ridge Estate	St. Ann	100.00	February 1998	9,000,000.00
5	Endeavour Farms	St. Ann	64.16	April 2007	37,844,800.00
6	Johnson Hill	St. Catherine	17.00	October 2014	87,800,000.00
			<b>781.74</b>		<b>432,244,800.00</b>
7	Orange Grove	Trelawny	9.05	May 2013	180,000,000.00
			<b>790.79</b>		<b>612,244,800.00</b>

Source: AuGD Analysis of NHT's land bank and other records

<sup>6</sup> Hellshire 4, Saint Catherine and Balaclava in Saint Elizabeth

**NHT’s failure to abide by Technical Personnel recommendations proved costly**

**3.4** Our analysis of Board Minutes revealed instances where the Board took decisions that were contrary to the technical advice given by management; or approved land acquisitions prior to the execution of due diligence. This resulted in investment in lands that have, to date, not accrued any housing solutions benefits to contributors. We found that the Board approved the acquisition of two parcels of land namely: Unity Farm - Saint Mary and Ironshore - Saint James, which were acquired for amounts totalling \$265 million, despite the recommendation of NHT’s technical personnel to reject the offers.

**Unity Farm – \$62.5 million**

**3.5** NHT’s Board ignored the advice of their technical team and purchased 733 acres of land at Unity Farm, St. Mary. NHT’s Technical team advised the Board at its meeting held November 23, 2002, that a site visit to the property revealed that some areas of the land was very steep and development of a residential scheme on the entire property would be challenging, thus the property is not recommended for acquisition. Despite this, the Board approved the purchase of the property in January 2003 for \$62.5 million and directed that the plan for development should commence immediately. An Environmental Impact Assessment study commissioned by NHT after the acquisition confirmed the technical advice that the property is not feasible for housing development as the land could only be subdivided into lots size of five acres and over. In January 2015, the Ministry of Agriculture invited NHT to dialogue with the Coconut Industry Board for possible sale of the land for an agro-park venture. However, NHT advised that to date, the negotiations have not commenced.

**Ironshore (Salt Spring): \$202 million**

**3.6** Board Minutes dated May 30, 2005 records that *“in an effort to avail itself of funds to boost its liquidity and ability to finance the implementation of several Operation Pride Projects, the NHDC proposed the disposal of the following real estates.”* The properties were located at Ironshore - Saint James, Point - Hanover and Long Mountain - Saint Andrew. The Long Mountain lands were not considered as the necessary investigations were not completed. (Figure 6). On May 3, 2005, NHT reported that its technical officers visited Ironshore with representatives of NHDC and were shown a parcel of land said to be the one being offered for sale. On May 17, 2005, NHT received a letter from NHDC outlining details of the valuations for the properties as follows:

**Figure 6** Property Valuations received by NHT from NHDC

Properties	Valuator # 1	Valuator # 2
Mona Estate	\$421M	\$390M - \$410M
Ironshore	\$245M	\$200M – \$220M
Point	\$1.6B – \$1.8 B	\$1.4B to \$1.6 B

**Source:** AuGD Analysis of NHT’s land bank and other records

## Part Three – Acquisition of land for housing development

**3.7** In a Land Submission Report dated May 25, 2005, the Technical Unit recommended that the offer be rejected based on the negative features identified during a site visit. These include the presence of a marl quarry on the property, steep terrain that would increase development cost of infrastructure, only high income solutions would be advisable and the property is adjoining an inner city community considered to be one of the major crime communities in Montego Bay.

**3.8** Board Minutes dated May 30, 2005 records that the Board directed that the matters be referred to the Technical Committee for further processing. We reviewed the Minutes of the Technical Committee held on June 14, 2005 and found no evidence that the committee deliberated on the acquisition of the two properties. However, in a Board Submission dated June 22, 2005, the Board was asked to allow management to negotiate the purchase of the Ironshore property, for a price up to \$202.5 million. The Board at its meeting held on June 27, 2005 approved a recommendation that the Trust negotiate a purchase price of up to \$202.5 million, subject to a more detailed review.

**3.9** On July 20, 2005, NHT paid NHDC \$300 million<sup>7</sup> representing a deposit in relation to the Point and Ironshore properties. NHT subsequently signed a sales agreement dated July 21, 2005 with the vendors, NHDC and Ministry of Housing for the purchase price of \$202.5 million for the Ironshore lands.

**3.10** Subsequent to the signing of the sales agreement, NHT engaged the services of a land surveyor, to prepare surveyors identification reports for the two properties. The report dated January 19, 2006, informed NHT that the title presented for the Ironshore property were for lands other than the one identified by NHT. NHT then realised that the valuation submitted by NHDC was not for the site visited on May 03, 2005. In addition, NHT's assessment of the property revealed that only approximately 50 per cent of the land that was now being offered can be utilized for housing; the land is steeply sloping; and there are two waterways on the property. These factors would result in high infrastructure costs. To In a letter dated October 06, 2006, the then Managing Director informed NHDC that *"the NHT's decision to agree to the purchase of the subject and to disburse funds before completing verification was done in good faith to assist with relieving the cash flow challenges of the NHDC, relying on the integrity of a sister organisation."* NHDC responded on September 13, 2013 stating that *"there was no mis-description of the land being sold in the executed Agreement for Sale dated 21<sup>st</sup> July 2005 and it was the trust responsibility to ensure, prior to contract, that the land that it wished to purchase was properly described in the proposed Agreement for Sale. The Trust is, after all, an experienced developer of and dealer in land with a host of professionals at its disposal."* To date, NHT has not utilised the land.

### **Point (Hanover): \$869.4 million**

**3.11** In December 2005, NHT purchased the Point, Hanover property from NHDC for \$869.4 million. In June 2006, NHT sold 23.03 acres to a tourism entity for \$115.15 million. To date, NHT has not commenced any housing development on the remaining portion of land. An assessment conducted by NHT in September 2011 determined that the land *"is characterised by steep, undulating slopes interspersed throughout the property; which increases the difficulty of development."* The report further states that 195.55 acres (44.17 per cent) of the property is 'unusable' for housing, given that

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<sup>7</sup> Of this amount, \$259.5 million represents deposit and further payment in relation to the Point property

## Part Three – Acquisition of land for housing development

the slopes are in excess of 15 degrees. The report also revealed that high infrastructure/development cost would affect the feasibility of the project, given that bridges would have to be constructed across the waterways to gain access to the inland portion of the property.

**3.12** Further, the situation was exacerbated as NHT did not conduct any physical inspection of the Point property to determine the existence of squatters prior to the execution of the sales agreement. It would appear that NHT relied on the assurance from NHDC that no squatter settlements existed on the property. In response to NHT’s letter dated July 20, 2005 regarding the existence of squatters seeking possession, NHDC responded that *“so far as we are aware, there are no squatter settlements on either of the parcels of land”*<sup>8</sup>. However, NHT realised after the execution of the sales agreement that an estimated 30 acres of the land were occupied by squatters, despite the sales agreement requiring the vendor to turn over the property free of squatters to NHT. Owing to this issue, NHT has withheld \$35 million from the NHDC. NHT has incurred expenditure totalling \$15.3 million up to December 31, 2014 to manage the property.

**3.13** We found that NHT has experienced difficulty pursuing housing solutions on the remaining six properties acquired for \$342.6 million, as the lands were zoned for agricultural use (**Figure 7**). NHT is awaiting a change of use from agriculture to residential from the Ministry of Agriculture for the Sheckles<sup>9</sup>, Clarendon property; while the Ministry of Agriculture and the National Environment and Planning Agency (NEPA)<sup>10</sup> have recommended that Parbucle Wharf, Hanover and Paradise Pen, Westmoreland properties, should retain their agricultural status. In January 2015, the Ministry of Agriculture indicated its willingness to enter into negotiations with NHT to conduct a land swap of the remaining two agricultural lands in exchange for lands controlled by the Ministry of Agriculture, which are more suitable for housing. These are Alligator Pond, Manchester and Enfield Meadows, Westmoreland. However, to date, negotiations have not commenced. See Paragraph 3.5 for details on the Unity Farm property.

**Figure 7** NHT properties zoned for agricultural use

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price \$
1	Paradise Pen	Westmoreland	78.52	February 2005	30,000,000.00
2	Parbucle Wharf	Hanover	119.54	July 2013	14,900,000.00
3	Alligator Pond	Saint Elizabeth	30.00	November 2002	\$2,800,000.00
4	Sheckles II	Clarendon	453.37	October 2012	127,400,000.00
5	Enfield Meadows	St. Ann	166.00	May 2006	105,000,000.00
6	Unity Farms	St. Mary	733.00	January 2003	62,500,000.00
<b>Total</b>			<b>1,580.43</b>		<b>342,600,000.00</b>

**Source:** AuGD Analysis of NHT’s land bank and other records

<sup>8</sup> Point, Hanover and Ironshore, Saint James

<sup>9</sup> Phase 2

<sup>10</sup> By letter dated September 12, 2014 to NHT

**Enfield Meadows (Westmoreland): \$105 million**

**3.14** NHT purchased 166 acres of land in Enfield Meadows, Westmoreland for \$105 million in May 2006, for housing development. We observed that, in 2005, prior to the acquisition of the land; NHT sought and obtained no objections for residential development of the land from both the Westmoreland Parish Council and the National Environment and Planning Agency (NEPA). Further, in August 2005, NHT requested and was granted approval by the Ministry of Agriculture for the change of use of the land from agricultural to residential; the National Water Commission (NWC) has also indicated that it could provide potable water to the area. However, in November 2006, six months after the purchase date, NHT requested the Mines and Geology Division to conduct inspection of the property in order to assess its geological features. The assessment concluded that the property was in an area that has a history of flooding similar to the Newmarket district. The assessment stated that, historical data indicates that floodwaters could rise to approximately 8.5 metres and take nine months to subside. The study concluded that with development, the potential for flooding will increase as the natural balance of drainage will be disrupted. In January 2015, the Ministry of Agriculture expressed an interest in acquiring the property for development of an Agro Park in exchange for other properties in Westmoreland more suitable for housing development. Further, in March 2015, NHT indicated that they are pursuing a land swap with the Ministry of Agriculture.

**Sheckles (Clarendon): \$127.4 million**

**3.15** Further, NHT acquired 453.37 acres of land in Sheckles<sup>11</sup>, Clarendon for \$127.4 million in October 2012, prior to the vendor meeting a pre-condition that required change of land use to residential and the removal of squatters before the execution of the sales agreement. Despite the vendor's failure to fulfil the pre-conditions, NHT purchased the property and has initiated project planning and design for the construction of 928 housing solutions. Review of NHT's records revealed that request for Proposals for Land Surveying services (topographical surveys) were advertised in December 2014, and proposals are scheduled to be returned for review.

**Hampstead Park & Riverton City (Saint Andrew): \$28 million**

**3.16** The NHT accepted, as part compensation for debt owed by the Ministry of Housing, two parcels of land, Riverton City and Hampstead Park in Saint Andrew, valued<sup>12</sup> at \$16 million and \$12 million respectively. The 24.42-acre Riverton City property was transferred in April 1992 with squatters, which to date occupy 7.6 acres (or 31 per cent). Further, the Housing Agency of Jamaica has constructed the Callaloo Mews Housing Scheme on six acres of the property, without any agreement for sale or transfer. At present, 10.82 acres of the property remain unoccupied, of which 9.61 (39 per cent) represents the Sandy Gully embankment. The 56-acre Hampstead Park was acquired in December 1995. To date, the property has not been developed due to the fact that 47 per cent of the land reflects slopes in excess of 25 degrees, which would result in exorbitant infrastructure cost. In December 2010, NHT reported that these lands are *“practically useless to the Trust as we are not able to utilise the Hampstead Park property owing to the terrain and the property at Riverton City is heavily squatted.”*

<sup>11</sup> Sheckles Phase 2 – NHT's Land Bank

<sup>12</sup> As per NHT's Land Bank records (March 26, 2015)

### Property utilised for non-housing purposes

**3.17** We also found that NHT acquired property earmarked for residential development, which was subsequently utilised for other non-housing purposes. For example, NHT purchased 119.56 acres of land in Florence Hall, Trelawny for \$14 million in March 1997 for housing development. However, 63.03 acres (53 per cent) of the property were used to build the Trelawny Multi-Purpose Stadium. Despite our request, NHT did not indicate the terms, conditions and consideration which resulted in the facilities being built on the property. We found that in September 2006, NHT sold 1.06 acres to the Commissioner of Land for a purchase price of \$1 to extend the North Coast Highway. Another 6.14 acres have been earmarked for a proposed multi-purpose ‘courts’ and reservoir, leaving only 45.35 acres (38 per cent) available to NHT for possible housing development. However, NHT indicated that a development plan has not been developed for the remainder of the property.

**3.18** In total, NHT has acquired 15 properties for \$1.38 billion, which would require exorbitant infrastructural costs due mainly to unsuitable terrain. This has resulted in NHT making significant investment in lands for which the contributors have not derived any benefit to date.

## Part Four

### Purchase of loan related to Orange Grove Property

**4.1** In December 2012, the NHT Board approved the purchase of the loan of \$180 million from a Merchant Bank<sup>13</sup>, in exchange for the assets owned by Orange Valley Holdings Limited (OVHL) valued at \$311.16 million. NHT and the Mortgagee signed the sales agreement on March 15, 2013 and finalised the transactions on May 27, 2013. During the course of the Board’s deliberation in December 2012, the Chairman advised that several options could be contemplated for the use of the property. However, there was no evidence that the Board decided on the operational activities that would be undertaken at the property.

**4.2** We noted that the Managing Director’s submission to the Board, dated November 28, 2012 states that *“an urgency was created because of a provisional order by the Court to sell the home of the guarantors for the loan and the final order was expected to be handed down on November 20, 2012 if Orange Valley Holdings Limited failed to settle the debt.”* In January 2013, NHT conducted a site assessment of the property which indicated *“that the property does not appear to facilitate the NHT’s mandate for affordable housing solutions and is more suited for recreational/heritage type facility.”* In February 2013, NHT commissioned a valuation appraisal, which valued the property at \$280 million; a difference of \$31.16 million (or 10 per cent) when compared with the valuation of \$311.16 million conducted in September 2011. Further, NHT incurred additional cost of \$28 million<sup>14</sup> for salary and other administration expenses related to the Orange Grove property.

**4.3** Decision No. 17 of the Cabinet approved GOJ Accountability Framework for Senior Officers<sup>15</sup>, require that Permanent Secretaries, as accounting officers, receive copies of Board Minutes from all public bodies, under their portfolio. The Accountability Framework complements Section 23 and Part IV of the Second Schedule of the PBMA Act, which makes it a requirement for public bodies to prepare and submit other reports, as may be required, to the portfolio Ministry. However, we found that while the Office of the Prime Minister (OPM) receives quarterly, half-yearly and annual reports from NHT, the Permanent Secretary did not request copies of the Board Minutes, contrary to the Accountability Framework. Nonetheless, the OPM was represented on the Board of NHT. The Permanent Secretary indicated that *“it was anticipated that any matters of concern or significant matters”* would be communicated to her through the Chief Technical Director to whom OPM’s representative on the NHT Board reports. The Permanent Secretary also indicated that the practice has been that some matters of concern have been brought directly to her attention by the OPM’s representative on the NHT Board. However, the Permanent Secretary indicated that the Orange Grove transaction only came to her attention through *“public disclosure”*.

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<sup>13</sup> In keeping with Auditor General’s Department policy, the name of the merchant bank was redacted and replaced with *“the Merchant Bank”*

<sup>14</sup> Up to October 2014

<sup>15</sup> Approved by Cabinet in January 2010

## Part Four – Purchase of loan related to Orange Grove Property

**4.4** The GOJ Accountability Framework was approved by Cabinet in January 2010. The Cabinet Secretary advised all Permanent Secretaries by way of letter dated February 2010 of the existence of the approved framework and instructed that they “ensure that the recommendations which concern your organisation are duly noted for implementation by your Ministry and the Executive Agencies and Public Bodies falling within the purview of your Ministry’s portfolio.”

*“The following are decisions of Cabinet that have been made to close some of the gaps identified and thereby strengthening the accountability framework. In this regard, Ministers, Senior Executive Officers and relevant entities of the Public Sector are mandated/ obligated to achieve the following commitments ..... The Permanent Secretary, as accounting officer, shall receive Board minutes, and corporate plans for Public Bodies shall be submitted for approval to the Portfolio minister through the responsible Permanent Secretary. This is to complement the powers conferred to the responsible Minister under the PBMA Act, to allow for more effective policy oversight.”*

**Source:** Executive Summary: Decision 17 - GOJ Accountability Framework for Senior Officers (January 2010)

**4.5** The Permanent Secretary indicated that the provision of Board Minutes by public bodies is not a requirement under the PBMA Act. However, Section 23 of the PBMA Act, makes it a requirement for public bodies to prepare and submit other reports to the portfolio Ministry as shown below.

Every public body shall prepare in the prescribed form and submit to the responsible Minister and the Minister, the half-yearly, quarterly and other reports in accordance with Parts II, III and IV of the Second Schedule.

**Source:** Section 23 of the PBMA Act (2012)

**4.6** Further, Part IV of the Second Schedule of the PBMA Act, by which board minutes may also be requested, states that:

Other reports shall be submitted as may be required, from time to time by the Minister, and such reports shall contain such information as may be specified by the Minister.

**Source:** PBMA Act (2012)

**4.7** We have been advised by the Ministry of Finance and the Office of the Cabinet that elements of the Accountability Framework are not yet implementable owing to a delay in finalising certain complementary tools, such as the Board Performance Evaluation and competency profile instruments.

**4.8** However, this has no impact on the requirement for Permanent Secretaries to receive board minutes from public bodies. Accounting officers were instructed by way of Decision 16 of the Accountability Framework (January 2010) that an appropriate and enabling framework should be instituted within portfolio Ministries to monitor public bodies.

An appropriate and enabling framework shall be established within portfolio Ministries to monitor Public Bodies, as a technical aid to Ministerial responsibility. The mechanics are to be further defined under the existing Governance Framework for Public Bodies that is being developed<sup>16</sup>. (ref. 4.3[ii] on page 27)

**Source:** GOJ Accountability Framework (January 2010) - Decision 16

<sup>16</sup> The Corporate Governance Framework was revised and approved in October 2012 and tabled in the Houses of Parliament on November 19 and 23, 2012 respectively

## Part Four – Purchase of loan related to Orange Grove Property

**4.9** Based on the requirement of the GOJ Strategic Business Plan template<sup>17</sup>, the Minister of Finance and the Financial Secretary affirmed their commitment to the various accountability frameworks as reflected in the Ministry's Accountability Statement in its Strategic Business Plan 2012-15<sup>18</sup>, as shown below.

We are therefore committed to the various accountability frameworks within which the Ministry operates, key of which are the: Accountability Framework for Senior Executive Officers, Ministry's Strategic Business Plan, Fiscal Responsibility Framework (FRF), Medium Term Expenditure Framework (MTEF), Performance Management and Appraisal System (PMAS), and the Citizens Charter. In so doing, this will promote and enhance accountability and transparency throughout the public service as well as improve the quality of service delivery offered by the Ministry.

Source: Strategic Business Plan 2012-15

### Chronicle - Orange Grove Property

**4.10** During the period 2005 to 2008, the National Investment Bank of Jamaica (NIBJ)<sup>19</sup> loaned US\$1.03 million to a Merchant Bank, under an Approved Financial Institution (AFI) agreement to on-lend to Orange Valley Holding Limited (OVHL), the operator of Outameni Tours and Entertainment Attraction. In addition, NIBJ acquired US\$500,000 preference shares in OVHL in June 2006 (**Figure 8**). The terms of the AFI required that the Merchant Bank accepts all risks and rewards under the agreement. The Merchant Bank repaid the total loan to DBJ in keeping with the AFI financing arrangement.

**Figure 8** DBJ's financing to OVHL through Approved Financial Institutions (AFI)

Date	Types of Investment	Financing Arrangement	Amounts US\$
July 22, 2005	Loan	AFI-Financing	300,000
July 2007	Loan	AFI-Financing	129,666
February 2008	Loan	AFI-Financing	600,000
<b>Total Loans</b>			<b>1,029,666</b>
June 2006	Preference Shares	NIBJ	500,000
<b>TOTAL</b>			<b>1,529,666</b>

Source: AuGD compilation of information obtained from DBJ's records

**4.11** In December 2008, the Tourism Enhancement Fund (TEF) provided funding of \$7 million, through the National Works Agency, to undertake repairs to upgrade the night lighting and public access way at the entrance to the Orange Grove property. Further, in May 2009, TEF provided a loan of \$3 million to OVHL. The loan was disbursed for the purpose of infrastructure upgrade and fixed asset acquisition. After numerous failed attempts to collect an outstanding balance of \$2.25 million

<sup>17</sup> Ministry Business Planning Guide and Template prepared by the Office of the Cabinet (December 2011). This template served as the required standard to preparing the Government's Strategic Plans for Ministries, in accordance with the Performance Monitoring and Evaluation System (PMES).

<sup>18</sup> We referred to the Ministry of Finance because the Office of the Prime Minister did not have an approved Strategic Business Plan.

<sup>19</sup> The operations, assets and liabilities of the National Investment Bank of Jamaica (NIBJ) were amalgamated with the Development Bank of Jamaica on September 1, 2006

## Part Four – Purchase of loan related to Orange Grove Property

and associated legal fees of \$25,000, the Board of Directors of TEF in October 2013, took a decision to write off the debt.

**4.12** DBJ investment in OVHL amounts to US\$758,409 in the form of redeemable preference shares and unpaid interest. In a letter dated December 21, 2012, the DBJ advised NHT that *“the National Investment Bank/Development Bank of Jamaica has no objection to the transfer of Lands part of Coopers Pen, Trelawny being made to the National Housing Trust free and clear from any lien of the National Investment Bank of Jamaica/Development Bank of Jamaica.”* DBJ’s Board of Directors, at its meeting held in October 2013, approved the write-off of its investment in the Outameni Tours and Entertainment project. This decision was arrived at after an assessment of the financial position of the project, which indicated that the project would not be in a position to repay the principal and interest. The total amount in redeemable preference shares written-off was US\$758,409. This amount included unpaid interest over the five year life of the investment.

### NHT purchased bank loan in exchange for Orange Grove property

**4.13** Orange Valley Holdings Limited, by letter dated November 7, 2012, informed NHT that it can acquire 100 per cent of the Orange Grove property, with the great house and the built-attraction, physical structure for a fraction of the estimated value of \$311.16 million. The letter stated that *“the property is indebted to a Merchant Bank<sup>20</sup> and we give NHT full authority to negotiate a buy-out of the bank loan which covers the realty.”* In an attached proposal document<sup>21</sup>, OVHL outlined that the property comprises assets, consisting of real estate of ten acres, a 300 year-old great house and the built attraction (**Figure 9**).

**Figure 9** Appraisal Report valued property at \$311.16 million

Details of Valuation Report	\$
Land	12,739,700
Great House	58,496,800
Theme park	79,836,500
Walk Ways	39,516,000
Display Area	79,037,800
Attached 1 (verandah attached to main building via a covered walkway)	5,389,200
Attached 2( Verandah and covered walkway)	2,922,200
Juice bar	1,770,600
Jerk centre	1,714,400
Games room	2,751,200
Washrooms	1,330,600
Security Posts	64,700
<b>Gazebos (4) @ \$86,625.00</b>	<b>346,500</b>
Ticket Office	198,000
Out building 1(Guest collage of bedroom and bathroom)	1,000,700
Outbuilding 2 (Office building)	3,389,700
Outbuilding 3(Pump house)	273,200
Outbuilding 4 (Generator house)	58,400
Tanks	5,082,000
Land development(Paved drive and parking areas)	15,246,000
<b>Total</b>	<b>311,163,800</b>

**Source:** Property valuation report commissioned by Mortgagee (September 2011)

<sup>20</sup> Name of bank deleted

<sup>21</sup> Entitled Restructuring and Rebranding Outameni Experience

**4.14** The proposal stated that the *“parent company, Orange Valley Holdings Limited is the sole owner of the contents of the attraction which includes anatomically correct architecture, props, multi-media equipment, motion pictures, works of art, costumes and intellectual property; replacement value of this asset is put at eight million dollars (\$8 million). There is no lien on these assets.”* The document further stated that the *“Development Bank of Jamaica is the owner of Five Hundred Thousand Dollars (US) of preference shares (\$500,000.00 USD) in the project (which it is prepared to write off).”*

**4.15** We note that the proposal was supported by four letters of appeal to preserve the property as an educational, heritage and tourist attraction. The letters were from a former governor general, a former prime minister and a member of parliament. The other letter was from a non-governmental organisation.

**4.16** In a letter dated November 19, 2012, the Merchant Bank informed NHT that *“As you are aware, the Merchant Bank has taken steps to recover the monies owed to it under the Loan Facilities in the Supreme Court. The matter is set for hearing on November 20, 2012, at which time the Merchant Bank will be resisting an application for the setting aside of the Default Judgement that had been prior obtained by the Merchant Bank. The Merchant Bank will also be applying for the Provisional Charging Orders that were previously obtained over properties owned by the Guarantors of the Loan Facilities to be made final.”* The letter also stated, *“As you will appreciate, pending any purchase of the Loan Facilities by the NHT, it is prudent for the Merchant Bank to continue to take steps to enable it to recover the sums outstanding.”* The Managing Director outlined in submission to the Board dated November 28, 2012 that *“an urgency was created because of a provisionary order by the Court to sell the home of the guarantors for the loan and the final order was expected to be handed down on November 20, 2012 if Orange Valley Holdings Limited failed to settle the debt.”* In a letter dated November 26, 2012, the Merchant Bank advised NHT, that it will defer the enforcement of court orders pending a communication from NHT on its decision to purchase the loan facility. The Merchant Bank noted that its forbearance will expire on December 15, 2012.

**4.17** At the December 3, 2012 meeting, the *“Board was requested to consider the recommendation of the Technical Committee for the purchase of the land owned by Orange Valley Holding Limited and which was the site of the Outameni Experience Theme Park, Trelawny, for the sum of approximately \$180M. The sum would settle the company’s financial obligation to the Merchant Bank.”* We requested the related minutes of the Technical Committee’s meeting to assess the information that informed the recommendation of the committee. However, there was no evidence in the minutes presented, dated November 15, 2012, to indicate that the Orange Grove property matter was discussed at the meeting. As such, we were unable to determine whether the recommendation submitted to the Board came from the Technical Committee.

**4.18** Further, in response to a question concerning the future plans for the Outameni Theme Park, the Chairman advised the Board that several options could be contemplated for the use of the property (**Figure 10**). The Minutes also stated that *“the Board recognised that a joint up approach with interest groups, such as the Ministries of Education and Tourism and the Parish Council would be required for successful management of the property. A timeframe of three months should be given for the Trust to be provided with proposal for the operation of the property.”*

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## Figure 10 Options for contemplation outlined by NHT Chairman

- 1 The property could be used to implement one of the recommendations on the Jamaica 50 Anniversary Celebrations Committee for a similar Park to Emancipation Park to be developed in the western part of the Island.
  - 2 The recruitment of someone with the relevant Knowledge and experience to take over the management of the Park.
  - 3 Provide the current operator of the Theme Park with an opportunity to continue with its operation.
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**Source:** NHT December 2012 Board Minutes

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**4.19** The Board at its meeting held on December 03, 2012 approved the purchase of the debt in exchange for the assets detailed in the appraisal report.

The Board approved the Technical Committee's recommendation that the Trust settles the outstanding balance due to the Merchant Bank on behalf of Orange Valley Holdings Limited, which were estimated at \$180M, in exchange for which the assets owned by Orange Valley Holdings Limited, as detailed in the Appraisal Report prepared by Valuator<sup>22</sup>, dated October 4, 2011 and valued at Three Hundred and Eleven Million One Hundred and Sixty-Three Thousand Eight Hundred Dollars (\$311,163,800.00), would be transferred to the Trust. The assets were to be transferred to the Trust free and clear of all liens.

**Source:** Extract of Board Minutes (December 03, 2012)

**4.20** In an email dated January 04, 2013, the Company Secretary and General Counsel responded to the then Managing Director as under:

I know that the Board has already taken a decision however there may be issues raised regarding whether this transaction falls within the mandate of the Trust.

I expect that we did our own due diligence to ensure that there are no further liabilities that could possibly complicate a sale of this nature.

If we are to proceed with this transaction I recommend that a Sale Agreement containing the terms of the disbursement be prepared by the Vendor's Attorneys-at-law as obtains with our purchases of land. No disbursement should be made without a properly executed sale agreement, title search, surveyor's i.d. report and Companies Office search.

The transaction should not be structured as a debt purchase arrangement but as one for the purchase of land.

**4.21** In a letter dated January 04, 2013, NHT made an offer of \$180 million, to OVHL, for the purchase of the full rights to the property, free and clear of any lien. In a letter dated January 9, 2013, OVHL accepted the offer.

**4.22** In an email, dated January 15, 2013, the Merchant Bank informed NHT it received a copy of OVHL's acceptance of NHT's offer and requested a response from NHT that the acceptance has been

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<sup>22</sup> Valuator's name deleted

## Part Four – Purchase of loan related to Orange Grove Property

received. The Merchant Bank further stated, *“This matter is most urgent as there is a part heard matter in the court tomorrow.”* The email further stated that *“if we do not get written confirmation from NHT, we will be unable to instruct our attorneys to stay the action.”* On January 15, 2013, NHT advised the OVHL to proceed to prepare the sales agreement. NHT and the Mortgagee signed the sales agreement on March 15, 2013. NHT made payments to the Mortgagee in two tranches. The first payment of \$27 million was made on March 19, 2013 and the remaining \$153 million was paid on June 13, 2013. The title of the property was transferred to NHT on May 27, 2013.

**4.23** It should be noted that four months after the execution of the sales agreement the then Managing Director appeared to be uncertain as to what NHT should receive in exchange for the purchase of the loan. This is evident in the then Managing Director’s email, dated July 24, 2013, to NHT’s Company Secretary and General Counsel.

*“As a matter of urgency, we need your legal guidance with respect to the purchase of the property owned by Orange Valley Holdings Limited. What did we purchase? I see that the agreement made was with the Merchant Bank<sup>23</sup> and not the Beneficial Owner<sup>24</sup> or Orange Valley Holdings Limited. It would therefore seem that the NHT bought out the loan for which the settlement would be that to which the Merchant Bank would have had entitlement to. It is therefore for us to get a determination of exactly what that entitlement would have been.”*

**4.24** The Company Secretary and General Counsel in her response dated July 25, 2013, advised that:

*“NHT purchased the security held by the Merchant Bank and described in the valuation report.” The General Council and Company Secretary also noted that “A chattel, in law, is a physical object which never becomes attached to the land even though placed in close relation to the land. It therefore, does not form part of the property to the purchaser of Realty.” It was also noted that “A fixture on the other hand is so attached to the land that it in terms of its use or purpose it becomes a part of the land and will therefore pass to a purchaser of Realty.”*

**4.25** Subsequent to the Board’s approval in December 2012, NHT’s Construction and Development (C&D) Unit conducted a site assessment of the property in January 2013. The site assessment report<sup>25</sup> indicated *“that the property does not appear to facilitate the NHT’s mandate for affordable housing solutions and is more suited for recreational/heritage type facility.”* The report noted that the recommendation was based on three factors; High development cost to convert the property from its existing usage to residential; not being able to viably spread the overall related development costs due to the relatively small acreage to be developed; and, potential historic, heritage and environmental content of the surrounding areas. In February 2013, NHT commissioned a valuation appraisal, which valued the property at \$280 million; 10 per cent (or \$31.16 million) difference when compared with the valuation of \$311.16 million conducted in September 2011.

**4.26** Further, in a letter dated July 12, 2013, to the executive chairman of OVHL, NHT stated *“we have noted the list of items that you have identified as being owned by Orange Valley Holdings Limited and your offer to sell these to the National Housing Trust. Whereas the NHT has no interest*

<sup>23</sup> Merchant bank name deleted

<sup>24</sup> Name of the Beneficial owner of property deleted

<sup>25</sup> The site assessment report, dated January 23, 2013, detailed, among other things, the location, layout and development potential of the property.

## Part Four – Purchase of loan related to Orange Grove Property

*in the items that are specifically related to the Outameni Experience brand, we invite you to share the value that you have placed on the other items and their detailed particulars to include the make, model and year where applicable.”* The letter further stated *“we invite you to meet with us on Tuesday, July 16, 2013 at 1:00 pm at which time we will seek to reach agreement on what items on the property are owned by you, versus those to be retained by virtue of being Landlord’s fixtures.”* The letter also noted *“we will at that time also give due consideration to any other assets that we believe may be beneficial for the NHT to acquire.”* NHT and OVHL signed a sales agreement on July, 24, 2014, for the purchase of chattels for the sum of \$2.1 million.

### NHT incurred \$28 million in operational costs at Orange Grove property

**4.27** Since the date of the transfer of the title, NHT assumed full responsibility for the on-going operational costs at the Orange Grove property. Information obtained from NHT revealed that the Trust incurred costs totalling \$28 million as at October 2014. As shown in **Figure 11**, these include utility, maintenance, insurance, security and salary related costs.

**Figure 11** Expenditure incurred at Orange Grove as at October 2014

Details	Amount (\$)
Salaries & Allowance – Temporary	10,325,397
Electricity	646,781
Building Maintenance	655,199
Water Rates	1,136,370
Telephone	17,249
Consultancy Fee	1,176,960
Chattels	2,112,885
Office equipment	654,258
Valuation	1,043,280
Office Security	5,138,235
Survey	137,470
Insurance - June 19, 2013 to March 31, 2014	1,200,613
Insurance - April 1, 2014 to March 31, 2015	3,006,108
Miscellaneous Expenses*	847,881
<b>Total</b>	<b>28,098,686</b>

**Note:** \* Miscellaneous Expenses represent payments made to the property coordinator, caretakers, grounds men and the housekeeper for work done for the period August to October 2013. This period represents the time between when the property was handed over to NHT and the time these individuals were taken on NHT's payroll.

**Source:** NHT's Records

**4.28** In June 2014, NHT employed a Park Manager at the Orange Grove property. The related job description stated that the Park Manager is responsible for the overall management, maintenance, security coordination and operation of the Park, and its environs. The Park Manager is also responsible for achieving the Park's strategic and operational objectives in the most efficient and effective manner and within budget. The Park Manager was contracted for a period of three years, June 2013 to June 2017, at an annual salary and travelling allowance of \$4.8 million. Under the terms of the contract, the individual shall be entitled to a gratuity payment of 15 per cent of the basic salary of \$3.2 million at the end of each year. After 90 days, the individual would be eligible for a motor vehicle loan not exceeding \$4.2 million, at an interest rate of three per cent. The

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individual is also entitled to consumer and staff loans in keeping the NHT's staff loan policy. We found that NHT further contracted the services of six other individuals previously employed to the Outameni Tours and Entertainment attractions. As shown in **Figure 12**, these include an administrative assistant, property coordinator, caretaker, two grounds men and a housekeeper.

**4.29** However, NHT acknowledged that the requisite Ministry of Finance approval was not obtained for the engagement of the officers and the payment of the related emoluments. This is in breach of Section 20 of the PBMA Act and Ministry of Finance and the Public Service Circular No. 16<sup>26</sup> dated April 06, 2010.

**Figure 12** Salary for NHT's officers at Orange Grove property

No.	Position	Contract Period		Annual Emolument (\$)
		Start Date	End Date	
1	Manager	June 2014	June 2017	4,820,016
2	Administrative Assistant	July 24, 2014	December 31, 2014	1,411,240
3	Property Coordinator	October 2013	February 2014	3,726,329
4	Caretaker	October 2013	February 2014	1,137,245
5	Grounds man	October 2013	February 2014	976,102
6	Grounds man	October 2013	March 2014	879,159
7	House Keeper	October 2013	March 2014	312,000
<b>TOTAL</b>				<b>13,262,091</b>

Source: NHT Records

<sup>26</sup> Ministry of Finance and the Public Service Circular No. 16 Reference Number SB 50/43

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# Appendices

## Appendix 1 NHT's land bank

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price	NHT's Comment Regarding Plans for property	Individual consideration when purchased	AuGD Comment
1	Alligator Pond	St. Elizabeth	30.00	November 2002	\$2,800,000.00	Land swap negotiations with Ministry of Agriculture	Residential development	NHT acquire agricultural land; Drainage Issue. Land prone to flooding
2	Anchovy	St. James	39.00	January 1997	\$10,000,000.00	Subject of exchange negotiation with Ministry of Housing & Attorney General	Residential development	Only 38.8 per cent (or 15.13 acres) considered suitable. Incidence of flooding noted.
3	Balaclava	Saint Elizabeth	53.00	June 2006	\$21,000,000.00			IN CONSTRUCTION - Likely completion date is March 2015 due to weather and revisions to subdivision plans.
4	Barrett Hall	St. James	429.18	September 2005	\$279,000,000.00	High-end residential development	High-end residential development	No development plans seen.
5	Boone Hall	Kingston & St. Andrew	51.86	January 1986	\$100,000.00	No information at this time	Residual lands from housing development	Terrain and soil type renders the property unsuitable for housing development. No plan for housing seen for the remainder: significant cost associated with the subdivision of the

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price	NHT's Comment Regarding Plans for property	Individual consideration when purchased	AuGD Comment
								property. Intention to donate 12 acres to a Charity.
6	Braco	Trelawny	60.00	August 1995	\$49,000,000.00	No information at this time	Acquired as payment for debt	Land surveying to be done in 2015 to confirm the exact acreage NHT has acquired as settlement for debt. Land title yet to be transferred to NHT.
7	Carawina	Westmoreland	23.00	April 2004	\$4,500,000.00	Subject of proposed leasehold arrangement	Acquired as payment for debt	45.49 per cent of land greater than 15 degrees (steep); development cost will be high as a result of the scattered steep slopes and interlocking hills.
8	Cousins Cove	Hanover	104.00	December 2007	\$65,000,000.00	To be decided	Residential development	Excess slope: no housing development plans.
9	Dry Valley	Trelawny	709.73	March 2009	\$425,000,000.00	Mixed land use development	Mixed land usage including residential	Planning/design Stage - land being surveyed to exclude Highway and NWC Tank site.
10	Eltham Farms	Saint Catherine	5.00	April 2004	\$8,500,000.00			Planning/design Stage

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price	NHT's Comment Regarding Plans for property	Individual consideration when purchased	AuGD Comment
11	Endeavour Farms	St. Ann	64.16	April 2007	\$37,844,800.00	Residential development	Residential development	No development plans seen.
12	Enfield Meadows	Westmoreland	166.00	May 2006	\$105,000,000.00	Land swap negotiations with Ministry of Agriculture	Residential development	NHT acquired agricultural land' due diligence done six months after purchase highlights historical incidence of flooding.
13	Florence Hall	Trelawny	119.56	March 1997	\$14,000,000.00	To be decided	Residential development	Trelawny Multi-purpose Stadium facilities (63.03 acres). Only 45.35 acres available. No plans for the development of housing solutions seen
14	Friendship	St. Elizabeth	295.62	November 2011	\$78,339,300.00	Residential development	Residential development	Design Phase:
15	Granville	Trelawny	20.00	January 2010	\$1,800,000.00	Residential development	Acquired as payment for debt	Tender Phase: NHT records indicate possible high off-site infrastructure cost as the Parish Council has requested upgrading of parochial road to access the development. May have to gain acquire more land to get access.
16	Hampstead Park	Kingston & St. Andrew	56.00	December 1995	\$12,000,000.00	No information at this time	Subject of Special Arrangement with Ministry of Housing	No recommendation for development as 47 per cent of the land reflects slopes in excess of 25 degrees which would inflate infrastructure housing solutions costs.

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price	NHT's Comment Regarding Plans for property	Individual consideration when purchased	AuGD Comment
								71 per cent of slopes are in excess of 15 degrees.
17	Hellshire (site 2)	St. Catherine	14.15	November 1991	\$2,625,000.00	Residential development	Residential development	Planning/design Stage
18	Hellshire (site 3)	St. Catherine	20.48	November 1991	\$2,613,600.00	Residential development	Residential development	Planning/design Stage: designs and tender documents completed
19	Hellshire (site 4)	St. Catherine		November 1991		Residential development	Residential development	CONSTRUCTION - completed: delivery of housing units and services lots.
20	Industry Cove	Hanover	12.186	March 2010	\$22,000,000.00	Residential development	Residential development	Design Stage
21	Inverness	Clarendon	9,084.77	December 2000	\$125,025,000.00	Mixed land use development	May Pen New Town Mixed land usage including residential	Design Stage. Portion of property (400 acres) already developed, 1,000 acres in planning leaving approximately 8000 acres for which no development plan (s) exist.
22	Johnson Hill (Lot 143)	St. Catherine	17.00	October 2014	\$87,800,000.00	Residential development	Residential development	No development plans.
23	Lathium	St. James	77.27	March 2007	\$26,514,215.31	Residential development	Residential development	Project on hold pending the revision of the 4-Year plan, given that the cost to develop a service lot is approximately \$3.5

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price	NHT's Comment Regarding Plans for property	Individual consideration when purchased	AuGD Comment million
24	Liberty Estate	St. Mary	10.00	May 2006	\$12,800,000.00	Sale of lots on the open market	Acquired as payment for debt	NHT reported in June 15, 2011 that 'due to steep slopes further subdivision of the lots (individually or as a whole) could pose levels of difficulty inclusive of high infrastructure cost'
25	Luana	St. Elizabeth	69.88	January 2011	\$27,500,000.00	Residential development	Residential development	Only 41 per cent of land suitable for NHT type housing.
26	Malvern	St. Elizabeth	10.00	April 2004	\$890,000.00	Residential development	Acquired as payment for debt	5 lots at risk of flooding as they serve as catchment areas for the development. North-western lots (number not given) are susceptible to land slippage. No evidence that NHT has sought to make any of other lots available for sale.
27	Mary's Field	St. Catherine	11.28	May 2011	\$24,000,000.00	Residential development	Residential development	Design Stage
28	Mount Mooreland	St. Catherine	140.23	March 2004	\$22,000,000.00	Residential development	Residential development	Hilly terrain. Due diligence in the form of a slope analysis conducted approximately 6 years after purchase.

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price	NHT's Comment Regarding Plans for property	Individual consideration when purchased	AuGD Comment
29	Mount Nelson	Manchester	490.00	November 2014	\$780,000,000.00	Residential development	Residential development	No development plans
30	Norbrook	Kingston & St. Andrew	51.84	August 1991	\$4,600,000.00	No information at this time	Residential development	Existence of occupiers on property. The NHT is currently trying to settle legal dispute with person (s) occupying a section of this property. NHT acquired property after settling loan owed by external party
31	Orange Grove	Trelawny	9.05	May 2013	\$180,000,000.00	Investment purpose	Investment purpose	NHT acquired agricultural land.
32	Paradise Pen	Westmoreland	78.52	February 2005	\$30,000,000.00	Sale of property approved by the Board	Residential development	NHT acquired agricultural land.
33	Parbucle Wharf	Hanover	119.54	July 2013	\$14,900,000.00	Land swap negotiations with Ministry of Agriculture	Residential development	NHT acquired land zoned for farming; NEPA recommended that the land be retained for agricultural purposes
34	Perth	Manchester	590.00	May 2005	\$77,000,000.00	Residential development	Residential development	Planning/design Stage: Perth Phase 1 completed leaving approximately 456 acres. Phase 1A and 2 currently being planned
35	Point	Hanover	729.30	December 2005	\$869,366,152.50	Residential development/ Tourism development	Residential development/ Tourism development	Planning and development on hold due to the projected high infrastructure cost. Further, squatters occupy an estimated 30

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price	NHT's Comment Regarding Plans for property	Individual consideration when purchased	AuGD Comment
								acres of the land.
36	Ridge Estate	St. Ann	100.00	February 1998	\$9,000,000.00	Residential development	Residential development	Planning/design Stage
37	Riverton City	Kingston & St. Andrew	24.42	April 1992	\$16,000,000.00	No information at this time	Subject of Special Arrangement with Ministry of Housing - Occupied by informal settlers	23.21 acres occupied by informal settlers (7.6 acres), housing development (6 acres) and Sandy Gully embankment (9.61 acres).
38	Salt Spring (Ironshore)	St. James	101.00	December 2005	\$202,500,000.00	Residential development	Residential development	<b>Board ignored NHT's technical advice:</b> Land Acquisition finalized prior to survey. NHT reported that only an approximately 50 per cent of land can be utilized for housing as the land is steeply sloping and there are two waterways on the property: The infrastructure costs would therefore be very high
39	Sevens Plantation	Clarendon	289.00	December 2006	\$120,000,000.00	Residential development	Residential development	Tender Stage

No.	Land	Parish	Area in Acres	Transfer Date	Purchase Price	NHT's Comment Regarding Plans for property	Individual consideration when purchased	AuGD Comment
40	Sheckles	Clarendon	359.00	September 2007	\$40,000,000.00	Residential development	Residential development	Design Stage
41	Sheckles 2	Clarendon	453.37	October 2012	\$127,400,000.00	Residential development	Residential development	NHT acquired agricultural land.
42	Twickenham Park 4	St. Catherine	12.60	December 2014	\$32,000,000.00	Residential development	Residential development	Planning stage
43	Unity Farms	St. Mary	733.00	January 2003	\$62,000,000.00	Subject of sale negotiation	Residential development	<b>Board ignored management's technical advice:</b> NHT acquired agricultural land.
44	Windsor	Trelawny	30.00	November 2011	\$28,000,000.00	Residential development	Residential development	No housing development: NHT needs to acquire additional lots and easement to facilitate an alternative access to the site, prior to development
			<b>15,863.99</b>			<b>4,060,418,067.81</b>		