

# Land Swap Deal Appears to be in Trouble as Critical Amendment Fails in Senate

## Amendment to Whistling Cay land swap fails in Senate due to concerns over waterway access rights

Government / **Published On November 15, 2023 07:53 AM /**

Nelcia Charlemagne **November 15, 2023**

Image not found or type unknown



The contentious land exchange agreement between the local and federal government [recently ratified](#) by the Legislature was placed into sharp focus again on Tuesday, when the matter was brought back for some legislative tweaking that was not appreciated by lawmakers.

After months-long, passionate debate over Bill #35-0115 (now Act 8741), members of the 35th Legislature in September voted to approve the transfer of Whistling Island, commonly called Whistling Cay, to the Department of Interior, in exchange for a parcel of land in Estate Catherineberg St. John for the building of the island's first public K-12 school.

However, during a Tuesday hearing, Senate President Novelle Francis informed colleagues of an amendment being offered by Senator Angel Bolques Jr. aimed at "right-fitting the legislation."

He explained that attorneys have taken some objection to how the bill was worded, and so Mr. Francis decided to request "a technical amendment to be made to address that language issue."

The amendment was attached to a bill appropriating funds for water distribution on St. Croix, with Senator Angel Bolques Jr. offering amendment 35-543, which he argued would solve the land swap language issue without affecting other parts of the measure.

Act number 8741 was amended to delete language that says the Government of the Virgin Islands may exchange the land, provided that use of public access to the waterway of Whistling Kay, known as Fungi Passage, is not affected. The new language requires that access to the land and waterway remains consistent with the National Park Service Organic Act... and all applicable federal laws and regulations.

Sen. Alma Francis Heyliger objected, claiming a feeling of "deja vu" during debate on the amendment. "We had a very distinct debate between me and my very same colleague here from St. John," she said, contending that the proposed amendment could jeopardize the whole deal.

"Because one of the key points that the Legislature included was to make sure that this deal could not go through until we were able to guarantee that the waterways between the Fungi Pass were still accessible to the residents. Well, guess what? Now it's time to sign the deal," she said, implying that federal authorities could walk back that promise.

Mr. Bolques countered, "I don't believe that that is an accurate interpretation of what's before us." He said the amendment was being brought forward to ensure that the land exchange goes through. "Let's not misconstrue it, we never owned the water rights," he said. "The National Park let our people go through Fungi Passage as much as they wanted to. And that will continue, that does not change."

However, Ms. Francis Heyliger would not back down, arguing that the clause that her colleague was now trying to replace wholesale was crafted specifically to protect the traditional enjoyment of Virgin Islanders. "The original bill section three — what they're attempting to strip — the government of the Virgin Islands may exchange the land in Section One if the exchange does not interfere with or restrict the public access to the waterways of Whistling Cay, known as the Fungi Passage, for recreation and commercial purposes," she said.

Ms. Francis Heyliger argued that the replacement clause completely removed that conditional element. "They want to wipe the whole thing out and add in the federal laws that we have to comply with them. So at the end of the day, the federal government [is] saying we cannot continue with the language that exists. They want to remove it."

Mr. Bolques insisted that the new amendment would not lead to any issue with the waterways. "Let's talk about recreational and commercial purposes. The National Park does not conduct recreational or commercial services. They contract vendors to do that for them. The National Park cannot conduct any recreational or commercial purposes. So the fact is that that amendment fixes all of that," he said.

Despite his attempts at assurances, the motion introduced by Mr. Bolques did not garner enough support from his colleagues, and the amendment failed with six in favor and seven against. What this could mean for the fate of the land swap is currently unclear.

