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Caneel Bay Resort Takes U.S. Government to Court Over Title to Property, Saying Development Can't Begin Until Dispute is Settled

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Hurricane Maria destroyed the Caneel Bay Resort in St. John. By. ANNE BEQUETTE FOR THE NEW YORK TIMES

The attempt to refurbish the Caneel Bay resort has hit the courts, with a filing on Thursday from EHI Acquisitions LLC seeking to settle the question of who has legal title to the property.

Consortium journalists have seen a copy of the civil complaint, which alleges that the Government of the United States has failed to recognize that EHI now holds title to the property after the government declined the company's offer to turn everything over to the state.

The origins of the dispute go back to 1956, when Laurance Rockefeller donated a huge swathe of land he'd purchased on St. John to the US National Park Service. Of the over 5000 acres he purchased, however, Rockefeller kept 150 of them and built the Caneel Bay Plantation, which soon became a bustling resort, welcoming high society figures of all stripes - celebrities, literary icons, even presidents.

In 1977, Rockefeller divided ownership of the land on which the resort sat from the actual buildings and facilities of the hospitality outfit. In 1983, the land on which Caneel Bay resort sat was transferred to the United States via the National Park Service, but the instrument used to do that did not give the government right to use the resort and did not transfer ownership of the resort docs, and other facilities. Instead, Rockefeller created what is known as a Retained Use Estate, in which his company was able to retain the rights to occupy and operate the resort.

Also included in the deal was something called a put-take mechanism. This would allow the owner of the Retained Use Estate to submit an offer to the US Government to allow the state to take ownership of the resort buildings at fair market value. If the Government declined the offer, the terms of the deal, called an Indenture in legal terms, meant that full title to the resort and the land on which it sat would then pass to the owner of the Retained Use Estate. According to the complaint filed by NHI, this put-take mechanism was included in the Indenture to ensure that whoever was operating the resort would have a financial incentive to continue to maintain and refurbish the property throughout the 40-year lifespan of the Retained Use Estate, which expires in September 2023.

By 2004 ownership of the Retained Use Estate had passed from Rockefeller's original company to EHI Acquisitions and CBI Acquisitions, together known as Caneel Bay. Caneel Bay grew to become a major player on the island of St. John, as the island's largest employer, and an active corporate citizen. In 2017, the twin hurricanes of Irma and Maria devastated the USVI, causing extensive damage to the Caneel Bay Resort.

The principals calculated that the property would cost over 100 million dollars to rebuild following the 2017 storms. In order to recoup that level of investment, Caneel Bay realized that they would need to operate beyond the lifetime time of the Retained Use Estate, but discussions with the National Park Service to that end were ultimately fruitless, the EHI complaint alleges.

EHI then decided to invoke the put-take mechanism, and proposed to surrender the RUE for a sum of \$70 million dollars, a figure they argue was below the market value at the time. In June 2019, the court submission says, the government wrote back to the operators of Caneel Bay, declining the offer.

EHI Acquisitions believes that according to the terms of the Indenture Agreement, that the response from the United States meant that title to the land the resort sits on would automatically revert to them. However they argue that the US, since their communication on June 11 four years ago, has not recognized that EHI is now the valid title holder of the property.

Because of this, EHI argues, the restoration of Caneel Bay Resort to its former glory cannot proceed. This is why on Thursday, attorney Chad Messier filed the civil complaint, asking the court to rule on the matter. EHI is requesting that they be declared the owner of all right, title and interest to the Caneel Bay land, and until the District Court of the Virgin Islands issues a judgment in the matter, the resort that some might call the Jewel of St. John will continue to lie in ruins.