

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Public Law Division
2018/PUB/JRV/00031**

IN THE MATTER OF Order 53 of the *Rules of the Supreme Court*

AND IN THE MATTER OF an application for Leave to Apply for Judicial Review
by Howard Simpson, Martha Simpson, Arpad Busson and Guy Dellal

BETWEEN

**THE QUEEN
AND**

HARBOUR ISLAND DISTRICT COUNCIL

First Respondent

AND

PHILIP S. WEECH

**(In his capacity as Director of the BAHAMAS ENVIRONMENT, SCIENCE AND
TECHNOLOGY COMMISSION)**

Second Respondent

AND

BONEFISH ALLEY LTD

Interested party

- EX PARTE —

**HOWARD SIMPSON
MARTHA SIMPSON
ARPAD BUSSON
GUY DELLAL**

Applicants

Before Hon. Mr. Justice Ian R. Winder

Appearances:

Leif Farquharson with John Minns for the Applicants

David Higgins with Adelma Roach for the Respondents

Gail Lockhart-Charles with Lisa Esfakis for the Interested Party

RULING ON COSTS

WINDER, J

1. This is my brief decision on the question of costs arising from my judgment in this action and for which I gave a written decision on 11 February 2020. At the conclusion of my decision I indicated an inclination to make no order for costs but invited the parties to lay over submissions in the event either of them wished to advance arguments in favor of a different order for costs. Written submissions were received from all parties and have been considered.
2. The proceedings involved an application for Judicial Review by a group of concerned residents challenging two separate, albeit related, decisions made by two separate decision makers. The decisions concerned: the issuance of a building permit by the Harbour Island District Council (HIDC) for the construction of a rock groyne; and the decision of Philip Weech (in his capacity as Director of BEST) (Weech) with respect to proposed beach creation. The Applicants were successful against the HIDC but unsuccessful against Weech.
3. It cannot be disputed that in the ordinary course of events the Applicant's would be entitled to their costs incurred in pursuing HIDC and would likewise have to pay the costs incurred by Weech in the action. I accept that the Respondents were unsuccessful in the preliminary objections made against the application. It also does not escape me that the Applicant's reformulated their judicial review claim, midstream, after having already secured injunctive relief.
4. In all the circumstances therefore, I find that the fair and just order to make, in the exercise of my discretion on costs, since each had some measure of success in the application, would be for each party to bear their own costs. I so order.

Dated the 7th day of April AD 2020

Ian R. Winder
Justice