

# David Johnstone

## Overview

David Johnstone heads our Real Estate, Resort Development, and Private Client Groups. He is the clear industry leader in representing resort developers in all aspects of resort development, including acquisition, financing, regulatory approvals, development, master planning and sales programmes. He has extensive regulatory experience, including drafting applications to the Bahamas Investment Authority, drafting heads of agreement, and drafting and negotiating subdivision and utility agreements with Government.

David has established himself as the go-to legal adviser in master-planning mixed-use resorts with varied residential and amenity components, including subdivisions, condominium, condohotel and timeshare components. He has structured complex condohotel programmes for homeowners' associations, and advised on structuring golf club and marina club programmes for many of the county's largest resorts.

Additionally, David has established himself as an expert in representing high net worth private clients in real estate acquisitions and economic permanent residency matters. He has extensive experience in secured financing transactions, construction and mezzanine financing, securitisation and residential and commercial lease transactions.

### **David has specialist experience in:**

- Resort and hotel acquisition, financing and regulatory approvals
- Condominium and condohotel declarations/structures

- Master planning resort communities
- Timeshare development and marina clubs
- Homeowners and condominium associations
- Private client conveyancing and economic permanent residency
- Secured financing transactions

### **Examples of recent work**

- Representing the Export-Import Bank of China and Deloitte Touche Tohmatsu in the receivership and distressed sale of the \$3.5 billion Baha Mar Resort.
- Acting for German American Capital Corporation (Deutsche Bank), Morgan Stanley Bank N.A. and Citigroup Global Market Realty Corporation as senior and mezzanine lenders in a \$1.75 billion secured loan concerning the refinancing of the Atlantis Resort on Paradise Island.
- Acting for Access Industries Inc in the \$150 million acquisition of the One & Only Ocean Club resort on Paradise Island.
- Acting for Bank of America N.A. in a \$85 million securitised mortgage loan of the One & Only Ocean Club resort on Paradise Island.
- Representing Baha Mar Ltd in structuring a 350-unit condohotel programme within the Grant Hyatt, SLS and Rosewood properties, including the master-planning of the Baha Mar project.
- Acting for China Construction America in structuring a 140-unit condohotel programme at The Pointe development in Nassau.
- Representing the Export-Import Bank of China in a \$2.45B secured financing of a mixed-use-multi-brand mega resort on New Providence.
- Represented Florida Power & Light and Tractebel North America in the proposed construction of a \$1 billion liquefied natural gas terminal on Grand Bahama.
- Represented the developer in the acquisition and \$100 million retrofit of the British Colonial Hilton; and also represented the mezzanine secured lender in this transaction.
- Represented the developer as lead counsel in the \$30 million acquisition of the Hilton Hotel in Kingston, Jamaica.
- Represented the developer as lead counsel in the acquisition of a \$10 million Comfort Suites Hotel in Ocho Rios, Jamaica.
- Represented the developer and the mezzanine lender in the \$20 million acquisition of the South Ocean Resort, New Providence.
- Acting for Mitsui/Hypoveriens Bank in the \$140 million credit insured financing of the Emerald Bay Resort, Exuma.
- Acting for Four Seasons in structuring a condohotel programme at the Emerald Bay Resort, Exuma.
- Structuring a Hilton-managed 300-unit condohotel programme, on behalf of the developer of the Bimini Bay resort.
- Acting for Starwood VO/Kerzner International in structuring the 400-unit Harbourside timeshare resort at Atlantis on Paradise Island.

- Representing Lehman Brothers as secured lender with respect to the Royal Oasis Hotel, Freeport, the Hurricane Hole Marina Project, Paradise Island, and the Ritz Carlton-branded Rose Island Project.
- Acting for Morgan Stanley in a proposed \$100 million mixed-use development in Freeport, Grand Bahama.
- Acting for the developer in the Balmoral development, a gated residential project comprising 240 town-homes and 70 single family lots on New Providence.
- Acting on behalf of the developer in the master-planning and development of the proposed \$2 billion Ginn Sur Mer resort on Grand Bahama.
- Acting for Starwood Hotels as proposed joint venture partner in the \$2 billion Baha Mar resort on Cable Beach, New Providence.
- Acting for Citigroup in a \$50 million secured working capital loan to the developers of the Albany project, New Providence.
- Representing a New York Hedge Fund in the acquisition and financing of the South Ocean Resort, New Providence.
- Acting for the developers of the Baker's Bay Project, Abaco, The Bahamas, in all matters of master-planning and sales.
- Representing a Texas-domiciled REIT in the financing and restructuring of the developer of the Royal Island development, Eleuthera.
- Acting generally for the developer of the French Leave resort at Governor's Harbour, Eleuthera, in corporate and master-planning matters.
- Representing the owner of the Cotton Bay Resort, Eleuthera, in planning a mixed-use resort.
- Representing the owner in acquiring Lynyard Cay, Abaco, for development as a mixed-use resort.
- Representing a proposed joint venture developer in acquiring and developing the 2,000-acre Cape Eleuthera development on South Eleuthera.



## Practice Areas

- Real Estate
- Resort Development
- Private Client
- Resort Title

## Recommendations

**Chambers Global** consistently ranks David as "Band 1" for real estate in The Bahamas. He is also ranked by **The Legal 500 Caribbean** a leading lawyer.

*Head of Real Estate David Johnstone maintains his standing at the fore of the country's property market. He acts for a range of notable international developers, as well as lenders, on the development of commercial and residential property, hotels and resorts, marinas and other types of real estate. He additionally assists with sales, acquisitions, financing and regulatory compliance. (Chambers Global 2021)*

*David Johnstone maintains his status as a top-rated real estate practitioner. He is especially noted for his strengths in resort development and high net worth property acquisitions. He also fields expertise in condominium law, and acts on behalf of several international developers operating in the Bahamas. (Chambers Global 2020)*

*"David Johnstone (Band 1) is a pre-eminent figure in real estate law in The Bahamas. Competitors point him out as **"a knowledgeable lawyer who has a way about him when it comes to technical and complicated transactions."** His areas of expertise include resort development as well as assisting high net worth clients with significant property acquisitions. (Chambers Global 2019)*

*"One of the best real estate lawyers in the Bahamas" (Chambers Global 2018)*

*"A really intelligent lawyer" (Chambers Global 2017)*

## Background & Qualifications

- University of British Columbia, Canada
- Simon Fraser University (B.B.A), Canada
- Admitted to the Bahamas Bar in 1988

# Memberships & Professional Affiliations

- The Bahamas Bar Association
- Society of Trust and Estate of Practitioners (STEP)

## News & Articles

*THE BAHAMAS: An Introduction (Real Estate & Resort Development) (2021)*