

**The survival  
of  
The St George Hotel  
and of its  
Beach Facility and Marina**

*State of Law and Investments*

*Protecting National Investments  
and  
its effect on the capacity of attracting Foreign Investments*

Beirut, March 2002

**Introduction**

**Reasons why a major investment in the center of the Capital cannot see the  
light**

Why does the Historic Bay of St George remain an unfinished site?

*A complex and endless legal battle opposes the owning company of the Hotel to Solidere who is trying to expand its perimeter to the water surface adjacent to the St George Hotel*

Why is the St George Hotel not built eleven years after the end of the war?

*The owning company of the Hotel that has been granted land fill work by the CDR in the Bay cannot legally be cut off from the sea. Since time began the St George has had Beach facilities and a Marina that have made its charm.*

Why has a 60 million Dollar investment not seen the light despite the continued efforts of its owners?

*The desire of Solidere to be the sole lease holder of the entire St George Bay has paralyzed the renovation project of the Hotel who would lose its historic and commercial value if it lost its access to the water front and its beach facilities.*

## **The Legal rights acquired by the St George on the Water front**

Decree **no 8822** of 8 January 1932, completed by Decree **no 784** of 8 June 1937 authorize the Societe des Grands Hotels du Levant (SGHL) to build the St George Hotel on Lot no 349, 377 and 1243 being the property of the company as well as on 2000sqm of the adjacent Maritime Public Property; in 1959 Decree **no 2660** authorizes the Hotel to occupy an additional 2000sqm of the Maritime Public Property. It is on this particular area that the famous Beach “ Elite”, the meeting point of all of Beirut’s Jet set, lies.

The Societe des Bains de Mer (SBM) buys the “St George Yacht Motor Club” from its previous owner Mr. Michel Nader lease holder of the original St George beach and of 1900sqm of the Maritime Public Property permitting the mooring and dry-docking of boats according to Decree **no 14981** of February 1957.

The SGHL and SBM have therefore the acquired right of lease, over the Maritime Public Property and hence the adjacent water area in accordance to the prevailing laws and regulations.

Those acquired rights are confirmed and reinforced by the Lebanese legislation and particularly:

Decree **no 4810** of 24 June 1966 that regulates the use of Maritime Public Property and of which article 6 stipulates that the ownership of land adjacent to the Maritime Public Property gives the right of lease **to the owner only and no one else** and that, to the extent of double the area of the adjacent land and on the condition that the water front does not exceed the length of the land lot itself.

Article 5 of **Law 58/67** about the operation of Touristic Projects stipulates that companies to which the State gives the benefit of this law, **must respect the acquired rights of others** what ever they do.

The St George has always paid its dues regularly and the State has always accepted payment of the legal annual fees due for the lease of the Maritime Public Property. The last payment of such fees, LL 24 million for the SGHL and 192 million for the SBM were made on 13.2.2000 and on 2.8.2000 respectively. It is important to note that the State refuses payments of any fees or rent for all illegal occupation of the Maritime Public Property.

## **The Legal position of the Western Marina (Sector Ab) and of the Water surface adjacent to the Hotel (Sector 5 of the St George Bay)**

The Bay does not enter in the perimeter of the City Center rehabilitation entrusted to Solidere, in fact :

**1. Decree no 2236 of 19.2.1992 that delimits the plots entering in the rehabilitation plan of the City Center entrusted to Solidere, excludes the plots where the Hotel is constructed.**

**2. The subsequent modifications in 1994 of the Master Plan of the City Center aimed to include the Normandy land fill within the zone entrusted to Solidere**

**have clearly excluded from the limits fixed to the Western port by Decree no 5609 of 3.9.1994, Sector 5 of this zone, constituted of the water plan adjacent to the Hotel and its Beach.**

**3. Moreover, Decree no 7660 of 15.12.1995 has defined separately the rules organizing Sector 5 of the St George Bay. Those rules, says the Decree, “aim at organizing the zone where the Hotel is located in the City of Beirut and the Port that surrounds it, both of which are adjacent to the Western touristic port created according to Decree no 5609 of 3.9.1994”**

### **The Intervention of the State to the advantage of Solidere is at the origin of the conflict with the St George Hotel**

- Does Solidere need the exclusive monopoly of the Bay in order to meet its goal?
- *No, because Solidere’s object is in priority the rehabilitation of the City Center. The activities of real estate and touristic development are additional activities and cannot extend beyond its boundaries to other areas where other eligible investors have acquired rights.*
- However, the ambitions of Solidere as a real estate and touristic developer have got it to obtain from the State an extension of its field of action outside the real estate zone of the Master Plan and its amendments.
- *In particular, the landfill of the Normandy embankment has made it aspire to the exclusive appropriation of the totality of the St George Bay, namely the “Western Marina” plus the St George Marina, “Sector 5” which is the water plan adjacent to the St George Hotel and Beach.*
- The Council of Ministers was therefore lead to take successive and contradictory Decisions, in order to accommodate Solidere’s pressure on the Government. some of these Decisions are not in conformity with the general principles of the law governing the occupation of Maritime Public Property and Touristic Projects. These Decisions are as follows:
  - ✓ A confirmation of the acquired rights of the St George Hotel by Decree **no 6155** of 22.12.1994 that had attributed an area of the Maritime Public Property of 12735 m2 of which 5140 sqm of water surface and 7695 sqm of break water.
  - ✓ A cancellation of the above Decree, nine months later, by Decree **no 7388** of 10.10.1995

- ✓ **Decision no 83** of the Council of Ministers dated 15.11.1995 suggesting the cancellation of all of the Decrees which have given the SGHL rights over Maritime Public Property.
- ✓ Decree **no 7692** of 21.12.1995 entrusts to Solidere the management of the Eastern and Western Marinas of Beirut within the limits defined by Decree **no 5609**, which excludes Sector 5 and puts it out of bounds of Solidere; Decree no 5609 is, however, not signed by the Minister of Transport who has considered that the State can not break the law and acquired rights.<sup>1</sup>

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Conscious of the fact that without the Transport Minister's signature, the Decree is invalid, the Government replaces this Decree by Decree n° 8939 of 9 August 1996, signed by a new Minister of Transport, and then rectifies it by Decree 9880 of 7 February 1997 to include The Director General of Transport in the comity appointed to prepare the contract between the State and Solidere.

- In order to defend itself, the SGHL in 1995 and 1996 raised a series of cases against the State for Decrees **5609, 7388, 7660** and **7692**.
- Following this action, the Government seeks a friendly agreement with the St George. This agreement concluded on 7.3.1997 between the CDR and the SGHL on the one hand and the SBM on the other States the following:
  - ✓ The withdrawal by the St George of its legal cases.
  - ✓ The financing and execution of land fill and development works in conformity with Decree 7660, namely in **Sector 5**.
- On 17 September 1997 the Council of Ministers approves through its **Decision no. 26** a draft **contract between Solidere and the State**, giving Solidere for fifty years the exclusive management of the Western and Eastern Marinas, including, only in its attached plan, Sector 5. This contract was signed on the 25th of September by the Ministers of Tourism, Finance, Transport and Public Works, **without having been ratified by a Decree** in accordance to legislation.
- On 24.9.1998, the CDR notified the St George to start **work** as per contract of 7.3.1997 namely in **Sector 5** of the St George Bay. This work was **finished** on 23.6.1999, nine months after the CDR notification. However, the work is commissioned by the CDR only on 12 September 2000.
- On 6 October 1999, the Directorate of the Transport Ministry, being responsible of the Maritime Public Property **notifies the St George to evacuate** Sector 5 of the St George Bay in an attempt to put an end to its lease/presence and to its acquired rights since 1932.
- In order to examine the conflict, Prime Minister Salim El Hoss constituted on 30.10.1999 a Committee formed of the administrative authorities concerned. The report of the Committee issued on 12 October 1999<sup>2</sup>, concludes that:

- ✓ Decision no. 26 of the Council of Ministers approving the contract of management by Solidere of the Western and Eastern Marinas is not sufficient to cancel the rights of the St George.
- ✓ The Decrees issued in favor of the St George are still valid and Decision 83 of the Council of Ministers of 15 November 1995 is without effect on Sector 5 which forms part of the Maritime Public Property situated outside Solidere's grip.
- On 14 March 2000, the Minister of Transport by his letter no 594 to the Prime Minister suggested that **Sector 5** be subject to a **separate** management by Solidere. The government of Mr. Hoss does not agree to ratify this suggestion.
- On 8 September 2000 Decree **no 3808** modifies the position of the sea protection on the Normandy water front and covers Solidere for there illegal action in that area.

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2 - This report is dated by mistake 12 October 2000

- On 23 November 2000, by its Decision **no. 40**, the newly appointed Cabinet of Mr. Hariri merges "**Sector 5**" with the the Western port "Ab", contrarily to all the principles of law and to the spirit of the contract between the CDR and the St George.
- Decree **no 4837** of 3 February 2001 cancels our decrees No 8822, 2660 and 14981 of 1932, 1959 and 1957 respectively.
- Decree **no 4838** of same date as above annexes Sector 5 to the western marina Sector Ab.
- At this point the Government action could simply be described as barbaric. It ordered the destruction of the famous St George Yacht Club. The once active and lively Marina was shut down and became a desolate place. One year has elapsed with Solidere doing nothing.
- Decree **no 5714** of 19 June 2001 widened even more the limits of Solidere to include the quay (sector 4) to the western marina, hence dealing a further blow to the St George.

In the light of the above and in order to defend itself, the St George raised again, a series of cases against the State, for Decrees numbers **8939** of 9 August 1996, **3808** of 8 September 2000, **5609** of 3 September 1994, **4837 & 4838** of 3 February 2001, **5714** 19 June 2001 and Decision **180/1** of 26 May 2001.

## Conclusion

## **Do we really want to enhance Investment and Growth or do we want to replace existing Investors with others ?**

- The investor has already spent over \$50.000.- at today's Dollar to cover the cost of acquisition including cost of buying lease owners, Design & Construction. That does not include lost opportunity, Prejudice and Damages. A very serious expertise has evaluated at \$60,000,000.- Damages due to the enormous wall built so high (8.5m high and 90m wide) that the view from the hotel famous terraces has dramatically been impaired. This wall did not need to be built so high.
- At least as much money is yet to be invested, in order for the project to see the light.
- We cannot pretend to attract Foreign Investors when the Lebanese Investors see their rights violated in such a flagrant manner. The destruction of the St George Marina was an unprecedented act of savagery, definitely unlikely to create a positive climate for investments.
- To the spoliation of the rightful owners which has been the subject of many articles, are we going to add that of one of the oldest and most prestigious Tourist institutions of the Capital?
- In order to attract Foreign Investors, it is imperative that the rights of Local Investors and economical groups be respected.
- The ambitions of Solidere to be a real estate and tourism developer, contrary to its basic object is not understandable especially as the endless extensions beyond its boundaries since 1992, which it has gathered and is still gathering from the State with such ease, are not justifiable. The present real estate crisis and the surplus of available land and/or adjacent water surfaces are astounding. In the case of the St George Hotel, a historical Tourism symbol that characterizes Beirut, it was not the case of an insolvent investor. Well to the contrary, the St George has struggled against all odds for the last eleven years for its existence and survival and the continuation of a historical institution of the Capital.

- Nothing can explain the martyrdom that the St George Hotel and marina has been subjected to, and the more disturbing is the total silence that was kept by all concerned, around this matter, as no one ever voiced the slightest objection to a flagrant murder of one of the most prestigious institutions of this Country.

**• A simple and rapid solution would be to ensure a separate management of Sector 5 of the St George Bay in accordance and conformity with the common law on Maritime Public Property.**

**Allow an access to the sea on the West, as it has been since 1932.**

**Ensure the complete independence of the most prestigious Landmark in Lebanon.**

**Put an end to the monopole which Solidere is thriving at in an area which must remain outside its jurisdiction.**