



**Jamaica
Developers
Association Ltd.**

September- December 2022

NEWSLETTER



(Incorporated May 30, 1969)

JAMAICA DEVELOPERS ASSOCIATION LIMITED

Real Estate Development Webinar



An affiliate of VM GROUP



Hon. Delroy Chuck, MP
Member of Parliament
North Eastern St. Andrew
OPENING ADDRESS



Mr. Xavier Chevannes P.E.
City Engineer
Kingston & St. Andrew Municipal Corporation
CONDITIONS: BUILDING PERMITS



Mr. Leonard Francis
Director
Spatial Planning Division, NEPA
PROVISIONAL DEV. ORDERS



Mr. Alton Morgan
Attorney-at-Law
Alton E. Morgan & Company
SURVEYORS IDENTIFICATION REPORT



Mr. JOHN LEIBA
Attorney-at-law, Consultant
Dunn Cox
MODERATOR



Mr. Donald Moore
Senior Manager
National Housing Trust

✓ Establishing the Conditions of Building Permits
✓ Promulgation of Provisional Development Orders
✓ Surveyors Identification Report - New Developments



Mr. Reynold Scott
Chairman
Geon Group of Companies



Mrs. Rose Bennett-Cooper
Attorney-at-Law
Bennett Cooper Smith



Mrs. Licea-Ann Smith
Partner
Nunes, Scholefield, DeLeon & Co.



Mr. Timothy Thwaites
Vice President
Land Surveyors Assoc. of Jamaica



Mr. Michael Lake
Director
Island Homes Ltd.



“Developing Jamaica – Recovering Together 2022 and Beyond”

On Thursday, June 30, 2022, the Jamaica Developers Association Ltd. hosted the year’s first Webinar in the series, and continued with the theme “Developing Jamaica – **Recovering Together 2022 and Beyond**”.

The presentations by the industry experts were well received by the Eight Hundred and Fifty-five (855) attendees. Overall, there were Nine Hundred and Twenty-nine (929) Registered Participants. The Viewing Statistics showed that Attendees spent, on average, 2 hours 8 minutes viewing the presentations. The webinar started at 9:30 a.m. and ended at 1:37 p.m. - a total of 4 hours and 7 minutes.

We especially thank the Hon. Delroy Chuck, Member of Parliament for North East St. Andrew, for taking the time to deliver the Opening Address at the event. His constituency is the location for many new residential developments, and we are encouraged by Mr. Chuck’s strong support for orderly residential and commercial developments – particularly that developers must respect the restrictive covenants within communities and give due consideration to the property rights of homeowners.

Presentations made by representatives from the industry were very well received by the participants. Presentations included:

- **“Surveyors Identification Report for New Developments”**
Mr. Alton Morgan, Attorney-at-Law,
Alton E. Morgan & Company
- **“Promulgation of Provisional Development Orders”**
Mr. Leonard Francis, Director,
Spatial Planning Division, NEPA
- **“Establishing the Conditions of Building Permits”**
Mr. Xavier Chavannes
City Engineer, KSAMC

Mr. John Leiba, Moderator shared a wealth of knowledge and experience in his capacity as Real Estate Attorney and our expert panelists provided further clarity on the presentations. Special thanks to our panelists:-

- Mr. Reynold Scott
- Mr. Michael Lake
- Mr. Donald Moore
- Mr. Timothy Thwaites
- Mrs. Lecea-Ann Smith
- Mrs. Rose Bennett-Cooper

THANK YOU!

We once again thank the following sponsors:-

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Part proceeds from this event will be contributed to needy students in the Faculty of the Built Environment, University of Technology.

ACCREDITATION

Accreditation was sought and received from the following professional organizations: Land Surveyors Board of Jamaica and the Real Estate Board for the following presentations:-

- **“Surveyors Identification Report for New Developments” - Alton E. Morgan & Company**
- **“Promulgation of Provisional Development Orders” - NEPA**
- **“Establishing the Conditions of Building Permits” – KSAMC**

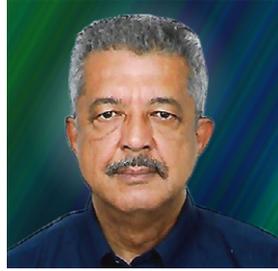
We are awaiting a response from the General Legal Council which we should receive by the end of September.

Participants may apply for a Certificate of Participation to the Secretary of the JDA. There is a nominal processing fee of \$1,500.00 per Certificate.

CHAIRMAN'S CORNER

AMENDMENTS TO THE LOCAL IMPROVEMENTS ACT

The Ministry of Economic Growth and Job Creation invited the JDA to participate in meetings and fora associated with the amendments to the Local Improvements Act 1914, which governs the subdivision of lands island wide.



The REB agreed to meet with the National Water Commission (NWC) & the Jamaica Public Service (JPS) as it relates to the connection of service (electrical connection to the supply grid and potable water and sewer respectively) as these are often the source of delays in certifying completion.

We recognize the necessity for changes to the current Act, and we are honoured to have an opportunity to express our points of view.

MEETING WITH THE REAL ESTATE BOARD

A delegation from our Association met with key officers from the Real Estate Board on Friday August 19, 2022 to discuss issues affecting members of our Association and generally how the Association and the Board can work individually and collectively to improve the real estate industry.

We had a very constructive dialogue regarding the following issues:-

• Policy for the release of the REB's mortgage

One of the areas of difficulty faced by Developers is the lack of sufficient Inspectors to verify completion of the units for the REB Discharge of S. 31 Charge registered on the titles.

It is taking several weeks during which the Developer is unable to collect the balance of purchase money as the titles cannot be transferred to the new owners without that S. 32 Discharge.

We requested that the Board grant release of mortgage upon the approval by the agencies, even in such cases where the agencies are having delays in carrying out works for the necessary connections to be done.

• Application to Register a Development with the Real Estate Board

An applicant for registration as a developer must provide the REB with certified copies of documents produced by sister GOJ Agencies. We suggested to the REB that the applicant provide the copies of the documents (such as a copy title, Articles of Incorporation) and the REB verify these with the relevant agency. This would save the applicant time and a lot of frustration. A processing fee could be paid to the REB for providing this service.

Electronic copies of the Approved Plans for the development could be lodged with the REB and confirmed by the municipality and other approval agencies. This would save time and storage space at the REB.

• Proposal for Designation/Certification of Developers

One of our Directors proposed that established and successful developers be recognized by the REB for the years of satisfying all the Conditions of Approval for its projects and for the high quality of the units built. The REB will review the practices in other jurisdictions for guidance.

REAL ESTATE DEVELOPMENT WEBINARS 2022

We plan to host our second Webinar on Thursday October 27, 2022 and look forward to your continued support.

NEW MEMBERS

We take pleasure in welcoming the following new members to the Association:-

- DEVELOPMENTS BY CIMMARON – Mr. Desonnd Gregory Mair, Managing Director (full Member)
- EARLE & WILSON – Ms. Karen Wilson, Attorney-at-Law (Associate Member)



EXCERPTS FROM PRESENTATIONS

SURVEYORS IDENTIFICATION REPORT – NEW DEVELOPMENTS

Alton Morgan & Company, Mr. Alton Morgan, Attorney-At-Law & JAD Member

Mr. Morgan's presentation focused on the features of new developments that caused unfavorable Surveyors Identification Reports that can ultimately cause a new development to earn:

- A. the ire of the Real Estate Board,
- B. the scorn of mortgage lending institutions
- C. and the angst of those who have bought the property



He also covered the following topics:-

- ID reports and the Registration of Titles Act.
- Elements of the Surveyors ID Report- facts and opinion
- Is there a title for the property at the civic address stated?
- Boundary irregularity or breach of any Restrictive Covenants on the new Title
- Using ID Reports for property tax in Phased subdivisions.
- Boundaries at points of access to the public roadway.
- Interpreting Setback distances
- Restrictive Covenants vs Conditions
- Hybrid Strata developments of apartments and townhouses with external common area discrepancies
- Natural drainage of Gated and Walled Communities
- Disclosure of Easements *“not specifically noted”* under S. 70 R.T.A
- Interpretation and management of conclusions from an ID Report

(Complete presentation can be viewed on our website <http://jamaicadevelopersassociation.org/presentations>)



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PROMULGATION OF PROVISIONAL DEVELOPMENT ORDERS

NATIONAL ENVIRONMENT AND PLANNING AGENCY

MR. LEONARD FRANCIS, SPATIAL DIRECTOR – PLANNING DIVISION

In his presentation, Mr. Francis dealt with the importance of a provisional Development Order for sustainable development. A provisional Development Order is a legal document prepared under the Town and Country Planning Act of 1957 that is used to guide development in the area to which it applies.



He explained that a Development Order may constitute an entire parish or may apply only to a specific area. A Development Order constitutes land use zoning maps, policy statements and standards relating to land use activities. It is not a legal development Order for the area unless it is confirmed.

A provisional Development Order is prepared every five years or earlier based on development trends or other factors, scientific process, literature reviews etc.

In concluding his presentation Mr. Francis advised that the way forward was to :

- Champion the Promulgation of the new Town and Country Planning Act
- Move towards the preparation of Development Plans instead of Development Orders

- Make the Development Plans/Orders more real time; data and technology driven.
- Confirmation of existing Provisional Development Orders
- Preparation of new Provisional Development Orders
- Focus more on implementation of the proposals and policies in the Development Order.
- Focus more on making communities more smart, climate resilient, and futuristic.
- More stakeholder engagement as they are the main reason that we see the plans in the Development Orders come to life.
- Address issues related to Restrictive Covenants and Single Family Zones
- Make Development Orders and Maps more interactive 3 dimensional (3-D)
- Focus on the preparation of Smart Master plan
- Place more emphasis on water based development

(Complete presentation can be viewed on our website <https://jamaicadevelopersassociation.org/presentation>)



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Establishing the Conditions of Building Permits

Kingston & St. Andrew Municipal Corporation
Mr. Xavier Chevannes
City Engineer

In his presentation Mr. Chevannes dealt with the guidelines that govern the building construction process to ensure conformity with best practices. These conditions form part of the building permit and go in tandem with the approved drawings.



He then dealt with the general and special building conditions related to the building and construction process.

(complete presentation can be viewed on our website
<https://jamaicadevelopersassociation.org/presentations>)

WHAT ARE BUILDING PERMIT CONDITIONS?

- These are guidelines that govern the building construction process to ensure conformity with best practices.
- These conditions form part of the building permit and go in tandem with the approved drawings.



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The Board's Role in Real Estate Developments Explained

There are several facts which make it clear that the role and functions of the Real Estate Board are often misconstrued by the public. Perhaps the most notable factor is the nature of complaints received by the Board, which are outside of the Board's remit.

It must first be understood that the overarching mandate of the Board in relation to real estate developments is to protect purchasers under prepayment contracts and to ensure developers observe and uphold the code of ethics whilst they operate. It is not the Board's role to ensure purchasers receive, for example, promised high-end finishes or to assess the quality of structural elements such as tiles, cabinetry and closets, roofing or drainage/water mitigation provisions.

So what do the Board's Inspectors look for in carrying out their duties? Essentially, Inspectors ensure that purchasers receive more tangible, big picture items contractually agreed in the pre-payment contract or as outlined in the approved building plan. These include: the number of rooms and bathrooms, recreational areas/amenities such as pools, tennis courts, club house etc. The Board's responsibility does not extend to assessing structural design or fitness for a particular purpose. It therefore means the Board is concerned solely with the provision or inclusion of the agreed and/or approved amenity. Please note however that where a prepayment contract provides that a developer is to provide water, electricity, sewer, fire requirements, drainage requirements and road infrastructure, these obligations are to be honoured by the developer.

Typically, purchasers have a six-month period to report defects to the developer for the appropriate remedial action to be taken. Additionally, there are different agencies or bodies, both private and public, with responsibility for specific elements such as plumbing, electrical, roads, sewer, solid waste management, building codes, structural quality, etc. Again, these are not the purview of the Board.

It is also important to note that the Board does not approve the size and nature of developments. This is the prerogative of the relevant Municipal Corporation formally known as the Parish Council. As stipulated under the Real Estate (Dealers and Developers) Act, the Board approves persons to be developers. The term developer is defined as a person who carries on, whether in whole or in part, the business of development of land. Importantly, a developer must register with the Board where he/she undertakes or intends to undertake a development scheme in which the number of lots exceeds five or where the number of strata lots comprising building units constructed exceeds five or where he/she carries out or proposes to carry out a development within twenty-four months of carrying out another development scheme of whatever size.

continued on page 9



The Board's Role in Real Estate Developments Explained

continued from page 8

The Board is required to give approval for developments to be advertised for sale, to determine whether a developer may enter prepayment contracts, accept purchasers' deposits, and to monitor and guide the developer where they intend to use purchasers' money as part of scheme financing.

Once a developer is registered, the Board ensures that he/she complies with several key deliverables. Upon collecting deposits and/or payments prior to the development scheme being completed, these funds are to be held in a Trust Account with an authorized financial institution and are only to be utilized in accordance with the legislation, namely: payment of Transfer Tax, Stamp Duty, reimbursement of building/construction works already done, or materials already supplied based on certificates issued by the Quantity Surveyor, Architect or any other professional acceptable by the Board. Withdrawals cannot exceed 90% of the amount certified by the Quantity Surveyor, Architect or any other professional, as being due for work already done and materials already supplied in the construction of the building or works not previously paid for.

If purchasers' funds are utilized in the development scheme, the Developer is required to lodge a charge (also known as a mortgage) on the title in favour of the Board, to protect the purchasers' payments/deposits. The developer must also forward copies of all executed prepayment contracts to the Board together with a report on the opening, lodgements into and withdrawal from the Trust Account.

The developer is also obligated, and therefore monitored, to ensure that he or she advertises in compliance with Act, by providing all relevant information to prospective purchasers prior to completion. Advertisement of development schemes should include:

1. The total floor area of each type of building unit in the scheme;
2. The sale price of each type of building unit;
3. The precise location of the land and its physical features;
4. The estimated time of completion of the scheme;
5. Whether contracts for purchase of units in the scheme include an escalation clause;
6. When and from whom approvals for the scheme were obtained;
7. When and where the plans, drawings and specifications may be inspected;

8. The composition of the walls, flooring and roof of each building;
9. The name and address of the developer of the scheme;
10. The registration number of the Developer
11. List of common facilities to be provided for the proposed strata development;
12. Estimated maintenance cost, based on unit entitlement in the strata development, that each purchaser would be required to pay;
13. Proposed by-laws in the strata development; and
14. Estimated projected annual maintenance budget of the strata development.

Items (11)-(14), both inclusive, should be provided to the purchaser in writing.

A developer's registration is renewed annually if he/she is still in the business of development of land during that year. Developers must adhere to The Real Estate (Dealers and Developers) (Code of Ethics) Regulations, as it relates to their professional conduct, maintaining an office, avoiding conflicts of interest and claims to professional competence.

Where there are instances of breaches of any of the matters specified above, the Board may take appropriate action, whether through the Courts, by conducting an Enquiry, declaring the development scheme failed and enforcing its charge over the development scheme, or any other appropriate means to address these issues after the conclusion of its investigations.

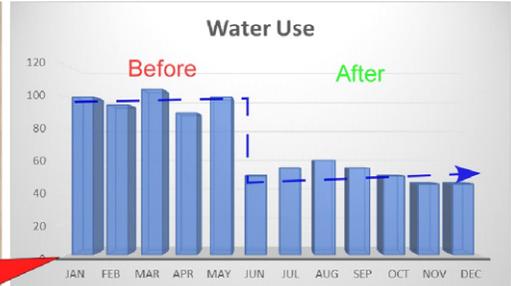
Prospective purchasers should seek legal advice prior to the execution of a prepayment contract to ensure the terms and conditions are fully understood. The terms specified in these contracts, or any breaches thereof may require the intervention of the court to enforce such conditions. In carrying out their due diligence, purchasers should ensure that the real estate developer and the development are registered with Board and that the developer is at liberty to enter prepayment contracts.

Contributed by Damian Wilson
Marketing Manager/Public Relations Officer
Real Estate Board/Commission of
Strata Corporations





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JMMB GROUP EYES COMMERCIAL REAL ESTATE DEVELOPMENT FOR GROWTH OPPORTUNITIES



The JMMB Group is looking to capitalize on the growth potential in the commercial real estate market, targeting the development of commercial, warehousing and business process outsourcing (BPO) projects over the next 2-3 years, revealed Tracey-Ann Creary, corporate development manager with portfolio responsibility for the management of JMMB Group's land and property holdings and the execution of its real estate development projects.



*Tracey-Ann Creary,
corporate development
manager - real estate*

The seasoned real estate development professional, with extensive experience in managing residential, commercial and civil infrastructure projects, shared, "This move is in keeping with the strategic direction of JMMB Group to leverage opportunities that will add shareholder value and diversify its portfolio; as such the company is actively identifying and pursuing projects that will grow its portfolio and respond to market needs and trends." She added, "With the Jamaican government and private stakeholders undertaking key infrastructural projects such as the Southern Coastal Highway Improvement, and the development of town centres in Morant Bay and other rural towns, we believe that this signals clear opportunities to undertake real estate projects that will create significant value that are broadly aligned with national development and Jamaica's Vision 2030 plans."

Furthermore, the government has signalled long-term economic plans, in the form of the build-out of special economic zones (SEZ); the Logistic Hub Master plan; and the expansion of ports, airports and highways, which are expected to strengthen the country's distribution network and make warehousing more efficient. Additionally, with logistic supply chain disruptions resulting in shortages and increased costs for imported goods, medium-sized companies are looking to mitigate against future fallout and increase efficiency in the control and distribution of inventory, thereby strengthening their overall supply chain process to ensure business continuity process; as such warehousing is expected to be a major area for growth in the medium to long-term

Jamaica's growing business process outsourcing

(BPO) industry has also been identified by the World Bank in a recent report, as a sector with further growth potential, including the provision of higher value-creation. It is against this background that JMMB Group will seek to leverage real estate opportunities that will cater to the growing needs of this sector.

JMMB Group Rolls Out Commercial Real Estate Development Plans

Planning has begun for two major projects slated for Downtown Kingston and Mandeville, consisting of approximately 33,000 square feet and 30,000 square feet respectively of commercial office and BPO spaces, stated the corporate manager. The real estate team leader, although declining to share the breakdown of the projects underway, also noted, "these two multi-billion dollar projects are expected to be completed in the next 2-3 years, even while JMMB Group looks to roll-out other projects in its portfolio."

Creary noted that JMMB Group is looking to build out its existing properties initially, to provide a win-win opportunity to increase the return on investment, diversify its income stream and create value for shareholders.

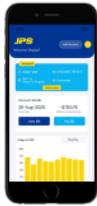
As a newer player in the real estate market, JMMB Group is looking to plan, design, develop and construct properties and later bring them to market for sale, lease or sale-leaseback. While acknowledging that the financial group is looking to lead in the development and construction process, Creary outlined, "real estate is not static, and as an innovator in the field, we are open to lucrative opportunities that are in keeping with our portfolio focus and therefore will explore joint-ventures and other partnerships, that will allow JMMB Group to deepen and expand its reach in the real estate market".

Over the long-term, JMMB Group will continue to build out its portfolio of greenfield and brown field projects for other commercial projects.



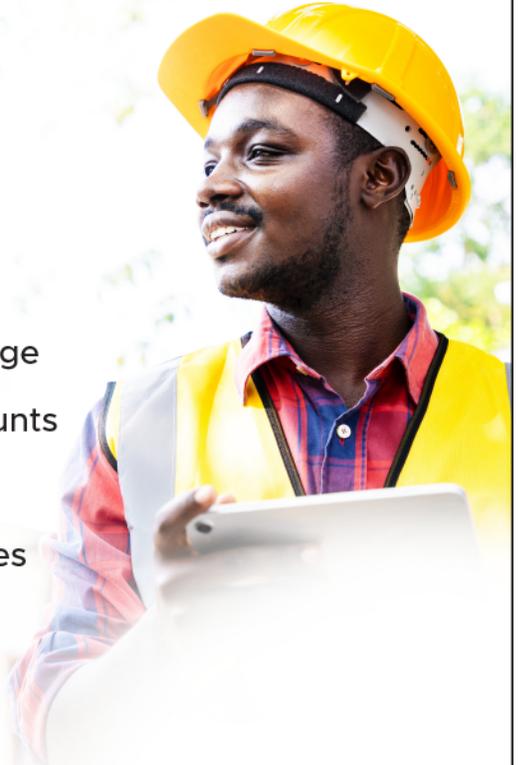
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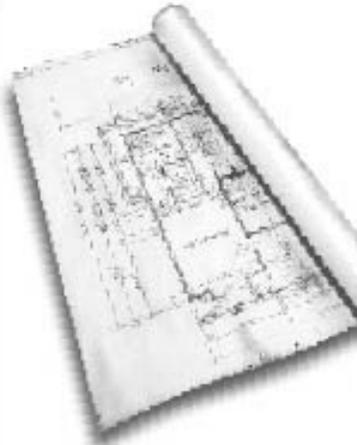
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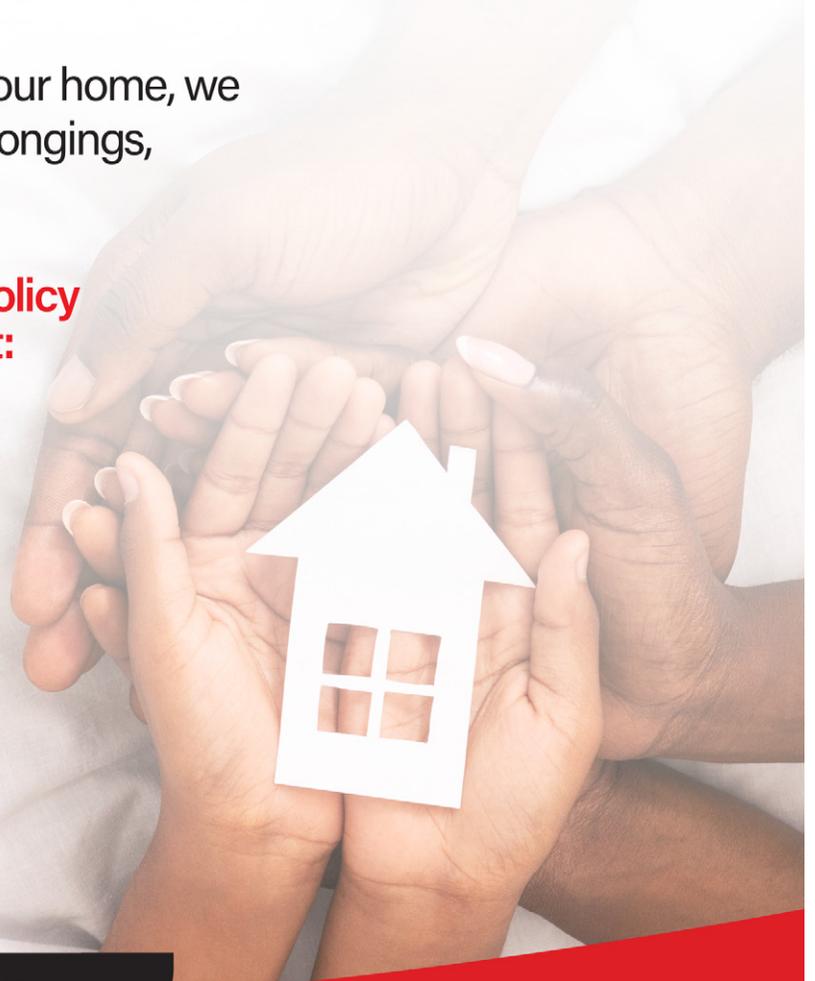
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A BIG THANK YOU TO ALL! REALTORS, DEVELOPERS CONTRIBUTE TO SUCCESS OF JN BANK OPEN HOUSE

Several realtors and developers from across the island contributed to the success of the recent inaugural staging of the mortgage and real estate event, the JN Bank Open House. The event was held on Sunday, July 24, in the parking lot of the JN Bank Chief Office in Half Way Tree, St Andrew.

With some 20 booths on display, hundreds of prospective mortgagors made their way to each exhibitor and engaged realtors and developers in conversations on homeownership.

Petal James, chief of retail sales, JN Group, said patrons gave the event and the information provided excellent reviews and emphasized JN's gratitude to realtors and developers for the depth of information provided on housing developments and real estate services to prospective buyers to assist them with preparing for homeownership.

"We are grateful for the important relationships we have forged with various realtors and developers over the years," she said. As the number one mortgagee in Jamaica, they have been critical to our success as they are the ones who either build the properties or provide a listing of available properties for purchase."

Ms James underscored that realtors and developers are critical to the mortgage process and she thanked them for their continued support and partnership.

She added that JN Bank will be rolling out more events of this nature across the country.



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JDA FACTS

The Jamaica Developers Association is an umbrella organisation representing the Developers of housing and commercial solutions, allied businesses and groups. Our Associate Members include Commercial Banks, Legal Firms, Building Societies, suppliers of building materials and major mortgage providers.

JDA members adhere to the following:

- Commitment to orderly, responsible development in Jamaica
- Social responsibility, ensuring sustainable designs with minimal negative environmental impact
- Using only registered Engineers and Architects
- Volunteering their expertise to promote improvements in real estate development law and administration
- Providing facilities for the legislature to confer with and ascertain the views of the real estate developers
- Working cooperatively with Government entities such as NEPA, NWA, National Water Commission, National Land Agency and Jamaica Public Service.

BENEFIT TO MEMBERS

Through the years the Association members have the opportunity for dialogue with relevant agencies on matters of concern to the industry.

We believe our efforts have contributed to:-

- Reduction in Stamp Duty
- Transfer Tax paid on new developments discounted by 75%
- The establishment of the Development Assistance Centre at the National & Environment Planning Agency (NEPA)
- 90 days Fast Track Approvals Process

SEAL OF APPROVAL

Members of the JDA are able to use the Association's SEAL – which can be used on their letterheads or in their advertisements when selling their products to show that they follow best practices

Beyond our private practices, many JDA members have formed or are involved in Foundations and Non-profit Organizations in which we support a wide range of causes in education, health, sports and other sectors.

We also raise public awareness of critical human, social and environmental issues for the advancement of the nation.

The Association awards an annual Bursary - “**Eustace Bird Bursary**” in honour of our late Secretary/Manager Mr. Eustace Noel Bird to a third or fourth year student reading for a Diploma in Construction Management at the University of Technology.

The Association will continue to press on to achieve results and will, at all times continue to lobby for the advancement of the real estate development sector, cooperate fully and give genuine and valuable support to Government.

We will continue to provide efficient service and protect the interests of not only our members but also prospective purchasers, and remain a viable and strong organization.

HOW TO BECOME A MEMBER

Developers applying to become members of the Association are thoroughly screened and must :-

- Be recommended by at least two members of our Association
- Have successfully completed a minimum of three development schemes
- Have a proven track record of dependability and the highest ethical standards.

AN INSPIRATIONAL THOUGHT

“The most wasted days is one without laughter”

E.E. Cummings

UPCOMING EVENTS

SAVE THE DATE!

- JDA REAL ESTATE DEVELOPMENT WEBINAR
THURSDAY, OCTOBER 27, 2022
- JDA ANNUAL GENERAL MEETING
WEDNESDAY NOVEMBER 9, 2022



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