

# NALT RESEARCH INSTITUTE

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## FORENSIC ANALYSIS | LEGISLATIVE REFORM | FINANCIAL STABILITY

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**MODULE:** Forensic Accounting for Lawyers **EXERCISE:** Simulation 3 - The Hostile Expert **CASE:** *The Judicial Manager v. The Board of Directors*  
**SUBJECT:** Cross-Examination of the Valuation Expert (Mr. X) regarding the Douglas Estate

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### SCENE SETTING

**The Witness:** Mr. X, a valuation surveyor hired by the Board of Directors to justify the sale price of \$16M. **The Counsel:** Lead Counsel for the Judicial Manager (Student Role). **The Issue:** The property was appraised at \$31M in 2011 but sold for \$16M in 2012. Mr. X is on the stand to defend the lower figure.

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### TRANSCRIPT EXCERPT

**COUNSEL:** Mr. X, let us turn to page 14 of your report. You state that the "market conditions" in 2012 necessitated a 48% discount on the Douglas Estate assets. Is that correct?

**MR. X:** That is correct. The liquidity crisis in the region was severe. There were simply no buyers.

**COUNSEL:** No buyers? Yet, you are aware that the 2011 valuation—performed just 12 months prior—valued this same land at \$31 million based on a Discounted Cash Flow analysis of development yields. Did the land shrink, Mr. X?

**MR. X:** (Scoffs) The land didn't shrink, Counsel. The *appetite* for it did. A DCF model is theoretical. I deal in reality. The reality was a fire sale.

**COUNSEL:** A "fire sale." Interesting choice of words. Let's look at your methodology. You applied a 15% "Distressed Sale Discount" on top of a 10% "Market Adjustment." That accounts for roughly \$7.7 million of the reduction. Where did the other \$7.3 million go?

**MR. X:** I... I exercised professional judgment. There were holding costs, legal risks...

**COUNSEL:** "Professional judgment." Let's test that judgment. Are you aware that the buyer—the Government of St. Kitts & Nevis—was also the regulator responsible for overseeing the solvency of the seller?

**MR. X:** I am a surveyor, not a conspiracy theorist. The identity of the buyer is irrelevant to the value of the dirt.

**COUNSEL:** Is it? If the buyer has the power to force a sale, does that not create a Non-Arm's Length Transaction? And in a Non-Arm's Length Transaction, is it not standard practice to *scrutinize* the sale price against the fair market value, rather than simply accepting the transaction price as the market value?

**MR. X:** (Pauses) In ideal circumstances, perhaps. But these were not ideal circumstances.

**COUNSEL:** Precisely. They were *engineered* circumstances. You ignored the 480 developable lots in the 2011 plan. You ignored the infrastructure already in place. You essentially valued prime development land as raw scrubland to match the price the buyer wanted to pay. Isn't that the truth, Mr. X? You didn't calculate a value; you reverse-engineered an apology for a theft.

**MR. X:** I resent that implication! I stand by my report.

**COUNSEL:** Your report, Mr. X, is a \$15 million receipt for negligence. No further questions.

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## STUDENT INSTRUCTIONS

1. **Identify the Weakness:** Where did Mr. X's defense crumble? Was it on the methodology (DCF vs. Market) or the conflict of interest?

2. **The "Smoking Gun":** The Counsel points out a missing \$7.3 million even *after* standard discounts. How would you use the **Forensic Valuation Model (Excel)** to prove this mathematically in court?
3. **Ethical Consideration:** If you were Mr. X, and the Board asked you to "justify" a \$16M price tag, what would be your ethical obligation under the RICS Red Book standards?