

[Owner Name]

[Property Address]

[Lot Number], Pacific Harbour

Deuba, Fiji

[Email / Phone]

[Date]

The Managing Director

Estate Management Services Limited

P.O. Box 140

Pacific Harbour

Deuba, Fiji

Sent by: Registered Post / Email to emsl@connect.com.fj

RE: Demand for Annual Assessment — Lot [Lot Number] — WITHOUT PREJUDICE SAVE AS TO COSTS

Dear Mr Maharaj,

I write in response to your demand dated [date of demand] for payment of the annual assessment in the sum of \$[amount] in respect of my property at Lot [number], Pacific Harbour, under the Deed of Covenant between myself (or my predecessor in title) and Estate Management Services Limited ("EMSL").

I respectfully decline to make this payment for the reasons set out below, and I invite EMSL to consider these grounds carefully before initiating any further action.

1. The Fiji High Court has rejected EMSL's legal position on this very issue.

In Estate Management Services Ltd v Minami Taiheiyo Kaihatsu Kabushiki Kaisha [2018] FJHC 1153 (Civil Action HBC 148 of 2012), Justice Brito-Mutunayagam dismissed all of EMSL's claims for rates and annual assessments in respect of Pacific Harbour lots. The Court held that the annual assessment is an indivisible payment for the totality of the services specified in the relevant contractual clause, and that where those services are not fully provided, the obligation to pay does not arise. All of EMSL's claims were dismissed and costs were awarded against EMSL.

2. The services underpinning the Deed of Covenant have been taken over by Government authorities.

The services for which the Deed of Covenant obliges payment — including sewerage, water, fire services, street lighting, and road maintenance — have been substantially or entirely transferred to government bodies including the Water Authority of Fiji, the Fiji Roads Authority, Energy Fiji Limited (EFL), formerly the Fiji Electricity Authority, and the National Fire Authority. This was acknowledged in

EMSL's own pleadings in the 2018 proceedings. The Deed itself provides that the fee obligation terminates upon government takeover of the relevant services. That termination trigger has been met.

3. Partial or no service delivery does not entitle EMSL to the full annual assessment.

I am not satisfied that EMSL is currently providing all — or, indeed, any material part — of the services contemplated by the Deed of Covenant in respect of my property. I formally request that EMSL provide, within 21 days of this letter, written particulars of: (a) each service it claims to be currently providing under the Deed; (b) the frequency and scope of that service delivery; and (c) documentary evidence (including service logs, contractor records, and authority agreements) supporting those particulars. Without that information, I am unable to assess whether any partial payment obligation could arise.

4. Any claim for fees prior to [date six years ago] is statute-barred.

To the extent your demand includes amounts allegedly outstanding for more than six years prior to today's date, I put you on notice that any such claim is statute-barred under section 4(1) of the Limitation Act (Cap. 35) and will be resisted on that ground in any proceedings.

5. Your fee demand is a positive covenant that does not attach to freehold land under the Torrens system.

My property is freehold land registered under the Torrens title system, governed by the Land Transfer Act 1971. Under settled property law, positive covenants — obligations to pay money — do not run with freehold land. They bind only the original contracting party. EMSL holds no registered caveat, charge, or other encumbrance on my Certificate of Title. It has no proprietary interest in my land. Its fee demands are purely contractual, not proprietary in nature. This is confirmed by the very structure of the Deed of Covenant itself: Clause 5 requires each seller to procure a fresh Deed from each buyer precisely because EMSL knows the obligation does not attach to the land automatically. If no valid Deed exists — or if the existing Deed is unenforceable — EMSL has no basis for its demand whatsoever. The 2018 High Court Judgment confirms this at paragraphs 31–33, where the Court held that a subsequent purchaser who had not directly contracted with EMSL was not bound by its fee agreements.

6. Default proceedings without full disclosure would be an abuse of process.

I am aware that EMSL has in some instances obtained default judgments against residents who were unaware of the 2018 Judgment and did not defend proceedings. I wish to make clear that I am fully aware of the legal position and will actively defend any proceedings brought against me. I will rely upon the 2018 Judgment and the grounds set out in this letter. I will also consider whether the pursuit of a claim based on a legal premise already definitively rejected by the High Court constitutes an abuse of process, and will raise this issue before the Court if necessary.

For the avoidance of doubt, nothing in this letter should be taken as an acknowledgment of any debt or liability to EMSL, or as a waiver of any rights I may have.

I am genuinely open to a constructive resolution of this matter. If EMSL is able to demonstrate, with evidence, that it is currently providing specific services to my property that are not being provided by any Government authority, I am willing to discuss a fair and proportionate contribution for those services. However, I am not willing to pay a blanket annual assessment for services that are not being delivered.

I look forward to your response within 21 days. If I do not hear from you, I will take this matter as resolved in my favour.

Yours faithfully,

[Owner Name]

Owner, Lot [Number], Pacific Harbour

[Date]

Note to resident: Before sending this letter, insert your name, lot number, address, contact details, the date of EMSL's demand, and the amount claimed. If you have received court documents rather than a demand letter, seek legal advice immediately — do not use this letter as a substitute for filing a defence.