

Phuket Gazette

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‘WE’RE CONFIDENT THAT EVERYTHING WE’VE DONE IS LEGAL’

ACCESS DENIED

■ Private company, Laem Singh vendors lock horns over access to the beach

By Kritsada Mueanhawong

OFFICIALS from the Ministry of Justice visited Laem Singh Beach on March 23 to follow up on a long-standing land dispute between the public, particularly local Thai people and thousands of foreign tourists, and an organization called ‘Bangkok Broadcasting & Television Co Ltd (BB&T)’.

The company, which airs Thai national television Channel 7, has announced that starting April 17, they are cutting off access to Laem Singh Beach entirely.

The issue started in March 2012, when BB&T ordered a fence to be built around a 65-rai tract of land leading up to the beach. Locals submitted a formal letter of complaint to Dussadee Arayawuth, Deputy Permanent Secretary of the Ministry of Justice, calling for authorities to investigate the title deed for the land, but little progress was made on the issue.

In July last year, BB&T started charging beachgoers an ‘entrance fee’ of 100 baht to access the beach.

Locals in the area protested the move, saying it was public land and alleging that the company’s documents were illegal. They requested Mr Dussadee and other officials to look into the matter.

About 200 of them gathered together, holding signs and messages while waiting for Mr Dussadee and other officers, including investigators from the Department of Special Investigations and local police.

The protesters were then called in for a meeting, but no definite solutions were agreed upon. Officials said they plan to call another meeting ‘soon’.

“We are investigating the issue, but at this stage, we are not ready to provide any more details. Please rest assured that we are checking from all sources, including government officers involved in the land documentation,” said Mr Dussadee.

“The court has yet to conclude the case,



About 200 locals gathered at Laem Singh Beach on the morning of March 23, holding signs and messages of protest. Photo: Kritsada Mueanhawong

but we want both sides to remain calm until we come to a decision,” he added.

As far as the April 17 deadline is concerned, Mr Dussadee has assigned local Kathu District Chief Sayan Chanachaiwong to negotiate with both sides for a solution.

At the meeting, BB&T representative Pairot Thanakulwinit reiterated that the land is legally under the company’s name.

“We bought the land in 1986, and the title deed does not indicate that it is public land. Yet we have been kind enough to allow locals to do their business on our land for 31 years, without charging any fees. However, in 2015, after the government issued a revised beach management policy, we wanted to develop the land for our own purposes. At that time, locals asked for negotiation, so we agreed to postpone our plans by a year and eight months. That deadline is in April,” said Mr Pairot.

“We are happy to fully cooperate with

the investigation, as we are confident that everything we have done is above board and legal,” he added.

Mr Pairot added that the 100 baht fee is levied “only against tourists”, and insisted that it had never been imposed on Thai people.

“The fee that we collect is used for land maintenance and hiring security personnel to protect the area,” said Mr Pairot.

Mr Sayan said he would do his best to help both sides.

According to beach management policies [in Phuket], no vendors are allowed on Laem Singh Beach. But so far, we have continued to allow a few of them,” said Mr Sayan.

“Locals have requested that Laem Singh be removed from the category of virgin beaches and that they be allowed to operate their business there. We will raise that topic in the next meeting. In the meantime, we have arranged for them to work at Kamala Beach,” he added.

DMCR set to punish diving instructor and manager

A THAI Diving instructor and Korean company manager are both in hot water after pictures of their illegal underwater activities went viral on social media. The tourists involved, however, may have already gone home.

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Debunking the commonly held myth about outperforming the market.

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Chalking out feasible long-term solutions for the future of global climate change.

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LOCAL NEWS

Briefly

Angry German woman arrested in Chalong

A GERMAN woman was arrested on March 28 after she ran a red light and threw the keys to her BMW on the roof of a house near Chalong Circle.

Lt Thanakrit Iemchonkham of Chalong Police received reports of the incident at about 10am.

"The driver of a BMW X1 SUV ran a red light on Chao Fah West Road and was driving dangerously toward Chalong Circle. We alerted our traffic police officers to stop the car," said Lt Thanakrit.

The 55-year-old driver, Sandra Christiane Grunewald, ignored officers' pleas to exit the vehicle and continued to talk on her phone for 15 minutes.

"We asked for her licence and passport after she finally stepped out, but she got angry and threw a tantrum. She then emptied the contents of her bag and threw her car keys on the roof of a nearby house," confirmed Lt Thanakrit.

Officers climbed up to retrieve the keys.

Ms Christiane was charged with running a red light and dangerous driving.

– Winai Sarot

One dead in 'police chase'

ONE man succumbed to his injuries after a *krathom*-carrying duo's 'police chase' went awry on March 24 near the entrance to Rassada Pier.

Long lost elephant causes ownership dispute



A Krabi man filed a complaint last week at the Damrongdhama Center after an elephant he claims was stolen from him 14 years ago turned up with a new owner at an elephant shelter in Phuket. The man said he had purchased the elephant (named 'Yo') and registered him in Surin Province in 2001. He added that in 2003, he took Yo to work in Krabi, where he was stolen. Someone sent him a picture of Yo in Phuket, so he filed a complaint at Chalong Police Station and showed them the registration letter. However, the owner of the shelter showed police his own registration letter for the animal, leaving the man's case in disarray. Both men have been called in for 'negotiations' over the disputed pachyderm. Photo: Winai Sarot

Lt Col Santi Prakhobpran of Phuket City Police received a report at about 2:20pm.

"Witnesses told us that a pick-up truck was turning right when two motorcyclists attempted to pass across its front. They scratched past the truck, but lost control of their motorbike and ran into an electric pole," said the colonel.

Sitthisak Khuekerd, 28, received minor injuries and was treated at the scene, while the other bike rider was seriously injured and taken to Vachira Phuket Hospital, where he was pronounced dead.

"We found *krathom* on Mr Sitthisak's person. He told us that they were riding fast because they saw police and thought they were being chased," said Col Santi.

Mr Sittisak was taken to the police station for further investigation. Officers confirmed that they were not chasing the two, but simply patrolling the area.

As at press time, the deceased had not been named by police.

– Winai Sarot

Gamblers arrested in raid

FIFTEEN suspects were arrested with more than 45,000 baht in cash for gambling at a sleeping restaurant in Wichit on March 26.

"The restaurant, named 'Eat and Sleep', is located in Soi Wirat Hongyok. The suspects were caught in the act while playing a popular local game called 'gung-pla' (shrimp-fish)," said Lt Col Patak Kwanna of Wichit Police.

Undercover officers went to the restaurant after police received complaints from locals in the area.

All 15 suspects were charged with gambling and taken to Wichit Police Station for further legal processing.

Cash and gambling paraphernalia found at the scene were also confiscated.

– Kritsada Mueanhawong

Couple dead by electrocution

A MYANMAR couple died by electrocution while working at a Rawai resort on March 23.

"The resort is located on Soi Sermsook. We found the body of Min Thaik Non, lying face up on the ground near the bathroom door. We also found a woman's body lying face down inside the bathroom. She was named by police only as 'Noi'," said Capt Somkiet Sarasit of Chalong Police.

Both victims had burns from their hands all the way up to their elbows. The bodies were taken to Vachira Phuket Hospital.

"Ms Noi was cleaning the bathroom while Mr Min was changing the bed sheets and tidying up the room," confirmed Capt Somkiet after speaking to other workers at the resort.

"We believe that Ms Noi received an electric shock while cleaning and fell to the ground. Mr Min went inside to help her and also got electrocuted."

Police believe the accident was most likely due caused by an electrical short circuit in the water heater attached to the shower.

– Kritsada Mueanhawong

Aussie charged for fatal jet-ski collision

AN AUSTRALIAN man, whose partner was killed in a jet-ski accident last month, was charged on March 23.

Thomas Keating and his girlfriend Emily Jayne Collie were on holiday and had rented jet-skis, when they collided, causing Ms Collie to suffer severe injuries.

He was charged with reckless driving causing death and fined 5,000 baht, and also handed a one-year suspended sentence.

– Zohaib Sikander

Two injured in four-vehicle collision

TWO people were injured in a four-vehicle crash in Cherng Talay on March 27.

Facebook user 'Tan Promedic Phuket' posted a 32-second video clip of the accident, which occurred at a traffic light near Laguna Phuket.

The video shows a speeding van losing control, crossing over into the other lane and hitting a pick-up truck coming from the opposite side.

The van then hit another car, while a motorbike rider driving behind the pick-up fell as he slammed on the brakes to avoid a collision. All four vehicles were damaged.

Witnesses and passersby came to the victims' aid. Many people commented on the video on social media, saying that the van driver must have been drunk or asleep at the wheel.

"The motorbike and pick-up driver sustained minor injuries," Lt Col Rassada Kluengwong of Cherng Talay Police.

"Initially, the van driver has been charged with reckless driving causing injury and property damage. However, we will question everyone further to see what else might have caused the accident," he added.

– Winai Sarot



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Diving tour company, instructor face charges

By Kongleaphy Keam

Officers from the Department of Marine and Coastal Resources (DMCR) on March 27 filed a complaint at Chalong Police Station against a diving company and instructor for allowing tourists to step on coral at Koh Racha Yai.

A social media user who calls himself 'Seaman Freeman' captured and uploaded pictures of dive company activities that included two Korean tourists and a Thai diving instructor stepping on coral on March 21.

"We immediately took action after seeing the pictures and learned that it was a diving team from a company named Dragon Diving Co Ltd. We also learned that the instructor in the pictures is Nattha Srinim, 33, who at first denied his involvement. However, after collecting all the evidence and witnesses, he confessed," said Suchat Rattananuengsri of the DMCR. "As a result we filed a com-



DMCR has filed complaints against both the diving instructor as well as the company's Korean manager. Photo: DMCR

plaint against both Mr Nattha and the company, which has a Korean manager named Jun Seuk Yu," he added.

They were, however, unable to provide any details regarding the tourists.

"The tourists had purchased the diving trip through a third party, so we could not find out

their details. We believe they may already have gone back to their country," said Mr Suchat.

"The diving instructor and the diving company will both face legal charges," he added.

The punishment for endangering marine life in Thailand is a maximum of one year in prison, a 100,000 baht fine, or both.

Teen biker killed



The taxi was considerably damaged on impact. Photo: Winai Sarot

A TEEN motorcyclist was killed on March 25, this time in a bloody crash with an airport taxi at a U-turn on the Bypass Road.

Maj Natthaya Suwannapong of Phuket City Police arrived with Kusoldharm Foundation rescue workers at the turn in front of the Ikea store. The taxi driver, Atiwara Samarnthong, was waiting for police at the scene.

"Mr Atiwara said that he was taking two passengers to Patong when the boy turned into the road right in front of him. The taxi crashed into the bike, causing the teenager, hit by the windscreen, to fly out onto the road," said Maj Natthaya.

The victim, Krissada Junmanee, 18, and his motor-

bike lay about 20 meters away from the point of impact.

Police noted that he had not been wearing a helmet.

"The windscreen of the taxi was heavily damaged and splattered with blood; the airbags had been deployed; and the bumper and hood of the vehicle were also heavily damaged. The motorbike was also badly damaged," confirmed Maj Natthaya.

The teen was pronounced dead at Vachira Phuket Hospital.

Police are investigating CCTV footage to determine who was at fault. Mr Atiwara was taken to the police station for questioning but has not yet been charged.

- Winai Sarot

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Discussions held for energy and power

THREE simultaneous conferences on energy and power generation were held in Krabi, Surat Thani and Songkhla on March 27, between officials and representatives from 14 southern provinces, including Phuket.

One of the main aims of the events was to promote awareness and find the best possible solutions for both electricity and alternative energy generation in Southern Thailand.

Officials from the Energy Policy and Planning Office of the Ministry of Energy; the Provincial Electricity Authority; and the Ministry of Natural Resources and Environment discussed the status of power generation in the south, talked about alternative plans for it in the future, and explained how these plans affect the environment.

The conference aimed to serve as a platform for idea exchanges between officials and the public. Representatives from each province were also given a chance to present their ideas and suggestions.

– *Kongleaphy Keam*

Indonesian man's body brought back

THE body of an Indonesian crew member working on a tuna fishing boat was brought to Phuket on March 27, five days after the victim passed away on board.

"The boat docked at the sea port in Wichit. Inside the cold storage room, we found the body of Ali Hariyadi covered by a piece of cloth," said Lt Patcharee Wongboon of Wichit Police.

"According to the other crew members, Mr Hariyadi passed away on March 20 while the boat was in the Indian Ocean. They said he seemed normal, but suddenly convulsed and fell, crying out that his body felt numb. He then became unconscious and passed away soon afterward," Lt Patcharee added.

The body was taken to Vachira Phuket Hospital for further examination.

"It seems that he suffered a heart attack, which caused him to convulse. We have already contacted the family of the victim," said Lt Patcharee.

– *Kritsada Mueanhawong*



Ex-TAT gov jailed 50 years for bribe

THE Central Criminal Court for Corruption and Misconduct Cases on March 29 sentenced former Tourism Authority of Thailand governor Juthamas Siriwan to 50 years in prison for demanding and receiving a bribe of more than 60 million baht so an American business couple could manage the Bangkok International Film Festival.

Ms Juthamas' daughter, Jittisopha, was sentenced to 44 years on the same charge.

The court also ruled to confiscate the 62 million baht from them. The mother and daughter avoided the media at the Criminal Court.

Prosecutors last year indicted Ms Juthamas, 70, and Ms Jittisopha, 43, for seeking the kickback from the American couple. Ms Juthamas was TAT governor in 2005 when the kickback was allegedly paid.

– *The Nation*

Revised booze limits explained for youngsters

DRIVERS aged 20 and younger will be regarded as drunk driving if their blood alcohol content is 20 milligrams instead of the 50mg limit for older drivers.

Colonel Athisit Chainuwat, deputy government spokesman, said the Cabinet on March 28 approved the Transport Department proposal to amend its

NATIONAL NEWS Briefly

road safety directive to reduce the BAC for young drivers from 50mg to 20mg.

The new limit, once announced in the *Royal Gazette*, will also be applied to drivers without a licence and those driving on a temporary licence, Athisit added.

The BAC can be measured with a breathalyzer or by analyzing a blood sample. It is measured by the number of grams of alcohol in 100 millimeters of blood.

– *The Nation*

Officials allege encroachments

THE special forest crime-suppression taskforce inspected two resorts in Nakhon Ratchasima's Wang Nam Khiao district on March 28, and determined the properties had allegedly encroached on Thap Lan National Park.

The operation involved 50 officials from the Phaya Sua taskforce and the Department of National Parks, Wildlife and Plant Conservation's land-plot inspection team.

Phaya Sua head Chaiwat Limlikhitakorn said the area inspected was used for agriculture purposes until 2002 but had been sold and passed through many hands until the latest inspection found it was now occupied by the two resorts.

Thap Lan National Park is part of the Dong Phrayayen-Khao Yai Forest Complex, which is a natural World Heritage Site.

The 1.4-million rai national park – Thailand's second largest – has been extensively encroached upon by popular resorts, many of them owned by influential figures.

– *The Nation*

Knife-wielding man robs toll booth

A MAN on a motorcycle took the opportunity of heavy rain on March 27 to rob at knife point a booth at the Tapchang toll gate on Kanchanapisek Road in Prawes district, getting away with a 20,000 baht in cash.

Police were told that a man riding on a motorcycle stopped his vehicle near the toll gate at about 4:30am, ducking under the fence to enter the tollgate area. Under the cover of heavy rain, he walked to booth number 1, pulled out a long knife and snatched all the money, said to be about 20,000 cash. He then ran away. The staff alerted police, but he was not caught.

According to the security camera footage at the toll gate, the man was small and slim. He was riding a Honda Sonic but the licence plate could not be seen.

This was not the first time that this toll gate booth has been robbed. On April 2, 2013, Wiwat Wilaichon, 33, attacked the booth and stole 9,000 baht. He was later arrested and sent to prison.

– *The Nation*

Chiang Rai gov holds urgent hotspot

CHIANG Rai governor Boonsong Techamanisatit met with administrative officials and executives from local bodies on March 27 to get details on the forest fires raging in their jurisdictions.

The move followed the northern province implementing a 60-day ban on outdoor burning up until April 17.

Nineteen hotspots were reported in the province. After the meeting, a memorandum of understanding between Gov Boonsong and other officials that calls for better hotspot prevention measures.

He said after the 60-day ban was lifted, officials would allow staggered field-clearing burns to reduce haze.

According to the Pollution Control Department report the same day, Mae Hong Son had the highest level of small particulate matter of up to 10 microns in diameter (PM10) at 136 micrograms per cubic metre, while the rest of the northern provinces were within the safe PM10 level of under 120 micrograms.

– *The Nation*

Temple monks answer charges

DHAMMAKAYA Temple's deputy abbot Phra Thatthacheevo and Phra Maha Somchai Thanawuttho presented themselves to public prosecutors at Pathum Thani's Thanyaburi Provincial Court on March 27 and signed acknowledgment documents in respond to the charge that they violated a junta order.

The two monks were accompanied by lawyer Panya Thaworn-akaranil.

Mr Panya said the document signing was done after the two monks were informed of the charge on March 22.

He said the temple was gathering evidence to fight the charge and would eventually bring all monks who faced the same charge to sign the acknowledgment document. He admitted the temple's legal team was worried in the wake of some 400 legal cases being filed against the temple, but it was not discouraged and would do its best to respond to the actions.

– *The Nation*

Fooled by the 13 trillion dollar lie

Debunking the commonly held myth about ‘outperforming’ the market

Finance
By David Mayes

FOLLOWING on with lessons from Tony Robbin’s book *Money: Master the Game* is a very important Wall Street myth that he busts. When you pay an active manager to buy and sell shares of stock on your behalf, you are doing so in hopes that he will ‘beat the market over time’.

The truth of the matter is that over any extended period of time, 96 per cent of mutual fund managers fail to do so. You are paying to be worse off than passively investing in a low cost index fund.

By ‘the market’, I mean an index or broad collection of shares that represents the market as a whole. The S&P 500 is the one most managers are measured against and despite most active account managers’ claims that they beat the market consistently, very few can actually prove to you that they can.

The ways people spin this lie varies, but a good salesman can make people believe in his skill despite not being able to offer any solid proof, such as a long term audited track record of an investment program.

Even more diabolical is what the big banks and asset management companies do, which is to start a hundred incubator funds over the course of a few



Over time, 96 per cent of mutual fund managers fail to beat the market. Image: Kaboompics/Karolina

years and then let the vast majority of them die. They then market the ones who have outperformed through nothing but pure luck and the law of averages.

A great example in the book is that if you pack 1,024 gorillas into a gymnasium and get them all flipping coins, one of them will flip heads ten times in a row. We all know this is luck, but when one out of a thousand fund managers does this we suddenly call him a genius. What are the odds that the same gorilla is go-

ing to flip heads another ten times in a row?

Industry expert Robert Arnott did a 15-year study from 1984 to 1998 on the top 200 actively managed funds that had at least US\$100 million under management and found that only eight of them outperformed the S&P 500. You can buy this index with an ETF or via a cheap index fund like the Vanguard 500.

This is the strategy for anyone who wants to partici-

pate in the stock market, which still is the number one asset class in the world over the long run. We will talk about dollar cost averaging later, so don’t go out and throw all of your life savings into the S&P 500 at these levels or you will give yourself a heart attack in the coming crash.

If you run into someone who does not have US\$100 million under management and he claims to beat the market consistently, you might want to ask yourself why he has not at-

tracted vast amounts of investor’s funds if he can outperform the best in the industry consistently.

Money flows into the hands of performing managers – quite rapidly, in fact – if they can really perform consistently. Unfortunately, those people eventually close their doors to new investors or jack their minimum investment levels up to what the common man cannot afford.

You can however, mimic the strategy of the greatest investors of our time and they are more than happy to give away these strategies for free. Tony actually got them to do that in his book and articles.

I will lay out the exact asset allocation that Ray Dalio recommends for average investors. If you don’t know him, he hasn’t accepted new money in over ten years and when he did, it required a minimum investment of US\$100 million and minimum investable assets of US\$5 billion.

Ray runs the largest hedge fund in the world and his track record is not the type one gets from being a lucky gorilla. More on him in future columns, but please do yourself a favor and never buy into the 13 trillion dollar lie that is the active management industry.

For more information about this article, contact David Mayes, MBA – Email: lifeisamazingthailand@gmail.com.

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Phuket Gazette

Coast is not clear

THE controversy at Laem Singh Beach is just the latest in a long history of beach access disputes in Phuket, but this case raises so many issues that it is difficult to know where to begin the discussion.

Taking power almost three years ago, Gen Prayuth and cohorts correctly made Phuket one of their top priorities, imposing measures to tackle long-standing, corruption-driven problems in the island's tourism industry.

The tuk-tuk mafia, encroachment on national park land and other sins of the past were targeted under the so-called 'restart'.

The government reiterated that all beaches were public property and – in perhaps its most unexpected move – removed all vendors therefrom.

Just as shockingly, some local leaders were charged for having illegally used beaches in their jurisdictions to amass vast personal fortunes by illegally divvying up the sands and allowing vendors to operate there on a concession basis.

Almost three years and three high seasons behind us, the beach loungers have returned and, it seems, we are returning to the status quo, albeit inside of the '10 per cent zones' where vendors are now allowed.

Throughout almost all this period, the vendor situation at Laem Singh has existed as if on an island somehow apart – beyond the rules ostensibly meant to apply to all island beaches.

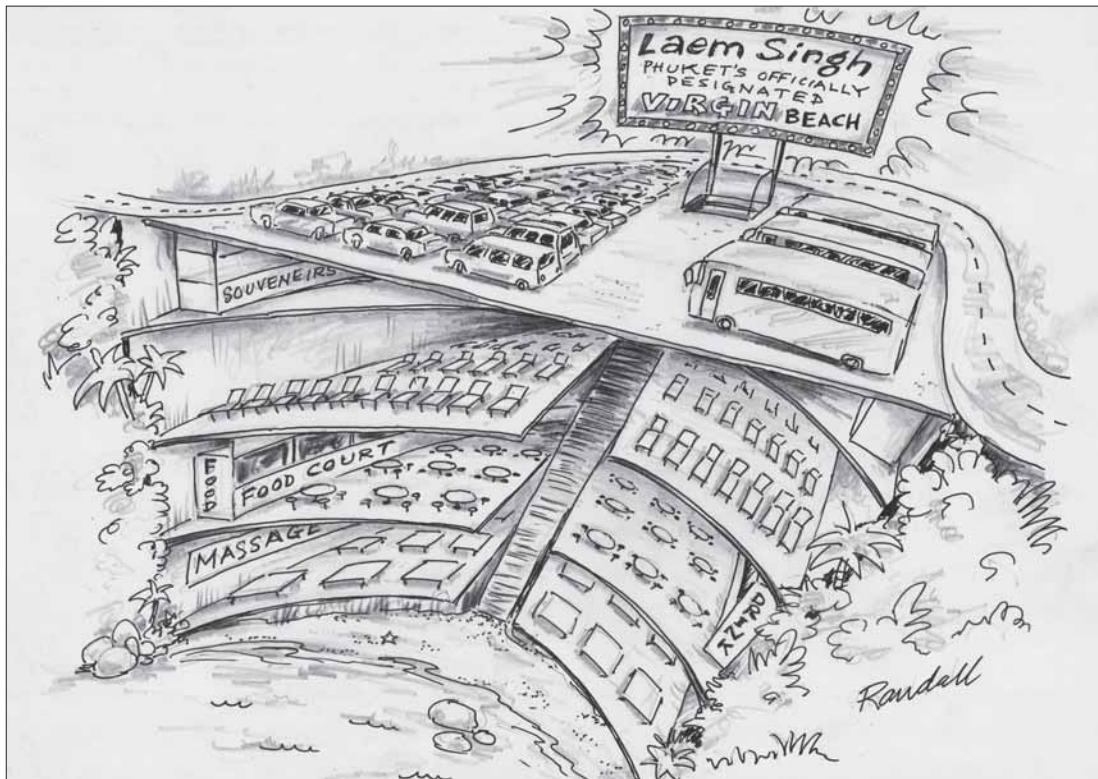
Despite Laem Singh's declaration as a so-called 'virgin beach', the self-proclaimed 'local' vendors remained in operation even while a Bangkok-based company began charging 'tourists' (read: foreigners) for the right to access the beach through their property.

Efforts to check whether the deed for the land was issued legally have yet to be ruled on by the court. In the latest twist, the vendors who called for such an investigation are now being denied access to the beach by this same company.

This has resulted in some high irony, with the vendors now literally protesting for their 'right' to conduct illegal business there.

In a way, this is right up there with reports from China a few years back about students protesting over being denied the 'right' to cheat on exams. Just as ironically, the vendors' demands are being carefully considered by local authorities.

It's anyone's guess what will happen next – or what Laem Singh might look like in ten years' time.



Punish the company, not tourists

Re: Korean tourists and dive instructor 'hunted' for damaging coral off Phuket, Mar 22

Instead of punishing the tourists, which will be the likely outcome, punish the instructor – he should know better and is the one at fault. If the tourists are punished, the dive instructor should get ten times the punishment.

Tourists can't be expected to be fully *au fait* with Thai laws, just as the instructor would not be aware of local laws were he to go to Korea.

The instructor clearly didn't care at all about the environment of his own country. Hammer him.

Mister Ree
Gazette forum

Take road safety more seriously

Re: Former policeman and wife killed in four vehicle pile up, Mar 23

Phuket is on a roll. Good job, Phuket... this is a way to keep the population down. Who cares about enforcing safety. Or do you even know what that means?

Charlie
Gazette forum

Noise more bothersome than gambling

Re: Gamblers arrested in undercover Phuket raid, Mar 27

I will never understand why these people are being bothered because they like to gamble.

It might make a lot more

Letters to the Editor

*Do you have an opinion to voice?
Email Editor@PhuketGazette.net*

sense to 'bother' all these drivers of motorbikes that create noise that prevent people from hearing themselves talk, prevent people from enjoying their quietude in their own home, and prevent them from sleeping.

I know Thai people are bothered by noisy motorbikes. But they would rather complain about gambling? Unbelievable.

Andy L
Gazette forum

Hotel should be held responsible

Re: Couple die by electrocution at Phuket resort, Mar 24

Any electrical equipment near water should have a fail proof circuit breaker system that gets tested periodically. The hotel should be held responsible to the tune of 12 million.

Foot
Gazette forum

Jet-ski operators are to blame

Re: Australian sentenced for girlfriend's jet-ski death in Phuket, Mar 23

Of course it was an accident; the poor fellow wasn't even allowed to attend his girlfriend's funeral. How inconsiderate by the powers that be. Did the judge

ask the jet-ski rental operator whether a captain's licence was used as required by law? Or did the operator just take a copy of Mr Keating's passport?

Harry
Gazette forum

Dangerous u-turn needs attention

Re: Teen biker killed at Phuket Bypass U-turn, Mar 25

This is a main road, a dual carriageway where the speed limit is 100kph. Do you expect people to drive slowly just in case someone decides to play chicken? That U-turn is fantastically dangerous. Ever since the work started on the underpass, everyone going to Phuket Town tries to turn right, shooting straight across the 100kph southbound traffic to go around the back of IKEA and avoid the construction. Suicide.

CaptainJack
Gazette forum

Easily preventable, but sad ending

Re: Phuket Roads: Two more critically injured in five-vehicle crash, Mar 23

How many times will we hear the same story over and over again? No drivers' licence, running red lights left, right and center with seemingly no concern for the lives of others. Thai officials need to wake up and see the reality on the roads.

Cassandra R
Facebook

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Telltale signs of developer inexperience



RECENTLY there has been national coverage of condominium buyers being upset with developers for non-delivery of condominium units on a grand scale, and filing claims and triggering investigations in order to try and obtain some recourse. Further, there are to and fro proceedings in Phuket, with accusations flying around between groups and developers as to the legality of development practices; many of these have been publicly refuted.

This activity and background noise is bad for the reputation of real estate in a market trying to reach international investors.

Having represented many developers and consumers over the years, I have had to find the middle-ground between both when issues have arisen. Most commonly, issues occur when the expectations are mismanaged and contrast in many respects from the realities of delivery, be it timing or quality.

There are, as in all jurisdictions, good developers and bad.



Issues occur when expectations are mismanaged or contrast with reality. Photo: American Advisors Group

However, there are some telltale signs of inexperienced developers which by themselves are not necessarily damning, but when many of these exist, an orange flag should be raised, and more caution applied.

1. Land on which the development is based is worth a lot of money, but the Thai company which owns it has a low share capital. This will mean there will be a lot of 'loans' into the company and these should be looked

into to ensure they flow properly into the reality of the finance arrangements for the project.

2. A variety of uses are advertised, but no thought has been applied to delivery of a regulation compliant project. The classic issue is the condominium project for which no planning has been applied as to how there could be 'hotel use' within such a project.

3. There is no clarity about the way in which you can legally in-

vest in property at the project. You may be told at the sales point 'you can set up a Thai company or choose leasehold – up to you' or some other such ill-advised vagary. If the developer doesn't legally know what it can and should sell, then it likely isn't going to be professional in other aspects of the project. However, please remember sometimes the sale agents and external agents don't apply proper thought to the sales structure and focus on the

magic reservation deposit which might trigger their commission.

4. Getting upset when asked too many questions. If you have nothing to hide, then the spotlight shouldn't cause concern and certainly shouldn't cause stress or friction. Provided comments and questions are managed, well organized into substantive communications, and not piecemeal, most ethical and experienced developers will accept that part of building and selling property involves explanations and sincere assurance.

Sometimes developers get the run around from potential purchasers too – placing small deposits and then not making the payment, with developers losing sales in the interim period, or making unreasonable variation demands and leveraging generosity applied to architectural changes until the developer incurs unreasonable costs. There are two sides to most stories.

Desmond Hughes has been an owner and operator of his law firm in Thailand for 14 years, and is a senior partner at Hughes Krupica law firm. Web: www.hugheskrupica.com

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What's coming next for the TMBA



On Deck

By Duncan Worthington

AT A recent ministerial meeting in Bangkok, the superyacht charter licence was on the agenda. I won't go into those details here – I've written plenty on the topic in the past. However, since the licence was first discussed publicly in early 2015 (and subsequently launched in September 2015), I have been getting people's thoughts on the topic.

Along with industry stakeholders, I have talked to a number of personnel from relevant government departments and agencies, be it the Marine Department, Ministry of Tourism and Sports, Tourism Authority of Thailand, Customs and so on. What is abundantly clear is that superyachts are the Thai government's focus.

Superyachts are the apex of the marine industry. That is where the big bucks are – the kind of low-hanging fruit that governments love to 'grab'. The expected trickle-down will ultimately benefit all sectors of Thailand's marine industry.

No matter what the topic or industry, governments around the world target big ticket items as a priority. The term 'grassroots' is often little more than a concept – heavily used in policy documents and speeches, it makes a great PR soundbite. However, govern-



TMBA has an important role to play in the direction of Thailand's marine industry. Photo: Phuket Best Group

ments rarely address such issues, preferring the headline grabbers. And like any other government, Thailand is looking for the big bucks first.

That the marine industry is on the Thai Government's agenda at all is something to be thankful for. The industry has been private-sector driven for as long as I can remember and the government interest should be welcomed with open arms.

The question is not so much "why superyachts?" but rather, "what's next?". This is where the Thai Marine Business Association (TMBA) has an important role to play.

The TMBA has undergone a few name changes over its history since being launched as the Marine Alliance of Thailand in 2003. Key personnel have also changed, as have the objectives and aims somewhat. The official mission statement, as stated on the official website, is as follows.

"The TMBA mission is to enable the networking of all Marine leisure industry stakeholders in Thailand and globally to enhance the growth, value and quality of yachting in Thailand for the benefit of its membership and helping the industry to overcome any challenges that may arise."

A series of objectives are also outlined on the website – all very noble, but perhaps it's now time to develop a tangible action plan. Like all business associations, people have different opinions and it's easy to criticize. Take a look at Phuket's golden goose – the tourism industry. There is the Phuket Tourist Association, Thai Hotels Association (Southern Chapter), SKAL International Phuket & South Thailand, a number of regional hotel groupings on the island and the latest addition, the Phuket Hotels Association. All no doubt with good intentions, but surely so many groupings

create unnecessary division.

The TMBA is needed for Thailand's marine industry, but perhaps a clearer role beyond the official rhetoric is required.

"If we want to achieve solid representation, we need to broaden the base and attract membership from throughout the Kingdom," said Grenville Fordham, chairman of the then Marine Alliance of Thailand, in 2005.

Not much has changed. A clear mandate for TMBA is needed, which must come from a nationwide buy-in at all levels within the industry, as well as fair representation of all locales around the country.

The TMBA had an AGM in Phuket last month – let's hope the elected committee was given the support it needed and the TMBA finds the direction that the industry wants, as well as a path to effect positive change for all stakeholders.

The Thai government has never been more invested in Thailand's marine industry than now, and that needs to be better leveraged by the TMBA for all.

Duncan Worthington is a long time Phuket resident and through Infinity Communications (www.infinity-comms.com) consults to leading consumer brands, hospitality and marine clients in Thailand. In his 'spare time' he runs the marine portal www.MarineScene.asia. #OnDeckPhuket

Google reassures advertisers

TECH giant Google, which saw a slew of companies withdraw ads after they appeared alongside extremist content, announced on March 21 that it was introducing new tools to give firms greater control.

"We know advertisers don't want their ads next to content that doesn't align with their values," Google's Chief Business Officer Philipp Schindler said in a post on the company's blog. "So starting today, we're taking a tougher



Google announced it would give firms more control. Image: Simon

stance on hateful, offensive and derogatory content."

– *The Nation*

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Marriott celebrates Earth Day



Phuket Marriott Resort and Spa, Nai Yang Beach, took part in the worldwide campaign to support "Earth Hour" – an event held annually to encourage individuals, communities, households and businesses to turn off their non-essential lights for one hour as a symbol for their commitment to the planet. The hotel dimmed the lights in the resort area and turn off all non-essential interior lighting from 8:30-9:30pm. Guests were also encouraged to do the same in their rooms by promoting the event throughout the resort. Photo: Supplied

Do your bit for climate change



BAD news for conservationists: the most powerful man in the universe is not only a non-believer in climate change, but is drastically reducing the US budget devoted to environmental issues. And one of Trump's advisers calls ecologically aware people "like Hari Krishna... they're glassy-eyed and they chant".

Big business and environmental concerns just don't mix – globally or locally. As Bill Barnett of *C9 Hotel Works* avers: put sustainability on conference agendas, and the eyes of Phuket developers just glaze over. A cleaner world is a more expensive world – at least in the short term.

Having said that, there are some encouraging signs. The use of coal globally is in 'free fall', according to a new report by Greenpeace, down 62 per cent in India and China, the two biggest consumers. China, literally worried to death by atmospheric pollution, has shut down its last coal power station in Beijing, and halted work on a hundred new coal-fired projects. A record number of coal power stations have closed down in the US



Trees prevent floods and landslides, and their foliage helps to stabilize weather conditions. Photo: Unsplash

and the European Union. Scotland has said goodbye to its last one.

Less good news about vehicle emissions. They are responsible annually for 53,000 early deaths in the US, even though they have stringent controls. What about the diesel fumes belching from clapped-out buses and pick-ups in Phuket? Don't ask.

We have known for a long time that if fossil fuels – gasoline and coal being the main

culprits – are gross pollutants, then chlorophyll producing plants and trees are equally powerful healers. They absorb CO2 and deliver oxygen to an atmosphere contaminated not just by carbon dioxide, but by exhaust fumes and coal gas that contain hydrocarbons, nitrogen oxides, sulphur dioxide and lung-harming particulates.

But trees do more than just replenish and refresh our air. While their roots prevent floods and landslides and their foliage

helps to stabilize weather conditions, they also provide conditions for happier and healthier living. According to extensive research by the Institute for European Environmental Policy (IEEP), access to green spaces and trees reduces depression, obesity and improves health.

Some random examples: middle-aged Scottish men living in verdant areas had a 16 per cent lower death rate than those in urban locations; preg-

nant women in green areas had lower blood pressure, and gave birth to bigger babies; patients in hospitals with tree views were discharged a day earlier. About 220 years ago, Wordsworth knew about the beneficial power of nature.

In *The Tables Turned*, he expresses the view that "one impulse from a vernal wood" will do us more good than listening to so-called wise men.

I often champion the positive 'impulse' of our gardens. Here in Phuket, they are not only green lungs for humans, but habitats for birds, butterflies and bees. In America, a warning for yet another endangered species – the rusty-patched bumble bee – has just been issued. Pesticides and loss of habitat are to blame.

So do your own bit for Phuket's own wild honey bee. Refuse to buy 'wild' honey; let the tiny, precious bees nest in your trees, and benefit your flowers. Living in a tropical garden is better by far than being incarcerated in a skyscraper called Trump Tower.

If you have gardening or environmental concerns, contact Patrick at drpaccampbell@gmail.com. Many of his creative and academic publications can be found at his website: [GreenGaloshes Wordpress](http://GreenGaloshes.wordpress.com).

'Plant Earth' returns

"PLANET Earth II", the sequel to the BBC's acclaimed 2006 documentary series, has its Thai premiere at SF World Cinema in Bangkok on March 30, organized by Thai PBS.

Free tickets were distributed at the cinema from 5-5:30pm.

Thai PBS is scheduled to broadcast the film in seven episodes in ultra high-definition 4K, beginning at 8:20pm on April 5.

'Planet Earth', presented by Sir David Attenborough and with music composed by Hans Zimmer, was universally acclaimed. The sequel, made last year, took 2,100 days to shoot in 40 countries, utilizing drone cameras and remote recording techniques. The episodes include 'Islands', 'Mountains', 'Jungles', 'Cities' and 'A World of Wonder'.

"This might be the first time it's being seen in Asia," says Thai PBS director-general



The documentary aired in Bangkok on March 30. Photo: Public Domain Pictures

Krissada Raungarreat. "The documentary is being broadcast in the US only after it premieres in Britain, on BBC One."

While the first series offered unprecedented views of life on earth, the sequel immerses the audience in spectacular landscapes and habitats. It focuses on iconic places, from the highest mountains to the remotest islands, richest jungles and the harshest deserts.

– *The Nation*



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Running through the jungle

By Kongleaphy Keam

MANOP Suwannachit, 31, is the brand ambassador for 'Xterra Asia Pacific and World Series 2017-Road to Hawaii' which was organized by Xterra Thailand and Active Management Asia (AMA) in Phuket on April 1.

Mr Manop also participated in the races - he is a well-known sportsman who has won many competitions throughout his career. Last year, he took part in Xterra Samui, which led to him being chosen as the brand ambassador for this year's event.

"Being a local, I know Phuket intimately and can tell which paths are safe and suitable for athletes, so I was involved in designing and finalizing the route. I also helped the Xterra team with documentation and other organizational issues and arrangements," says Mr Manop.

Mr Manop currently owns a bike shop in Phuket. He has been involved in competitive sports since he was 13 years old. He started with running both short and long distance

races. After he sustained an injury, which prevented him from participating in running, he switched over to cycling.

He started with mountain biking when he was 15 years old. About eight years ago, he also got involved in road cycling.

A long with competing in events throughout the southern region and all over Thailand, Mr Manop is also a member of Z-Coaching Phuket by Jurgen Zack.

Last year, he achieved notable success in competitions such as Sattahip Triathlon 2016, Krabi Adventure, Rockman Triathlon 2016, Thalang Mountain Bike and several others.

"I have been playing sports for several years. However, I just joined the Xterra event last year in Samui. After my first

experience with them, I fell in love with this competition - it is a perfect combination of cycling and running," says Mr Manop.

"The special thing about this competition is that you are not just competing in the usual tracks, such as roads - you are running and cycling in a forest, which makes it even more challenging. You get a feeling of being in touch with nature, which is great," he adds.

Mr Manop has been practicing both mountain biking and running especially for this competition with persistence and determination.

"I felt ready to take on this challenge - I have had years of practice, six days a week. Practice makes perfect and it is certainly true in my case," says Mr Manop.

The trail run event, part of the 'Xterra Trail Running World Championship 2017',

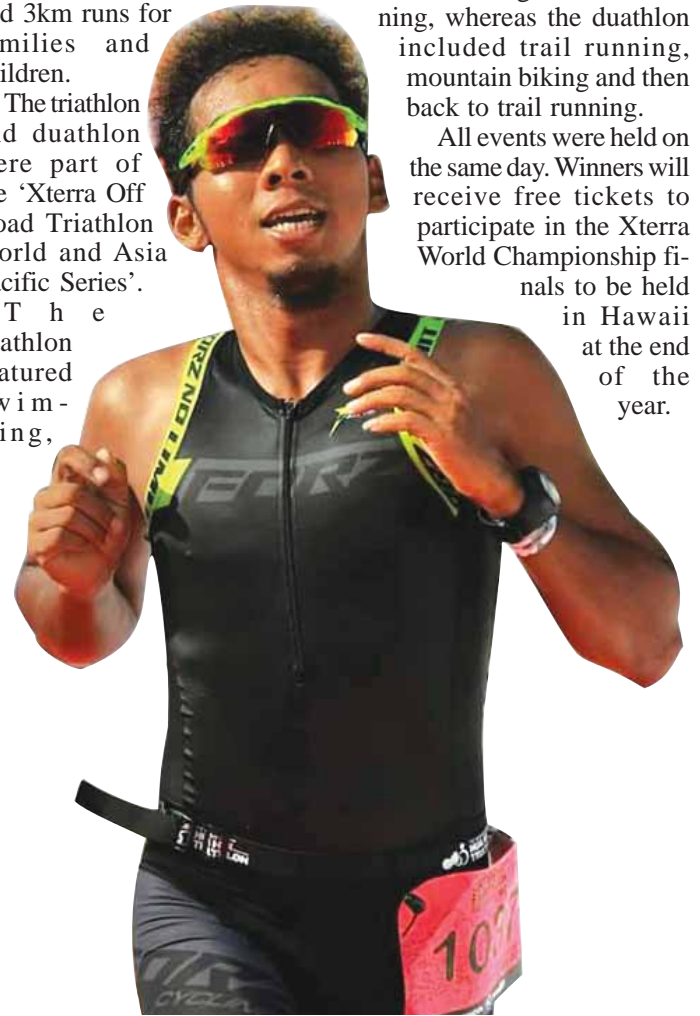
featured 30km, 13km and 3km runs for families and children.

The triathlon and duathlon were part of the 'Xterra Off Road Triathlon World and Asia Pacific Series'.

The triathlon featured swimming,

mountain biking and trail running, whereas the duathlon included trail running, mountain biking and then back to trail running.

All events were held on the same day. Winners will receive free tickets to participate in the Xterra World Championship finals to be held in Hawaii at the end of the year.



The special thing about this year's competition is that you are not just competing in the usual venues... which makes it even more challenging

- Manop Suwannachit, Brand Ambassador, Xterra Asia Pacific & World Series

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