

CAYMAN ISLANDS



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**CAYMAN ISLANDS
DEVELOPMENT AND PLANNING LAW, (REVISED)
APPEALS RULES**

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Made Pursuant to Sub-Section (6) of Section 40 of the Development and Planning Law
(Revised)

1. These Rules may be cited as the Development and Planning (Appeals) Rules 1985 and shall come into operation on the date of their publication in the Gazette.
2. In these Rules -
“Executive Secretary” means the Executive Secretary of the Central Planning Authority appointed under section 3(5);
“Principal Secretary” means the Principal Secretary of the Portfolio for Development and Natural Resources;
“Tribunal” means the Appeals Tribunal established under section 38.

APPEALS TO THE TRIBUNAL

3. An appeal to the Tribunal under subsection (1) of section 40 shall be made by notice in writing, hereinafter referred to as a “Notice of Appeal”, signed by the appellant or his attorney-at-law. The Notice of Appeal shall be filed in the office of the Principal Secretary within the period of ten days stipulated in the above mentioned subsection and immediately thereafter a copy thereof shall be served by the appellant upon the Executive Secretary and upon all parties who may have filed objections or been heard the hearing of the application to which the appeal relates.
4. The Executive Secretary shall, within fourteen days after service upon him of the Notice of Appeal, prepare and forward to the Principal Secretary and to the appellant (or his attorney-at-law) an indexed brief containing copies of all documents, correspondence and other papers and exhibits which were presented to the Central Authority on the hearing of the application to which the appeal relates as well as a statement in writing from the Chairman of the Central Planning Authority stating the reasons for its decision.
5. (1) The appellant shall, within fourteen days of the service upon him of the brief mentioned in rule 4, file in the office of the Principal Secretary:
 - (a) the grounds of appeal upon which he intends to rely;
 - (b) the form or order he seeks.(2) a copy of the aforementioned grounds of appeal shall be served by the appellant on all parties to whom the Notice of Appeal has been addressed.
6. (1) The Principal Secretary shall, upon being satisfied that the provisions of rules 3, 4, and 5 have been complied with, prepare a Record of Appeal and set down the appeal for hearing by the Tribunal and shall give notice thereof to the chairman of the Tribunal, all members thereof, the appellant, the Executive Secretary, and all persons entitled to be served with the Notice of Appeal.

(2) The Record of Appeal referred to in the preceding sub-rule shall comprise the following documents, namely the Notice of Appeal; the brief prepared under rule 4; the grounds of appeal; the form or order sought; and any other document that the Chairman of the Tribunal may direct shall be included therein. The Record shall be bound, or otherwise securely fastened together, and the pages numbered in the order in which they appear therein.

(3) The Principal Secretary shall give copies of the Record of Appeal to the Chairman of the Tribunal all members thereof, the appellant and the Executive Secretary at the same time as the notification under sub-rule 6(1) hereof.

7. (1) On the hearing of the appeal the appellant and all persons to whom the Notice of Appeal had been addressed shall be entitled to be heard in person or to be represented by an attorney-at-law. The Central Planning Authority may appear by the Director of Planning or any member of his staff, and may be represented by an attorney-at-law or by the Attorney General or any person holding public office in his chambers.

(2) At the commencement of the hearing the Chairman of the Tribunal shall cause a record to be made of all the persons appearing before the Tribunal.

(3) The order of proceedings before the Tribunal shall be in the absolute discretion of the Chairman of the Tribunal, but in the absence of any express direction by him to the contrary the appellant shall begin, the Central Planning Authority shall be heard next, and then any other persons entitle to appear shall be heard. The appellant shall then be permitted to reply on any points raised by those persons who have been heard.

(4) Without the leave of the Tribunal no new evidence shall be received by it on the hearing of the appeal. All viva voce evidence received by the Tribunal shall be taken under oath or affirmation.

(5) The Chairman of the Tribunal shall keep a record of the proceedings before the Tribunal, which for all purposes shall be final.

(6) The decision of the Tribunal shall be communicated in writing under the hand of the Chairman thereof to the appellant, the Executive Secretary and all other persons who may have appeared before the Tribunal on the hearing of the appeal.

APPEALS TO THE GRAND COURT

8. An appeal to the Grand Court under subsection (4) of section 40 shall be made by notice in writing, hereinafter referred to as a "Notice of Appeal", signed by the appellant or his attorney-at-law. The Notice of Appeal shall be filed in the office of the Clerk of the Court and a copy thereof served upon the Chairman of the Tribunal, the Executive Secretary and on all other persons appearing before the Tribunal within fourteen days from communication of the decision of the Tribunal being made in writing to the appellant.

9. The Chairman of the Tribunal shall no later than sixty days from the date of service upon him of a Notice of Appeal:

- (a) file in the office of the Clerk of the Court and serve on the appellant and on the Executive Secretary a statement of the reasons for the decision; and
- (b) cause to be filed in the office of the Clerk of the Court the record of the proceedings of the Tribunal kept under rule 7(5), and all exhibits and documents which were before or were presented to the Tribunal.

10. The appellant shall, within fourteen days of receipt by him of the statement by the Chairman of the Tribunal of the reasons for the decision, serve upon the said Chairman, the Clerk of the Court, the Executive Secretary and all other persons appearing before the Tribunal a memorandum of appeal showing in precise terms -
- (a) the grounds of appeal upon which he intends to rely averring how the Tribunal has erred;
 - (b) the form of order he seeks.

11. Upon the receipt of the matters filed in compliance with Rules 8, 9 and 10 the Clerk of the Court shall prepare the Record of Appeal and set down the appeal for hearing by the Grand Court and thereupon give Notice thereof to the Chairman of the Tribunal, the appellant, the Executive Secretary, and all other persons appearing before the Tribunal.

GENERAL PROVISIONS

12. Every Notice of Appeal, whether under rule 3 or rule 8, shall specify an address within the Islands for service upon the appellant.

13. Service may be effected as follows:

- (a) upon the Chairman of the Tribunal and upon the Executive Secretary at the office of Principal Secretary;
- (b) upon the appellant at his address for service under rule 12 above; and
- (c) upon any other persons at their place of abode or their business address.

14. All persons entitled to be served with a Notice of Appeal under rule 3 or under rule 8 shall, upon payment of the prescribed fee, be entitled to obtain from the appropriate officer a copy of the Record of Appeal, prepared under rule 6 or rule 11 as applicable.

15. Upon the filing of a Notice of Appeal, whether under rule 3 or rule 8, the appellant shall pay to the Principal Secretary or the Clerk of the Court as appropriate the prescribed fee.

16. The prescribed fees are set out below. For these purposes "page" means one side of any separate sheet.

- (a) filing of Notice of Appeal \$50
- (b) Copy of Record of Appeal or other document, where page of foolscap size or less \$2 per page
- (c) Copy of any of page of greater than foolscap size \$5 per page

17. Time may be extended for good cause shown in the case of appeals to the Tribunal, by the Chairman thereof, and in the case of appeals to the Grand Court by a judge thereof.

18. These Rules shall revoke and replace the Development and Planning (Appeals) Rules published as Supplement No. 5 with Gazette No. 18 of 1976.

19. These Rules shall apply mutatis mutandis to appeals under section 41 as if any references to the Central Planning Authority were a reference to the Development Control Board and any reference to the Tribunal were a reference to the Lesser Islands Appeal Tribunal.

Made the 20th day of March, 1985.

SIR JOHN SUMMERFIELD Q.C., C.B.E.
Chief Justice of the Cayman Islands.

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