

CAYMAN ISLANDS



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THE DEVELOPMENT AND PLANNING (AMENDMENT) LAW, 2002

(LAW 10 OF 2002)

THE DEVELOPMENT AND PLANNING (AMENDMENT) LAW, 2002

ARRANGEMENT OF SECTIONS

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CAYMAN ISLANDS

Law 10 of 2002.

I Assent

B. H. Dinwiddy

Governor.

25 July, 2002

A LAW TO AMEND THE DEVELOPMENT AND PLANNING LAW (1999 REVISION) TO DISBAND THE DEVELOPMENTS ADVISORY BOARD; TO INCREASE THE FUNCTIONS OF ASSISTANT DIRECTORS OF PLANNING; TO AMEND THE LAW RELATING TO APPEALS; AND TO MAKE PROVISION FOR RELATED AND CONNECTED MATTERS

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Development and Planning (Amendment) Law, 2002. Short title

2. The Development and Planning Law (1999 Revision), in this Law referred to as “the principal Law”, is amended in section 2(1) – Amendment of section 2 of the Development and Planning Law (1999 Revision) – definition of Developments Advisory Board

- (a) by repealing the definition of the term “Advisory Board”;
- (b) by inserting the following definitions in their appropriate alphabetical order –

“ “Land Register” means the Land Register compiled under Division 2 of Part II of the Registered Land Law (1995 Revision); and

“strata lot” means a strata lot as defined in the Strata Titles Registration Law (1996 Revision);”;

- (c) in the definition of the term “owner” by inserting after the words “ten years;” the words “and, without prejudice to the generality

of this definition, in sections 16, 18, 51 and 52, "owner" includes each proprietor for the time being of a strata lot;"

Amendment of section 5 - duties of Authority

3. The principal Law is amended in section 5 as follows -

(a) in subsection (3), by repealing paragraphs (a) and (b) and substituting the following paragraphs -

"(a) the Director;

(b) the Assistant Directors;

(c) the Director and a member of the Authority; or

(d) an Assistant Director and a member of the Authority."; and

(b) by repealing subsection (4) and substituting the following subsection -

" (4) Where, under subsection (3)(c) or (d), a function of the Authority is delegated to -

(a) the Director and a member of the Authority; or

(b) an Assistant Director and a member of the Authority,

that function cannot be exercised except jointly by the Director or an Assistant Director (as the case may be) and that member."

Repeal and replacement of sections 6, 7 and 8 - applications to carry out major developments

4. The principal Law is amended by repealing sections 6, 7 and 8 and substituting the following sections -

"Applications to carry out major developments

6. (1) Where the Authority or the Board receives an application for permission to carry out the developments specified in subsection (2), the Authority or the Board, as the case may be, shall -

(a) consider the likely impact of the proposed development on the infrastructure of the Islands as well as on the educational, social, medical and other aspects of life in the Islands;

(b) consider whether there are other issues of national importance which are relevant to the determination of the application for development and require evaluation;

(c) consider whether there are technical or scientific aspects of the proposed development which are of so unfamiliar a character as to jeopardise a proper determination of the question unless there is a special inquiry for the purpose;

(d) identify and investigate the considerations relevant to, or the technical or scientific aspects of, the proposed development which, in its opinion, are relevant to the question whether the application should be approved; and

(e) assess the importance to be attached to those considerations or aspects.

(2) The developments referred to in subsection (1) are-

(a) apartments with twenty-one or more units;

(b) hotels with twenty-one or more units;

(c) commercial developments which exceed twenty thousand square feet;

(d) subdivision of land into twenty-one or more lots;

(e) industrial developments which exceed ten thousand square feet; and

(f) special purpose developments.

(3) The Authority or the Board, as the case may be, may give an applicant for permission to carry out the developments specified in subsection (2), an opportunity to appear before the Authority or the Board and to be heard by five or more members of the Authority or three or more members of the Board.

(4) The question of whether the development proposed in the application should instead be carried out at an alternative site shall also be considered by the Authority or the Board, as the case may be.

(5) The Authority or the Board, as the case may be, may arrange for the carrying out of research of any kind appearing to it to be relevant to an application, received by it, for permission to carry out the developments specified in subsection (2).

(6) The Authority or the Board, as the case may be, may hold an inquiry, if it thinks it necessary, for the proper discharge of its powers under this section.

7. The Authority or the Board, as the case may be, shall, to the greatest possible extent consistent with the performance of its duties under this Law, consult with

Co-operation with Government departments

departments and agencies of the Government having duties or having aims or objects related to those of the Authority or the Board.

Notification of decisions relating to major developments

8. The Authority or the Board, as the case may be, shall notify the Trade and Business Licensing Board and the Immigration Board of its decision, in respect of an application for permission to carry out the developments specified in section 6(2) within five working days of the date such decision is made.”.

Repeal of sections 9, 10 and 11 - Developments Advisory Board
Amendment of section 16 – provisions for development

5. The principal Law is amended by repealing sections 9, 10 and 11.

6. The principal Law is amended in section 16 as follows –

- (a) in paragraph (b) of subsection (5), by inserting after the words “received by it” the words “, from an owner,”; and
- (b) by repealing paragraph (b) of subsection (6) and substituting the following paragraph –

“ (b) consent to the granting of such approval has been given by a majority of all owners of full legal capacity who –

- (i) for the time being reside within a radius of one thousand five hundred feet of the boundaries of the land to which the application relates; or
- (ii) reside elsewhere in the Islands and own any building or land (including a strata lot) within a radius of one thousand five hundred feet of the boundaries of the land to which the application relates.”.

Amendment of section 18 – application for planning permission

7. The principal Law is amended in section 18 as follows –

- (a) in subsection (1), by repealing the words “and sections 5(1) and 6(1)” and substituting the words “and section 5(1)”;
- (b) by repealing subsection (4) and substituting the following subsection –

“ (4) Notice of application for planning permission (other than an application for permission having relation to a detached house, semi-detached house or duplex) –

- (a) must be served not more than three working days prior to, nor more than three working days after, the date upon which the application is made, for a period of twenty-one days, upon all adjacent

owners and copies of such notices enclosed with the relevant application to the Authority; and

- (b) where required by this Law or the regulations, must be published in a public newspaper circulating in the Islands in such number of issues as may be required by this Law or the regulations;

and the Authority shall not consider applications in the absence of evidence of service of such notices and (as the case may be) unless the Authority is satisfied that twenty-one days have elapsed since the publication of the last of such issues.”.

8. The principal Law is amended in section 43 as follows –

Amendment of section 43 – service of notices

- (a) in subsection (1) –
 - (i) by repealing the word “or” appearing at the end of paragraph (c); and
 - (ii) by inserting after paragraph (c) the following paragraph –

“(ca) by sending it in a prepaid registered letter addressed to that person at his address as stated in the Land Register; or”; and

- (b) in subsection (2)(a), by repealing the words “or (c) of” and substituting the words “, (c) or (ca) of”.

9. The principal Law is amended in section 44 by repealing the words “fifty dollars” and substituting the words “five hundred dollars”.

Amendment of section 44 – powers to require information

10. The principal Law is amended in section 51 as follows –

Amendment of section 51 – appeals against decisions of the Authority

- (a) by repealing subsection (1) and substituting the following subsection –

“ (1) Any person who –

- (a) has applied for permission to develop land; or
- (b) is an owner of full legal capacity who -

- (i) resides within a radius of one thousand five hundred feet of the boundaries of the land to which the application relates; or
- (ii) resides elsewhere in the Islands and owns any building or land (including a strata lot) within a radius of one thousand five hundred feet of the boundaries of the land to which the application relates,

and who is aggrieved by a decision of the Authority may, within fourteen days after receipt of notification of such decision (or within such longer period as the Tribunal may in any particular case allow for good cause), appeal by way of rehearing to the Tribunal against such decision.”;

- (b) in subsection (2), by inserting after the words “the Tribunal may” the words “confirm, reverse or modify any decision of the Authority and”;
- (c) by repealing subsection (4) and substituting the following subsection -

“ (4) Any person aggrieved by a decision of the Tribunal under subsection (2) may, within fourteen days, appeal against that decision to the Grand Court on the ground that -

- (a) it is erroneous in law;
- (b) it is unreasonable;
- (c) it is contrary to the principles of natural justice; or
- (d) it is at variance with a development plan having effect in relation thereto,

but not otherwise.”;

- (d) in subsection (5), by repealing the words “and the decision of the Grand Court shall be final and binding upon the parties affected thereby”; and
- (e) by inserting after subsection (6) the following subsection -

“ (7) Any person aggrieved by a decision of the Grand Court under subsection (5) may, within fourteen days, appeal against that decision to the Court of Appeal on a point of law and the decision of the Court of Appeal shall be final and binding upon the parties affected thereby.”.

11. The principal Law is amended in section 52 as follows -

- (a) by repealing subsection (1) and substituting the following subsection -

“ (1) Any person who -

- (a) has applied for permission to develop land; or
- (b) is an owner of full legal capacity who -
 - (i) resides within a radius of one thousand five hundred feet of the boundaries of the land to which the application relates; or

- (ii) resides elsewhere in the Islands and owns any building or land (including a strata lot) within a radius of one thousand five hundred feet of the boundaries of the land to which the application relates,

and who is aggrieved by a decision of the Board may, within fourteen days after receipt of notification of such decision (or within such longer period as the Tribunal may in any particular case allow for good cause), appeal by way of rehearing to the Tribunal against such decision.”; and

- (b) in subsection (2), by repealing “and (6)” and substituting “, (6) and (7)”.

12. The principal Law is amended by repealing the Third Schedule.

Repeal of Third Schedule - constitution of Developments Advisory Board

13. (1) Every application for permission to develop land made under the former Law and wholly or partly dealt with by the Authority or the Board when the new Law comes into force, is to be continued and dealt with in all respects as if the new Law had not come into force.

Transitional provisions

(2) Permission to develop land, granted as a result of an application determined under subsection (1), is to be granted on the same terms and conditions that would have applied if the new Law had not come into force.

(3) Every application for permission to develop land made under the former Law and not wholly or partly dealt with by the Authority or the Board when the new Law comes into force, is to be taken to be an application made under the new Law and the provisions of the new Law are to apply accordingly.

(4) In the case of an appeal against -

- (a) any decision of the Authority or the Board; or
- (b) any decision or order of the Tribunal or the Appeals Tribunal,

that has been commenced but not finally determined before the new Law comes into force, the appeal is to continue to be dealt with as if the new Law had not come into force; and when the appeal is finally determined, the former Law is to apply subject to any necessary modifications as if the appeal had been finally determined before the new Law came into force.

(5) Any permission to develop land, granted under the former Law and in force immediately before the date of commencement of this Law -

- (a) shall have effect from that date, as if granted under the new Law;
and
- (b) in the case of permission granted for a limited period only, shall remain in force, subject to the provisions of the new Law, for so much of that period as falls after that date.

(6) In this section -

“Appeals Tribunal”, “Authority”, “Board” and “Tribunal” have the respective meanings assigned to those expressions by section 2(1) of the principal Law;

“permission granted for a limited period only” has the meaning assigned to that expression by section 18(2) of the principal Law;

“the former Law” means the principal Law in force immediately before the date of commencement of this Law; and

“the new Law” means the principal Law as amended by this Law.

Passed by the Legislative Assembly the 10th day of July, 2002.

CLINE GLIDDEN, JR

for the Speaker.

SHARON SMITH

for the Clerk of the Legislative Assembly.

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