

CAYMAN ISLANDS



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**THE APPEALS TRIBUNAL
(DEVELOPMENT PLAN) PROCEDURAL
RULES 1975**

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THE DEVELOPMENT AND PLANNING LAW, 1975 THE APPEALS TRIBUNAL (DEVELOPMENT PLAN) PROCEDURAL RULES 1975

Made by the Appeals Tribunal, constituted by the Governor under the provisions of Section 39(1) of the Development and Planning Law, 1971.

Citation and commencement

1. (1) These Rules may be cited as The Appeals Tribunal (Development Plan) Procedural Rules 1975.

(2) These Rules shall come into operation on 12th. November, 1975.

Application of Rules

2. These Rules shall apply to:

(1) The Appeals Tribunal appointed by the Governor in Council on the 7th day of January, 1975.

(2) Any other appeals tribunal established under the provisions of section 39 of The Development and Planning Law, 1971, where in the instrument so appointing such a Tribunal, the Governor so determines, or where the Tribunal itself so determines.

Interpretation

3. In these Rules, unless the context otherwise requires:

"the Law" means the Development and Planning Law, 1971;

"the Tribunal" means the Appeals Tribunal constituted by the Governor under the provisions of s. 39(1) of the Law;

"the quorum" means a quorum of the Tribunal formed under the provisions of s. 39(2) of the Law;

"enquiry" means an enquiry to which these Rules apply; and the definitions contained in section 2 of the Law shall be deemed to be incorporated in these Rules as if the same were set out herein.

"the Authority" means the Central Planning Authority;

"the Board" means the Development Control Board.

Notification of the Enquiry

4. (1) A date, time and place for the holding of the Enquiry shall be fixed and may be varied by the Tribunal giving not less than 28 days' notice in writing of such date, time and place to the Authority, the Board and to any other public authority, and any such persons or bodies as have made objections or representations in writing in relation to the "Proposed Development Plan for the Cayman Islands, 1975" (or to such other plan as shall be enquired into by the Tribunal) within the period specified in the Law, provided that where it becomes necessary or advisable to vary the date time or place fixed for the Enquiry, the Tribunal shall give such notice of the variation as may appear to it to be reasonable in the circumstances.

(2) Without prejudice to the foregoing provisions of this rule, the Tribunal may require that the Authority on its behalf, take one or more of the following steps:

(a) publish in one or more newspapers circulating in the locality such notices of the Enquiry as they may direct;

(b) serve notice of the Enquiry in such form and on such persons or classes of persons

as they shall direct;

(c) convene a pre-Enquiry meeting of objectors who wish to attend the same;

(d) post such notice of the Enquiry in conspicuous places as they shall direct.

Appearances at Enquiry

5. (1) The persons entitled to appear at the enquiry shall be:

(a) the Authority;

(b) the Board;

(c) any other public authority, and any such persons or bodies as have made objections or representations in writing in relation to the matters in issue before the Tribunal within the period specified in the Law;

(d) any public authority, person or body whom the Tribunal invites to appear before them.

(2) Any other person may appear at the enquiry at the discretion of the Tribunal.

(3) The Authority and the Board may appear by their respective executive secretary or by any other officer appointed for the purpose by the Authority or the Board, or by counsel or solicitor, and any other authority, person or body may appear on his or its own behalf or be represented by counsel, solicitor, or any other person.

(4) Where there are two or more persons having a similar interest in the matter under enquiry, the Tribunal may allow one or more persons to appear for the benefit of some or all persons so interested.

Representatives of government departments at enquiry

6. Where a representative of a government department (which for this purpose shall be deemed to include the Authority and the Board) shall give evidence before the Tribunal, he shall state the reasons for any decision of the government department he represents, shall give evidence and be subject to cross-examination to the same extent as any other witness save that such a representative shall not be required to answer any question which in the opinion of the Tribunal is directed to the merits of government policy.

Procedure at the enquiry

7. (1) Except as otherwise provided in these Rules, the procedure at the enquiry shall be such as the Tribunal, in its discretion, shall determine.

(2) The persons specified in Rule 5(1) shall be entitled to call evidence and cross-examine persons giving evidence, but the persons specified in Rule 5(2) may do so only to the extent permitted by the Tribunal.

(3) The Tribunal shall not require or permit the giving or production of any evidence whether written or oral, which would be contrary to the public interest, but save as is provided in Rule 6, any evidence may be admitted at the discretion of the Tribunal, which may direct that documents tendered in evidence may be inspected by any person entitled or permitted to appear at the enquiry, and that facilities be afforded to him to take or obtain copies thereof.

(4) If any person entitled to appear at the enquiry fails to do so, the Tribunal may

proceed with the Enquiry at its discretion.

(5) The Tribunal shall be entitled (subject to disclosure thereof at the enquiry) to take into account any written representations or statements received by them before or during the enquiry from any person.

(6) If any person who has made an objection or representation wishes to withdraw that objection or representation he may do so either in person during the enquiry or by letter to the Chairman of the Tribunal delivered during the enquiry.

(7) The Tribunal may from time to time adjourn the enquiry and, if the date, time and place of the adjourned Enquiry are announced before the adjournment, no further notice shall be required.

Site inspections

8. (1) The Tribunal or any member of the Tribunal may make an unaccompanied inspection of any of the land which appears to be the subject of the enquiry before or during the enquiry, without giving notice of their or his intention to the persons entitled or permitted to appear at the enquiry.

(2) The Tribunal may, and shall if so requested by any of the parties entitled to appear at the enquiry, inspect the land and the subject of the objection or representation, and shall, in all cases where they intend to make such an inspection, announce during the enquiry the date and time when the Tribunal proposes to do so. It shall not be necessary for all members of the Tribunal to inspect the land referred to in this rule, and it shall be for the Tribunal to decide which of its members shall inspect which land.

(3) The Authority (or in an appropriate case also the Board) and the person entitled to appear at the enquiry shall be entitled to accompany the Tribunal – or the appropriate member thereof on any inspection at the close of the enquiry; but the Tribunal shall not be bound to defer its inspection if any person entitled to accompany the Tribunal is not present at the time appointed.

(4) During any inspection referred to in this Rule there shall be no discussion of the merits of an objection or representation, and no evidence of any kind shall be received at such an inspection whether from the Authority, the Board or any person entitled or permitted to appear; any discussion between the Tribunal and such authority or person shall be limited to identifying the land in question or any physical aspect thereof to which reference has been made in the objection or representation or the evidence in relation thereto.

Procedure after enquiry

9. The Tribunal shall after the close of the enquiry make a report in writing to the Governor into the objections and representations, and shall include the Tribunal's recommendations, if any, or their reason for not making any recommendation.

Service of notices by post

10. Notices or documents required or authorised to be served or sent under the provisions of any of these Rules may be sent by post.

(Sgd.) C.F. ALLAN
Chairman – Appeals Tribunal
11th November, 1975