



Accountable and Non-accountable Gross Floor Area (GFA) under Lease

This practice note is issued to inform Authorized Persons (APs), Surveyors and Registered Structural Engineers (RSEs) of the Lands Department's (LandsD) practice in treating certain areas as non-accountable GFA under leases.

2. Generally, any building or buildings erected or to be erected within a lot must be measured for GFA unless exempted by the lease. The lease may contain provisions that certain areas/facilities are or are not to be accountable for GFA. If a right is reserved in the lease for the Director of Lands (the Director) to exempt certain areas/facilities from GFA calculation at her discretion, LandsD is usually prepared to follow the Building Authority's (BA's) ruling whilst the Director reserves her right and absolute discretion to do otherwise in individual cases. It should be recognised that BA is vested with the statutory power to enforce the Buildings Ordinance whereas LandsD exercise the rights of a lessor/landlord under the government lease for the lot in question.

3. Based on the above, some of the elements in a building for which exemption from GFA may be given are, as a guide only, set out in paragraphs 4 to 38 below.

Electrical and mechanical provisions

4. For the purposes of GFA calculation, areas occupied solely by machinery or equipment for any lift, air-conditioning or heating system or any similar services may be exempted from GFA calculation and the BA's ruling would usually be followed.

Staircases, lift shafts and lobbies serving non-accountable GFA

5. Staircases, lift shafts and lobbies serving non-accountable GFA such as basement or underground car parking and/or mechanical floors, etc. may be exempted from GFA calculation provided that they are physically separated from and do not provide access to the GFA accountable floors and their design and disposition are acceptable to the Director. If these features serve the basement or underground car parking floor(s) as well as other floors, only the

portion of these features at the basement or underground car parking floor(s) may be exempted from GFA calculation and the BA's ruling would usually be followed. Any entrance lift lobby and/or lift shaft at and above ground which serve the development as well as the basement or underground car parking floor(s) will be included in GFA calculation.

Staircases, lift shafts and lobbies passing through non-domestic GFA accountable areas leading to domestic towers

6. Staircases, lift shafts and lobbies at various levels of a composite development solely serving the upper floor domestic development will be accountable for domestic GFA irrespective of other non-domestic uses at the corresponding levels. If these features also serve other non-domestic GFA accountable areas, then they can be calculated for either domestic or non-domestic GFA.

Headroom/ceiling height (floor-to-floor height)

7. Generally, the floor-to-floor height of 3.5m for flats and 4.5m for house developments are acceptable. Floor areas/spaces with excessive headroom (i.e. exceeding 3.5m for flats and 4.5m for house developments) will be rejected or double (or more) counted for GFA unless justified. However, certain high ceilings arising from constraints or from a desire to create an effect on certain part(s) of a building may be acceptable provided that the design, layout and size of the floor areas/spaces with high ceilings would not likely lead to abuse and such floor areas/spaces would not likely become converted into something that would result in the lease conditions being breached and provided further that the design, layout and size of the floor areas/spaces are approved by the BA. The examples are voids over living room, dining room or entrance foyer in a duplex flat/house, mall atriums in shopping arcades, banking halls, sporting halls and main entrance lobbies to hotels and the BA's ruling would usually be followed.

Flat roofs

8. Balconies and similar areas which are cantilevered or supported by stilts are GFA accountable under the lease. However, flat roofs in the form of natural building set back (i.e. on the roof of GFA accountable areas) may be non-accountable for GFA. The BA's ruling would usually be followed.

9. Flat roofs on structures which are GFA exempted under the lease may also be non-accountable for GFA if the same are designated as common areas in the DMC. Any proposed private flat roof/garden on the roof of GFA exempted structures may be GFA non-accountable if the size is about the same area of the residential unit on the same floor which it serves in flat developments, or of the same floor of a house which it serves in estate-type house developments (i.e. "flat roof/garden to residential unit/house" area ratio 1:1). If the area ratio of private flat roof/garden to residential unit/house is greater than 1:1, the area of private flat roof/garden is GFA accountable unless the size is reduced to about the 1:1 ratio or the area in excess of the corresponding residential unit/house is

designated as common area in the DMC.

Open-sided covered landscape area in residential development

10. The BA's ruling would usually be followed to exempt open-sided covered landscape area in residential (excluding single residence) development or residential portion of a composite development from GFA calculation provided that the design, disposition and height of the landscape area are acceptable to the Director.

Watchmen and/or caretakers' office

11. The lease condition to permit provision of watchmen and/or caretakers' office and to exempt such facilities from GFA calculation in residential development or residential portion of a composite development is included in many existing leases. The same provision will be incorporated, where appropriate, in the conditions of sale for sites to be disposed of by public auction or tender but the amount of GFA exemption would be different. APs, Surveyors and RSEs should examine the lease conditions carefully. In considering the exemption of such facility from GFA calculation, the BA's ruling including the location and design would usually be followed.

12. For leases which do not contain a lease condition permitting provision of watchmen and/or caretakers' office, a modification of the lease conditions is required before any such areas can be exempted from GFA calculation.

Owners' corporation or owners' committee office

13. The lease condition to permit provision of owners' corporation or owners' committee office and to exempt such facility from GFA calculation in residential development or residential portion of a composite development is included in many existing leases (note: the exemption is not applicable to single residence development). In considering the exemption of such facility from GFA calculation, the BA's ruling including the location and design would usually be followed. For leases which do not contain a lease condition permitting provision of owners' corporation or owners' committee office, a modification of the lease conditions is required before any such areas can be exempted from GFA calculation.

Extra parking spaces, loading and unloading areas and undesignated areas in car parking floors

14. Generally, parking/loading and unloading spaces in excess of the minimum parking requirements or the specific rate(s) (including the flexibility provisions) as stipulated in the lease conditions plus the associated circulation space, staircase, etc. and undesignated areas which are not used for parking or circulation purpose in car parking floors will be accountable for GFA. However, the Director may at her absolute discretion exempt certain extra/undesignated spaces arising from design constraints from GFA calculation on condition that the areas are designated as common areas in the DMC.

Covered walkways and passageways linking residential blocks at ground floor or podium level

15. Covered walkways connecting residential blocks at ground floor or podium level may be excluded from GFA calculation provided that they are open-sided and their location, alignment and width are to the satisfaction of the Director.

Covered walkways and passageways within podium development

16. In addition to covered walkways and passageways mentioned in para. 15 above, the Director is prepared to exempt covered walkways and passageways within podium structures as required under the lease conditions from GFA calculation where provision for such exemption is contained in the lease conditions provided that they are provided in full compliance with all relevant lease requirements and to the satisfaction of the Director.

17. However, covered walkway fronting shopping units, even if open-sided, is accountable for GFA unless the lease specifies otherwise.

Light wells, yards and similar enclosed open areas

18. Light wells, yards and similar side-enclosed areas which will not lead to easy abuse may be exempted from GFA calculation provided that the same is not covered by any structure. The Director may follow the ruling of the BA. Where the design of 3-side or 4-side enclosed open areas will likely lead to abuse, such areas are generally GFA accountable even though they are exempted from GFA calculation by the BA.

3-side enclosed open flat roofs/gardens/roofs/terraces

19. 3-side enclosed open flat roof/garden/roof/terrace is GFA accountable if the design will likely lead to abuse, unless it is designated as common area in the DMC.

20. In general, the design of a 3-side enclosed open flat roof/garden/roof/terrace may be acceptable for private use if it is facing the common area where it is easily visible by other residents/occupants or by the estate management office of the same development. The design of a 3-side enclosed flat roof between 2 adjoining flats may also be acceptable for private use if the enclosed area is separated by a common parapet wall not exceeding 1.5m in height. Each proposal will be considered on its own merits.

Outdoor swimming pools

21. Provision of open swimming pool within lots restricted to garden use is permissible without the need for lease modification. This concession is however given on the condition that the open swimming pool is provided at grade and none of the ancillary structures would result in the maximum

permitted GFA (and site coverage) of the lot or its parent lot being exceeded or in any other lease conditions being breached.

22. In flatted developments or the residential portions of composite developments or estate-type house developments, provision of open swimming pool(s) may be exempted from GFA calculation provided that it is designated as common area in the DMC for the enjoyment of all the residents on the lot and is of reasonable size and design.

23. In addition to provision of open communal swimming pools in flatted developments or the residential portion of composite developments or estate-type house developments as mentioned in paragraph 22 above, provision of open private swimming pools for the exclusive use of certain flats/units or houses may be permitted. In general, provision of open private swimming pools of reasonable size and design and not exceeding “one pool per block” in flatted developments or the residential portions of composite developments or “one pool per house” in house developments, in addition to the open communal swimming pool(s) within the same development may be acceptable and exempted from GFA calculation. The “one pool per block” or “one pool per house” guideline may be relaxed if the open private swimming pool(s) is provided at grade. Each proposal will be considered on its own merits taking into account the type, size, design, disposition, height and potential environmental impact of the pool(s).

24. The general principles provided in paragraphs 22 and 23 above are also applicable to lots where the lease conditions do not contain the standard “Recreational Facilities” clause or similar provision for GFA exemption.

25. For non-residential developments other than hotels, an open private/communal swimming pool (whether provided at grade or not) and its ancillary structures will be GFA accountable unless exemption is specifically provided in the lease.

26. Maintenance void of not exceeding 700mm (clear headroom) underneath a swimming pool and pool deck for maintenance purpose would be exempted from GFA calculation if the same is accepted by the BA. Headroom of the maintenance void exceeding 700mm may also be accepted if justifications are provided by the APs and the same is accepted by the BA. Maintenance corridor not exceeding 1.1m (clear width) under or adjacent to the pool deck of a private swimming pool or not exceeding 1.5m (clear width) under or adjacent to the pool deck of a communal swimming pool would generally be exempted from GFA calculation if the same is accepted by the BA.

Open staircases serving as main access to residential units/houses

27. If an open external staircase is proposed serving as the main access to a residential unit/house in order to save GFA for providing the same within the residential unit/house, the open external staircase is GFA accountable notwithstanding that GFA exemption is granted by the BA.

Private/Communal stairhood at roof-top of flatted developments

28. An open private staircase linking the residential unit on the top floor to the private roof, in addition to a communal staircase/stairhood within the same block of flatted development would normally be non-accountable for GFA. The BA's ruling would usually be followed

29. However, a private stairhood at the roof linking the residential unit on the top floor to the private roof, in addition to a communal staircase/stairhood within the same block of flatted development will be GFA accountable.

30. Communal stairhood serving for maintenance and fire escape purposes would be exempted from GFA calculation if the size and number are reasonable. The BA's ruling would usually be followed.

Curtain wall systems

31. Where a curtain wall system forms the external face of a building, the BA is prepared to accept the outer face of the structural elements (e.g. beams, columns and floor slabs etc.) as the external wall for the purpose of measurement of GFA if, amongst other criteria, the projection of the curtain wall system from the outer face of the structural elements does not exceed the dimension(s) specified in PNAP No. APP-2 issued by BD. The basis of measurement of GFA adopted by the BA would usually be followed and exemption of curtain wall systems from GFA calculation will be given if the exemption provision is incorporated in the "Definition of GFA and site coverage" clause, which is commonly found in modern leases.

32. For leases which do not contain the GFA exemption clause for curtain wall systems, LandsD will adopt a literal interpretation of the "Definition of the GFA" clause in that the actual external faces of the external walls will be taken as the reference point for calculation of GFA irrespective of the design of the external walls. When building plans for developments designed with curtain wall systems and subject to the aforesaid lease conditions are approved by the BA adopting the basis of measurement of GFA in accordance with PNAP No. APP-2, the GFA will exceed that permitted under the lease. A modification of the lease conditions is required before the curtain wall systems can be exempted from GFA calculation

Environmentally friendly features

33. Modern leases usually contain a clause to exempt from GFA calculation environmentally friendly features such as balcony, utility platform, non-structural prefabricated external wall, noise barrier, communal sky garden, communal podium garden, etc. as provided under Joint Practice Note Nos. 1 and 2. In considering the grant of GFA exemptions for environmentally friendly features under the lease, it is a pre-requisite that such exemptions must first be granted by the BA and the BA's ruling would usually be followed.

34. For leases which do not contain the GFA exemption provision for environmentally friendly features and subject to the condition that GFA exemption has been granted by the BA, a modification of lease conditions will be required before any such feature can be exempted from GFA calculation.

Bay windows and A/C platforms

35. Bay windows and A/C platforms may be exempted from GFA calculation if there are exemption provisions in the lease and the BA's ruling would usually be followed.

Canopies

36. Generally, canopies are permitted provided that the design is acceptable and unlikely to be abused and there are exemption provisions in the lease. The BA's ruling on the area of canopies exemptible from GFA calculation would usually be followed.

Back-of-house facilities

37. In hotel developments, back-of-house facilities (BOH) (also known as supporting facilities) such as storerooms for linen, staff toilets for the operation of the hotel, etc. will be required. Unless the lease has specific provision stating that BOH or supporting facilities should be included in the overall or hotel GFA, the BA's ruling would usually be followed in exempting such facilities from GFA calculation.

Recreational facilities

38. Modern leases governing residential developments or the residential portions of composite developments usually contain a standard "Recreational Facilities" clause permitting the provision of recreational facilities and ancillary facilities within the lot for the common use by the residents and their bona fide visitors. Such facilities, commonly called a clubhouse, if provided indoors at appropriate scale and composition, may be exempted from GFA calculation. Guidelines as to the types of facilities that will be permitted and exempted from GFA calculation are provided in LAO PN Issue No. 4/2000(B). The BA's ruling on the composition of active, passive and ancillary facilities would usually be followed.

Appeal and reconsideration of previous decisions

39. Without prejudice to the Government's rights under the relevant government lease and its rights as lessor/landlord, the Director may at her discretion consider appeal against decision on GFA exemption. The Applicant should give reasons in support of the appeal. The Director's decision on the appeal shall be final and binding.

40. It must be noted that nothing in this practice note shall in any way fetter or affect the rights of the Government, the Director of Lands and their officers under the relevant government lease or land grant or their rights as lessor/landlord, who are exercising such rights in the capacity of a lessor/landlord and who hereby reserve all such rights, and that nothing in this practice note including any words and expressions used shall in any way affect or bind the Government regarding interpretation of the terms and conditions of the relevant government lease or land grant. This practice note is issued for general reference only. All rights to modify the whole or any part of this practice note are hereby reserved.

41. LAO Practice Note Issue Nos. APSRSE 1/98(A), 5/2000 and 7/2002 and Practice Note for Authorised Persons Surveyors and Solicitors Issue No. APSS 3/99 are hereby superseded.

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