

1 May 1998

Legal Advisory and Conveyancing Office
Circular Memorandum No.29

Lands Department Consent Scheme

To expedite processing of applications for consent for sale of units in uncompleted developments, the Legal Advisory & Conveyancing Office of (LACO) has further streamlined the procedures in processing applications with a view to facilitating earlier issue of consent. From now on :

- a) For the purpose of processing consent applications and approval of Deeds of Mutual Covenant, copies of the land grant documents and records of owners duly certified either by or a Solicitor or the Land Registry will be accepted by LACO in future.
- b) LACO will no longer require the submission of :
 - (i) the letter indicating the Building Authority's approval to the building plans under the Buildings Ordinance,
 - (ii) Form BD 103 giving approval to the commencement of building works and
 - (iii) the Memorandum of Agreement relating to the Building Contract for the development to which the consent relates. The Authorized Person in future is required to confirm in his certificate in support of the consent application that the building plans approval and BD 103 have been issued by the Building Authority, that a Building Contract has been entered into between the owner and the contractor for the construction of the development and as to the total construction costs under the Building Contract. As further evidence, copies of the approvals and the Memorandum of Agreement relating to the Building Contract shall be exhibited to the Statutory Declaration by the Solicitor in support of the consent application.
- c) In most cases, where the proposed form of Agreement for Sale and Purchase complies with the standard form of Agreement for Sale and Purchase issued

under LACO Circular Memorandum No.1 (as amended by LACO Circular Memoranda Nos. 7, 7A, 7C, 12, 16 and 25 as appropriate and as may be amended from time to time by LACO through any future LACO Circular Memoranda) without variation, a declaration by the Solicitor confirming this compliance will be sufficient and there is no need to submit the draft Agreement for Sale and Purchase to LACO for prior approval. If any variation from the prescribed standard form is necessary to meet the circumstances of a particular case, the draft Agreement for Sale and Purchase (in duplicate) shall be submitted with the application for approval in the usual way.

2. To incorporate in the Solicitor's Declaration the above procedural changes, paragraphs (3)(a) and (4) of the standard form of Statutory Declaration attached to LACO Circular Memorandum No.8 have been revised for immediate adoption, as follows :-

* delete if inapplicable

“(3)(a) In accordance with instructions received from the Owner my firm has drawn up the form of Sale and Purchase Agreement for the sale of units in the Development and it is now produced to me marked A-1 exhibited hereto. I have personally examined the form produced to me and marked Exhibit A-1 and declare that * [except insofar as any variations have been approved by the Legal Advisory and Conveyancing Office (“LACO”)] its contents in all respects accord with the standard form of Agreement for Sale and Purchase issued under LACO Circular Memorandum No.1 as amended by LACO Circular Memoranda No. ^Δ_____.”

^Δ here insert as appropriate

“(4) Mr. _____ of Messrs. _____, the Authorised Person for the Development for the purposes of the Buildings Ordinance, has issued his certificate -

(a) ***that the building plans of the Development have been approved by the Building Authority under the Buildings Ordinance;***

(b) that the foundations of the proposed building(s) within the Development have been completed;

(c) that consent to commence building works on the superstructure of the building(s) has been issued by the Building Authority in Form BD 103 under the provisions of section 14 of the Buildings Ordinance;

(d) that building works on the superstructure of the building(s) within the Development have commenced/will commence on the _____ day of _____ 19____;

(e) *as to the total construction costs of the Development under the Memorandum of Agreement relating to the building contract covering the Development entered into between the Owner and _____.*

(f) as to the cost expended and what remains to be expended to complete the Development;

(g) as to the stage the work has reached at the date of the certificate;

[phased developments]

(h) that the conditions of the Grant can be complied with by the _____ day of _____ 19____; [in relation to the Building(s) which are the subject of this consent]; and

Amend as applicable to fit the actual method adopted referred to in (5)

(i) as to the total gross floor area of the Common Areas and the total gross floor area of the Development.

Amend as applicable to fit the actual method adopted referred to in (5), if applicable

(j) as to the gross floor area of each of the units and the total gross floor area of all the units of the Development.

The certificate in question, *a copy of the letter of approval of the building plans by the Building Authority, a copy of consent in Form BD 103 and a copy of the said Memorandum of Agreement are* now produced to me and marked A-3, A-4, A-5 and A-6 respectively and *are* exhibited hereto.”

The paragraph relating to the building contract in the standard Statutory Declaration shall be deleted.

Current Applications

3. For applications currently being processed by LACO,

- a) where the Building Authority approval to the building plans, Form BD 103 and Memorandum of Agreement relating to the Building Contract have already been submitted to LACO, the former procedure and Paragraph (4) of the Solicitor’s Declaration attached to LACO Circular Memorandum No.8 may be followed, at the applicant’s option.
- b) Solicitors are required to confirm to the LACO offices in writing whether the form of Agreement for Sale and Purchase already submitted is in the prescribed form, if the applicant wants the case to be processed by LACO in accordance with the new procedure in this Circular Memorandum.

4. The revised procedures apply to all applications for consent for sale of units in uncompleted developments, regardless of whether they relate to residential or non-residential developments or units.

5. The Checklists A1 and A2 attached to LACO Circular Memorandum No.1B will be revised soon when review of other aspects in the Consent Scheme has been completed. Pending the issue of the new Checklists, the relevant paragraphs relating to submission of mandatory documents in the existing Checklists shall be deemed to be deleted or varied as described in the foregoing paragraphs.

(T. E. Berry)
Deputy Director/Legal
for Director of Lands

To : All Solicitors