

**Information Notes on the Procedures for Handling Objections to Small House Applications by the Lands Department and its District Lands Offices**

Part A

To ensure proper handling of small house applications and the objections to the applications, the Lands Department (Lands D) and its District Lands Offices (DLO) have adopted a three-tier mechanism since 1 September 2007. The three-tier mechanism will be refined as appropriate and hence the information notes may be revised whenever necessary.

<b><u>First Tier</u></b>	<b><u>Details</u></b>	
To be handled by Senior Land Executive (SLE)	(1)	Upon receipt of a written objection, DLO will inform the applicant of the reasons of objection. DLO if necessary will seek assistance from the village representatives (VRs) / Indigenous Inhabitant Representatives (IIRs) / Village Committee (VC) / Rural Committee (RC). If the objection is withdrawn, DLO will continue to process the application.
	(2)	In any event, the First Tier cases should be resolved within nine months, except those complicated cases mentioned in Item (3) below. SLE will decide on the case having regard to the actual circumstances and taking into account the views of the relevant departments and VRs / IIRs / VC / RC as appropriate. The objector and the applicant will then be informed in writing of the decision. If the objector or the applicant is not satisfied with the decision, he/she may appeal in writing to the District Lands Officer within 14 days and the case will be considered by Chief Land Executive (CLE) in the Second Tier.

	(3)	<p>“Fung shui” disputes for those villages without standard “fung shui” plans, and valid objections in relation to “cross-village” application, “moved &amp; settled” application, and “indigenous villager (IV) status of the applicant”, etc. are complicated in nature. Such objections cannot be overruled in the First Tier and need to be considered by the District Lands Office Conference (DLOC) in the Second Tier.</p>
<p><b><u>Second Tier</u></b></p>	<p><b><u>Details</u></b></p>	
<p>To be determined by CLE/ DLOC</p> <p>Members of DLOC include: District Lands Officer (Chairman) DLO officials Representative(s) of District Office Representative(s) of Planning Department; and Representatives of other departments (as required in individual cases)</p>	(1)	<p>Appeal against the decisions on First Tier will be considered by CLE having sought further advice and comments from the relevant departments, etc.</p> <p>For complicated cases mentioned in Item (3) above, it will be considered by DLOC. The objector and the applicant will be invited to provide their views and justifications in writing to DLOC. And VRs / IIRs and Chairman / Vice-chairman of RC will also be invited to provide their views to DLOC as appropriate. All the grounds of objection and the applicant’s justification will be submitted in written form for deliberation by DLOC.</p>
	(2)	<p>The applicant and the objector will be notified of the Second Tier’s decision in writing. Any party who is not satisfied with the decision may appeal in writing to the Director of Lands (D of L) within 28 days. The appeal will then be handled in the Third Tier.</p>

<b><u>Third Tier</u></b>	<b><u>Details</u></b>
<p>Review Committee of Lands D to make decision after studying the appeal case</p> <p>Members of the Review Committee include:-</p> <ul style="list-style-type: none"> <li>Assistant Director (Specialist 3) (Chairman)</li> <li>Principal Land Executive</li> <li>Chief Land Executive</li> <li>Senior Land Executive (Secretary)</li> <li>Representatives of other departments (as required in individual cases)</li> </ul>	<p>Upon receipt of an appeal, HQ of LandsD will first review the appellant's grounds for appeal and consult relevant departments and/or Heung Yee Kuk, if necessary. The Review Committee will examine the submissions/representations of all parties before making a decision, and the appellant will be notified of the result in writing.</p>

## Part B

Based on the reasons raised by villagers against small house applications in the past, we may generally classify the objections into four categories. The objections should be handled by DLO in the following ways.

(1) **Objections on the ground of fung shui**

Each village is asked to identify areas of fung shui significance (e.g. Tsz Tong, Pak Kung, Tai Wong Ye, temple, fung shui woodland) in the village through the VC or Village Meeting (VM) and propose a minimum distance from these areas within which erection of houses is not allowed. The proposal will then be submitted to DLO for consideration. After consulting the relevant District Office (DO) or other concerned departments, DLO will examine each fung shui area of the village and the minimum distance from which building of houses is not allowed. A standard plan will then be prepared exclusively for that village. Any fung shui objection in future will be assessed based on the standard plan. An objection will be considered valid if the proposed house is within the fung shui area of the village. Otherwise, it will be invalid. Proposed amendments to the plan should be agreed by the VC or VM and the new criteria should be submitted to DLO for examination and approval. The plan will then be amended. If a village fails to reach a consensus to prepare a standard plan, the three-tier mechanism mentioned in Part A will be adopted and each fung shui objection case will be considered separately.

(2) **Objections to “cross-village” and “moved and settled” applications**

Persons who raise objections to “cross-village” and “moved and settled” applications should be IVs of the village where the proposed house is located. In general, other parties including settler IVs and non-IVs are ineligible to raise objections. These objection cases shall be decided by a VM of the IVs. DLO will generally respect the decision of the meeting, though the right for final decision rests with DLO. If the VM fails to reach an agreement on a particular “cross-village” or “moved and settled application”, assistance of RC or HYK will be sought and the application should be submitted to DLOC for decision before further processing.

(3) **Objection related to suspicious IV status of applicants**

Similar as objections to “cross-village” and “moved and settled” applications, persons who raise objections related to “suspicious IV status of applicants” should be IVs of the village where the proposed house is located. Other parties including settler IVs and non-IVs are ineligible to raise objections. If an objection is received by LandsD or DLO, DLO will carry out a thorough desktop checking of available information, even though the status of the applicant has been certified by the IIR or the Chairman/Vice-Chairman of the RC in a statutory declaration. If desktop checking does not reveal any documentary evidence of suspicious I.V. status and no documentary evidence is provided by the objector, the objection is considered invalid. If there is documentary evidence supporting the allegation, the applicant will be required to provide information on family particulars, history of ancestral properties or details of Tsz Tong/ancestral graves, etc. as appropriate for the purpose of investigation. If the objection is found to be unjustified, DLO will inform the objector of the result and the application will be handled according to the procedures detailed in Part A above.

(4) **Objections in relation to environmental issues**

For objections relating to “blockage of access”, “flooding”, “diversion of drainage pipe” or “blockage of view”, etc., LE will consult relevant departments on how to resolve the matters and pass the case to SLE to decide whether or not to accept the objection. A written notification will be given to the objector and the applicant with detailed explanations provided. The objector and the applicant can lodge an appeal within 14 days. The appeal will be handled in the Second Tier according to the procedures as described in Part A above.

## Part C

### **Handling of anonymous objection and disclosure of objector's identity**

An objector must provide his/her name, identity proof, contact telephone number and correspondence address. Anonymous objection letters will not be accepted. DLO will **not** disclose the identity of the objector to the applicant. In handling the objection received, the objector must provide accurate information, attend an interview for verification of his/her identity and explain the justifications of the objection.

(Annex – Flow chart of the three-tier mechanism for handling objections to small house applications)

Village Improvement and Special Duties Section

Lands Department

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**Flow Chart of the Three-tier Mechanism for Handling Objections to Small House Applications**

