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. Where necessary, the information notes may be revised as appropriate.

<table>
<thead>
<tr>
<th>First Tier</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>To be handled by local villagers</td>
<td>(1) Upon receipt of a written objection, DLO will inform the applicant of the reasons of objection. The applicant may liaise with the objector to resolve the objection (if the objector is willing to disclose his/her identity) or seek assistance from the Indigenous Inhabitant Representative (IIR)/ Village Committee (VC) for mediation. If a mutual agreement is reached and the objection is withdrawn, DLO will continue to process the application.</td>
</tr>
<tr>
<td></td>
<td>(2) If the objection cannot be resolved by the local villagers, mediation will be conducted by the Land Executive (LE)/ Senior Land Executive (SLE). In any event, First Tier cases should be resolved within nine months, except those non-straightforward (NSF) 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 IIR/VC/village meeting. The objector and the applicant will then be informed</td>
</tr>
</tbody>
</table>
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 move to the Second Tier for handling.

(3) Objections in relation to “cross-village” applications, “moved and settled” applications, “fung shui” issues (i.e. objections in relation to those villages without standard “fung shui” plans) and “indigenous villager (IV) status of the applicant”, etc. are complicated in nature. Mediation may be conducted and advice given by IIR / VC. However, 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.

Second Tier

Details

To be determined by DLOC after consulting RC
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)

(1) DLOC has the right to decide on all appeal cases and cases which failed to be resolved in the First Tier. DLO will first consult the rural committee (RC) or seek its assistance in mediating the disputes. It will also consult other departments, if necessary, and then notify the objector and the applicant of any new development. A DLOC meeting will be convened within six months from the date of receipt of the appeal, and parties including the objector, applicant, IIRs and Chairman/Vice Chairman of RC will be invited to present their views and justifications at the meeting. If the objector or applicant is not willing to attend the
meeting, he/she can provide justifications in writing. Under such circumstances, the grounds of objection will be submitted in written form for DLOC’s perusal, and a decision will be made in the absence of the objector/applicant.

(2) Depending on the circumstances of individual cases, DLOC may consider deferring the meeting for three months, so that the applicant and the objector may further explore ways to resolve their differences. The applicant and the objector will be informed of the deferral and the reasons for deferral in writing.

(3) The applicant and the objector will be notified of the DLOC’s decision in writing. Any party who is not satisfied with the decision may submit an appeal in writing to the Director of Lands (D of L) within 28 days. The appeal will then be handled in the Third Tier.
<table>
<thead>
<tr>
<th>Third Tier</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review Committee of Lands D to make decision after studying the appeal case</td>
<td>Upon receipt of an appeal, D of L will first review whether the appellant has sufficient grounds for appeal. If the appellant is simply repeating his/her case put forward in the Second Tier, D of L may decide not to conduct a meeting by the Review Committee and will inform the appellant of the decision in writing. If there are sufficient grounds for appeal, D of L may consider conducting a Review Committee Meeting (RCM) after consulting Heung Yee Kuk (HYK) and other departments. If necessary, the applicant, objector, IIRs, members of RC or HYK may be invited to attend the RCM and present their views. The Review Committee will examine the submissions of all parties before making a decision. The appellant will be notified of the result in writing within six months from the date of lodging the appeal.</td>
</tr>
</tbody>
</table>

Members of the Review Committee include:-

- Assistant Director (Estate Management) (Chairman)
- Principal Land Executive
- Chief Land Executive
- Senior Land Executive (Secretary)
- Representatives of other departments (as required in individual cases)
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 village committee or village meeting 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 affected area. Otherwise, it will be invalid. Proposed amendments to the plan should be agreed by the village committee or village meeting and the new criteria 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 village meeting of the IVs. DLO will generally respect the decision of the meeting, though the right for final decision rests with DLO. If the village meeting 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 submitted to DLOC for decision before further processing.
(3) **Cases of suspicious IV status of applicants**

If a complaint is received by Lands D or DLO alleging that the applicant is not an IV of any recognized village in the New Territories, the respective DLO should carry out a thorough investigation on the complaint 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. The applicant may be required to provide information on family particulars, history of ancestral properties and details of Tsz Tong/ancestral graves, etc. for the purpose of investigation. If the complaint is found to be unsubstantiated, DLO will inform the complainant of the result and the application will be handled according to the procedures as described in Part A above.

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

For objections relating to “blockage of access”, “diversion of drainage pipe” or “blockage of view”, etc., LE will consult other 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 where DLOC will make a final decision. If an appeal is not received within 14 days, DLO will continue to process the application.
Part C

Handling of anonymous objection and disclosure of objector’s identity

An objector must provide his/her real name and contact telephone number or correspondence address. Anonymous letters will not be accepted. Objectors may request DLO not to disclose his/her identity to the applicant on grounds of protection of privacy. For the handling of the objection to proceed further, the objector must provide accurate information and attend an interview at DLO to prove his/her identity and explain the justifications of his/her objection. During the interview, if the objector is not willing to disclose his/her identity to the applicant, DLO will follow the procedures of privacy protection in handling the case. If the objector is not willing to attend the DLOC, he/she will have to submit in writing the grounds of the objection to DLOC for examination. The case will then be handled according to the procedures in Para. 1 under the Second Tier in Part A above.

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

Village Improvement Section
Lands Department
November 2009
**Annex**

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

- **Receipt of objection**
- **Invite the objector for an interview**
- **Objector attends interview**
  - (i) to confirm objection reasons with the objector; and
  - (ii) to inform the applicant of objection

- **For objection to “cross-village” or “moved and settled” application or politically sensitive issues (e.g. village boundary dispute), inform the applicant to resolve objection within 6 months**
  - Informed by applicant that he could not resolve the objection
    - proceed to 2nd Tier District Lands Office Conference
    - Appeal
      - proceed to 3rd Tier Review Committee Meeting

- **For “fung shui” objection (without designated “fung shui” area) or indigenous villager status of applicant, seek comment from parties concerned**
  - Senior Land Executive makes decision on overruling / accepting the objection
    - Appeal
      - proceed to 3rd Tier Review Committee Meeting

- **For other kinds of objection (e.g. environmental / technical issues), seek comment from departments**
  - Senior Land Executive makes decision on overruling / accepting the objection
    - Appeal
      - proceed to 3rd Tier Review Committee Meeting

November 2009