

CAYMAN ISLANDS



Development and Planning Law

DEVELOPMENT AND PLANNING (APPEALS) RULES

(1999 Revision)

Supplement No. 3 published with Gazette No. 3 of 1st February, 1999.

PUBLISHING DETAILS

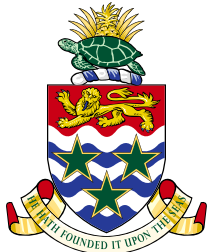
Revised under the authority of the Law Revision Law (19 of 1975).

The Development and Planning (Appeals) Rules, 1985 made the 20th March, 1985.

Revised this 5th day of January, 1999



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(1999 Revision)

PART I - Introductory

Citation

1. These rules may be cited as the Development and Planning (Appeals) Rules (1999 Revision).

Definitions

2. In these rules —

“**executive secretary**” means the executive secretary of the Central Planning Authority appointed under section 3(4);

“**Permanent Secretary**” means the Permanent Secretary of the Ministry of Education, Aviation and Planning; and

“**Tribunal**” means the Appeals Tribunal established under section 43.

PART II - Appeals to the Tribunal

Appeal to the Tribunal

3. An appeal to the Tribunal under section 45(1) shall be made by notice in writing, hereinafter referred to as a “Notice of Appeal”, signed by the appellant or his attorney-at-law. The Notice of Appeal shall be filed in the office of the Permanent Secretary within the period of ten days stipulated in the above mentioned subsection and immediately thereafter a copy thereof shall be served by the appellant upon the executive secretary and upon all parties who may have filed objections or been heard at the hearing of the application to which the appeal relates.

Procedure on service of Notice of Appeal

4. The executive secretary shall, within fourteen days after service upon him of the Notice of Appeal, prepare and forward to the Permanent Secretary and to the appellant (or his attorney-at-law) an indexed brief containing copies of all documents, correspondence and other papers and exhibits which were presented to the Central Authority on the hearing of the application to which the appeal relates as well as a statement in writing from the Chairman of the Central Planning Authority stating the reasons for its decision.

Filing of grounds of appeal

5. (1) The appellant shall, within fourteen days of the service upon him of the brief mentioned in rule 4, file in the office of the Permanent Secretary —
- (a) the grounds of appeal upon which he intends to rely; and
 - (b) the form or order he seeks.
- (2) A copy of the grounds of appeal shall be served by the appellant on all parties to whom the Notice of Appeal has been addressed.

Preparation of Record of Appeal

6. (1) The Permanent Secretary shall, upon being satisfied that rules 3, 4 and 5 have been complied with, prepare a Record of Appeal and set down the appeal for hearing by the Tribunal and shall give notice thereof to the chairman of the Tribunal, all members thereof, the appellant, the executive secretary and all persons entitled to be served with the Notice of Appeal.
- (2) The Record of Appeal referred to in sub-rule (1) shall comprise the following documents—the Notice of Appeal, the brief prepared under rule 4, the grounds of appeal, the form or order sought and any other document that the Chairman of the Tribunal may direct shall be included therein. The Record shall be bound, or otherwise securely fastened together, and the pages numbered in the order in which they appear therein.



- (3) The Permanent Secretary shall give copies of the Record of Appeal to the Chairman of the Tribunal, all members thereof, the appellant and the executive secretary at the same time as the notification under sub-rule (1).

Hearing of appeal

7. (1) On the hearing of the appeal the appellant and all persons to whom the Notice of Appeal had been addressed shall be entitled to be heard in person or to be represented by an attorney-at-law. The Central Planning Authority may appear by the Director of Planning or any member of his staff, and may be represented by an attorney-at-law or by the Attorney-General or any person holding public office in his chambers.
- (2) At the commencement of the hearing, the Chairman of the Tribunal shall cause a record to be made of all persons appearing before the Tribunal;
- (3) The order of proceedings before the Tribunal shall be in the absolute discretion of the Chairman of the Tribunal, but in the absence of any express direction by him to the contrary the appellant shall begin, the Central Planning Authority shall be heard next, and then any other persons entitled to appear shall be heard. The appellant shall then be permitted to reply on any points raised by those persons who have been heard.
- (4) Without the leave of the Tribunal, no new evidence shall be received by it on the hearing of the appeal. All *viva voce* evidence received by the Tribunal shall be taken under oath or affirmation.
- (5) The Chairman of the Tribunal shall keep a record of the proceedings before the Tribunal, which, for all purposes, shall be final.
- (6) The decision of the Tribunal shall be communicated in writing under the hand of the Chairman thereof to the appellant, the executive secretary and all other persons who may have appeared before the Tribunal on the hearing of the appeal.

PART III - Appeals to the Grand Court

Mode of making appeal

8. An appeal to the Grand Court under section 45(4) shall be made by notice in writing, hereinafter referred to as a "Notice of Appeal", signed by the appellant or his attorney-at-law. The Notice of Appeal shall be filed in the office of the Clerk of the Court and a copy thereof served upon the Chairman of the Tribunal, the executive secretary and on all other persons appearing before the Tribunal within fourteen days from communication of the decision of the Tribunal being made in writing to the appellant.

Duties of Chairman

9. The Chairman of the Tribunal shall, no later than sixty days from the date of service upon him of a Notice of Appeal —
- (a) file in the office of the Clerk of the Court and serve on the appellant and on the executive secretary a statement of the reasons for the decision; and
 - (b) cause to be filed in the office of the Clerk of the Court the record of the proceedings of the Tribunal kept under rule 7(5), and all exhibits and documents which were before or were presented to the Tribunal.

Appellant to serve memorandum

10. The appellant shall, within fourteen days of receipt by him of the statement by the Chairman of the Tribunal of the reasons for the decision, serve upon the said Chairman, the Clerk of the Court, the executive secretary and all other persons appearing before the Tribunal a memorandum of appeal showing in precise terms —
- (a) the grounds of appeal upon which he intends to rely, averring how the Tribunal has erred; and
 - (b) the form of order he seeks.

Clerk to prepare Record of Appeal

11. Upon the receipt of the matters filed in compliance with rules 8, 9 and 10, the Clerk of the Court shall prepare the Record of Appeal and set down the appeal for hearing by the Grand Court and thereupon give notice thereof to the Chairman of the Tribunal, the appellant, the executive secretary and all other persons appearing before the Tribunal.

PART IV - General Provisions

Address for service

12. Every Notice of Appeal, whether under rule 3 or 8, shall specify an address within the Islands for service upon the appellant.

Service

13. Service may be effected as follows —
- (a) upon the Chairman of the Tribunal and upon the executive secretary at the office of the Permanent Secretary;
 - (b) upon the appellant at his address for service under rule 12; and
 - (c) upon any other persons at their place of abode or their business address.



Entitlement to copy of Record of Appeal

- 14.** All persons entitled to be served with a Notice of Appeal under rule 3 or 8 shall, upon payment of the prescribed fee, be entitled to obtain from the appropriate officer a copy of the Record of Appeal, prepared under rule 6 or 11 as applicable.

Fee to be paid on filing

- 15.** Upon the filing of a Notice of Appeal, whether under rule 3 or 8, the appellant shall pay to the Permanent Secretary or the Clerk of the Court as appropriate the prescribed fee.

Prescribed fees

- 16.** (1) The prescribed fees are —
- (a) filing of Notice of Appeal \$50
 - (b) copy of Record of Appeal or other document, where page is of foolscap size or less \$2 per page
 - (c) copy of any of page of greater than foolscap size \$5 per page
- (2) In this rule —
- “page” means one side of any separate sheet.

Extension of time

- 17.** Time may be extended for good cause shown in the case of appeals to the, Tribunal, by the Chairman, and in the case of appeals to the Grand Court, by a judge.

Application of rules under section 46

- 18.** These rules shall apply *mutatis mutandis* to appeals under section 46 as if any reference to the Central Planning Authority were a reference to the Development Control Board and any reference to the Tribunal were a reference to the Cayman Brac and Little Cayman Appeals Tribunal.

Publication in revised form authorised by the Governor in Council this 5th day of January , 1999 .

Carmena H. Parsons
Clerk of Executive Council

