

**Cayman Islands Government
Ministry of Commerce, Planning & Infrastructure**

PLANNING DECISION APPEALS: GUIDELINES

The rules governing Planning Appeals form part of the Development and Planning Law (2017) Revision and the Appeals Rules themselves may be obtained from the offices of the Legislative Assembly.

WHO HAS THE RIGHT TO APPEAL?

Any person who has applied for planning permission or who has objected to a Planning Application after being notified of the application made to the Central Planning Authority (CPA) has the right to appeal a decision of the CPA to the Appeals Tribunal as provided for in the Development & Planning Law.

BY WHEN SHOULD AN APPEAL BE MADE?

All persons (applicant and objectors, if any) who may have filed objections or been heard at the hearing of the application for planning permission will be notified in writing of the CPA's decision. Those persons who wish to appeal that decision have to do so within fourteen (14) days of receipt of notification of the CPA's decision.

HOW AND WHERE SHOULD AN APPEAL BE MADE?

Persons wishing to appeal (Appellants) are strongly advised to seek legal representation in the matter, but such representation is not a procedural necessity.

A Notice of Appeal must be filed by the Appellant on the Ministry having responsibility for the Department of Planning- currently the Ministry of Commerce, Planning & Infrastructure. Copies must also be served on the Secretary to CPA (the Director of Planning), the applicant and all those

parties who may have filed objections or been heard at the relevant CPA meeting.

The Notice should be dated, signed by the Appellant or his legal representative and should also identify the property on which the planning application has been made- usually a block and parcel number.

IS THERE A FEE FOR APPEALING A DECISION?

There is a CI\$50.00 filing fee for processing of the appeal which is to be paid to the official at the Ministry receiving the Notice of Appeal. Payment can be made by cash or cheque, and a receipt will be mailed to you as the Appellant. Cheques should be made payable to the Cayman Islands Government.

WHAT HAPPENS AFTER SERVING THE NOTICE OF APPEAL?

Once the Notice and receipt have been received by the Ministry, the Secretary CPA is to prepare an Appeal Brief within fourteen (14) days of the date of service of the Notice of Appeal. This Brief will contain copies of all correspondence, documents, and other papers and plans etc. which were presented to the CPA at the hearing of the application to which your appeal relates. The Brief will also state the CPA's reasons for its decision. This Brief is then delivered to the Appellant (or to Appellant's counsel if so directed), and to the Ministry.

WHAT IS THE PURPOSE OF THE APPEAL BRIEF AND THE GROUNDS OF APPEAL?

The Brief is intended to assist the Appellant in formulating the Grounds of Appeal and Form of Order.

The Appellant has fourteen (14) days after receipt of the Brief to file in the office of the Permanent Secretary to the Ministry his Grounds of Appeal and the Form of Order requested.

The Grounds of Appeal are limited to the CPA decision being:

- a) erroneous in law;
- b) unreasonable;
- c) contrary to the principles of natural justice; and
- d) at variance with the Development Plan as defined in the Law.

Appellants must state under which of these Grounds they are appealing.

The Form of Order states what decision the appellant wishes the Tribunal to make.

Copies of the Grounds of Appeal and the Form of Order should be sent to all those parties who received a Notice of Appeal.

WHAT HAPPENS NEXT?

On receipt of the Grounds of Appeal, the Ministry will compile a Record of Appeal which contains the Notice, the Brief, the Grounds and the Form of Order, and any other document that the Chairman of the Tribunal may instruct be included in the Record (such as the Tribunal's Rules for hearings). At this point, a date for the hearing that is convenient for both Appellant and Respondents is scheduled with the Chairman and Members of the Tribunal. A copy of the Record with notification of the hearing date, is forwarded to the Tribunal, the Appellant, the Executive Secretary and all those parties who were originally served with the Notice of Appeal.

WHAT OTHER DOCUMENTS ARE NEEDED?

Written submissions in support of the Grounds of Appeal must be lodged by Appellant with the Ministry (for the Tribunal) and the CPA Executive Secretary (for Respondent) no later than fourteen (14) days following notification of the hearing date or at a date so determined by the Chairman of the Tribunal. These must be properly delivered to the parties both digitally and in the form of a printed document.

Respondent's Written Submissions must be lodged with Appellant and with the Ministry (for the Tribunal) no later than seven (7) days following delivery of Appellant's Written Submissions to the parties. These also must be properly delivered to the parties both digitally and in the form of a printed document.

Written Submissions must include all authorities necessary to support of the case as presented.

Should Appellant fail to deliver Written Submissions within the period so stipulated, the Chairman of the Tribunal may direct that the appeal be removed from the list of appeals to be heard by the Tribunal.

The Tribunal Secretary compiles and distributes to the Tribunal members hearing the appeal, copies of the Record of Appeal (which includes the Notice of Appeal, the Appeal Brief, the Grounds of Appeal and Form of Order, both Appellants and Respondent's Written Submissions and these Rules). In any case the Tribunal members must have received the Record at least seven (7) days prior to the appeal hearing date as determined.

WHERE DOES THE HEARING TAKE PLACE?

The Tribunal hears appeals in the Conference Room, 1st Floor (Main Concourse), Government Administration Building, Elgin Avenue, George Town. Appeals are normally scheduled for Fridays commencing at 10:00am and ending no later than 1:00pm.

WHO WILL BE AT THE HEARING?

The Chairman and Members of the Tribunal, the Appellant and all those that were served with the Notice of Appeal. The CPA may be represented by the Executive Secretary CPA (or a delegated member of the Planning Department staff) and the Attorney General or counsel from his office.

WHAT HAPPENS AT THE HEARING?

The order of proceedings at the hearing is at the discretion of the Chairman.

Unless otherwise directed by the Chairman, the Appellant should expect to have approximately 30 minutes to state his case first, followed by the response from the CPA as Respondent, and then by any other entitled persons (if any). The Appellant shall then have the right to make a brief response.

The Chairman keeps a record of the proceedings.

HOW LONG WILL THE HEARING LAST?

This can vary considerably depending on the nature of the planning application and the appeal, the number of attendees etc. and is also at the discretion of the Chairman, but in any event should not take longer than 3 hours to conclude.

WHEN AND HOW WILL APPELLANT BE NOTIFIED OF THE DECISION?

Appellant will not receive a decision from the Tribunal immediately. Once the decision has been approved by the Tribunal members present at the hearing, it is forwarded to the Ministry for distribution to the Appellant, Executive Secretary, CPA and those who appeared before the Tribunal at its hearing. This is usually no less than a week after the hearing itself. Written reasons for the Tribunal's decision will then follow no later than a month after that.

WHAT IF APPELLANT IS NOT HAPPY WITH THE TRIBUNAL'S DECISION?

The Appellant may appeal to the Grand Court within fourteen (14) days of receipt of the Tribunal's decision. The Grand Court may confirm, reverse or modify that decision. The decision of the Grand Court may be appealed to the Court of Appeal on a point of law only and the decision of the Court of Appeal shall be final and binding upon the parties affected thereby.

WHO AND HOW MANY PEOPLE ARE ON THE APPEALS TRIBUNAL?

The Tribunal consists of a Chairman, up to seven Deputy Chairmen (who have legal backgrounds) and seven other members of standing in the Caymanian community, all as appointed by the Governor. No less than three Tribunal members (one of which to be either the Chairman or a Deputy Chairman) are required to convene a hearing.

WHO CAN BE CONTACTED FOR MORE INFORMATION?

If further information is required, please contact

Ministry of Commerce, Planning and Infrastructure
P O Box 107 Grand Cayman KY1-9000
Government Administration Building, #133 Elgin Avenue
George Town, Grand Cayman, Cayman Islands

Attention: Ms. Leah Watson, Secretary to Tribunal

Tel: 1 345 244 3456
Email: leah.watson@gov.ky

or

The Director of Planning
Department of Planning
P O Box 113 Grand Cayman KY1-9000
Government Administration Building, #133 Elgin Avenue
George Town, Grand Cayman

Tel: 1 345 769 PLAN (7526)
www.planning.gov.ky