

Lands Department

General Guidelines on Lease Modification/Waiver for Extension of School Premises Applications

1. Introduction

These guidelines introduce the application procedures for modification/temporary waivers of lease conditions. They are not intended to create any legal rights or obligations and serves only to explain the key features of current Government policy in respect of lease modification/waiver applications.

Any departure from lease conditions must obtain prior approval from the Lands Department (LD). Otherwise, the property will be liable to lease enforcement action.

The applicant is strongly advised to enlist the service of a registered professional surveyor at the early stage to avoid unnecessary waste of time and efforts resulting from unsuccessful applications.

2. Purpose and Nature of Lease Modification/Waivers

- a. Lease modification is a permanent variation of restrictions under Government leases or land grants.
- b. Waivers are temporary permissions granted by LD to relax restrictions under Government leases or land grants.
- c. Government leases, under which all private property in Hong Kong is held, usually contain restrictions as to the uses which the land or buildings may be put. Where a leaseholder wishes to carry out activities for a permanent/temporary period which do not comply with his lease conditions, he should apply for a lease modification/waiver from the LD to permanently vary/temporarily relax the restriction(s) under the lease. If the lease modification/waiver application is approved, the Government, as landlord, will require the leaseholder to pay a premium reflecting the enhanced value of the property/a fee reflecting the enhanced value of the property for the period of the waiver. Additional relevant conditions related to the new use of the property may also be imposed.

3. Application for a Lease Modification/Waiver

- a. The applicant(s) should be the registered owner(s) of the property concerned; or his/their authorized persons.
- b. The applicant(s) should submit an application letter together with all supporting documents listed in the application form to the respective District Lands Office for processing. A sample of the application form is attached at Appendix 2b.

4. Procedures for processing Lease Modification/Waiver Applications

- a. As a general rule, all lease modification/waiver applications must be submitted by the registered owner(s) of the property concerned or his/their authorized persons.
- b. Upon receipt of a lease modification/waiver application and payment of initial administrative fee, LD will consult relevant Government departments. Each case will be considered in its merits after full consideration of the circumstances.
- c. If the application is approved, a basic terms offer letter setting-out the amount of premium/waiver fee, balance of the administrative fee (if any) and the deposit payable etc., will be issued to the applicant. The applicant will be required to indicate acceptance of the basic terms within the period stated in the letter before a formal modification letter/waiver letter is issued.
- d. Once an offer is accepted and payment made, the LD will issue the modification letter/waiver letter to the applicant for execution. A certified copy for the executed modification letter/waiver letter will be registered by memorial at the Land Registry. The applicant shall also pay the concerned registration fee to be charged by the Land Registry.
- e. If the application is not approved, a letter giving the reasons for disapproval will be sent to the applicant.

Application Form for Waivers Cases

District Lands office/_____

Note :

1. This form should be completed in duplicate in either English or Chinese.
2. This form should be completed and signed by all owner(s) of the Lot/Premises (including intending purchaser under the Agreement for Sale and Purchase of the Lot/Premises) or the Trustee(s) or the Administrator(s) or the Personal Representatives of the owner(s) of the Lot/Premises.
3. After completion, this form may either be mailed, or handed in to the relevant District Lands Office of the Lands Department.
4. One copy of this form when completed should be retained for your reference.
5. The Government does not bind itself to accept any application submitted.

To: District Lands Officer, _____

I/We, _____(name of the Applicants)_____, {[as the (Sole Owner/ Co-Owners)* of (Lot _____/ Premises _____)*] or [as the (Trustee / Administrator / Personal Representatives / Others (please specify) _____)* of the owner(s) of the Lot _____ / Premises _____)]*}* hereby apply for a Waiver to waive the (user restriction / other restrictions

(please specify) _____)* contained in (the Lease / Special Condition No. _____ of Conditions of _____ / Special Condition No. _____ of New Grant No. _____)* under which (the Lot _____ / Premises _____)* is held so as to permit {[the use of (the above Lot / Premises / the portion of the above Lot / Premises)* for the purpose of _____] or [others (please specify) _____]}* . [I am / My tenant was / is* the business operator affected by land resumption and clearance exercise under the government development project (Project Title: _____ ; Name recorded in the preclearance survey: _____).]*

In order to facilitate you to consider my / our application, I / we attach the following documents for your reference:-

- a. a plain copy of a computer printout containing the current ownership particulars of the said Lot / Premises;
- b. a certified true copy or copies of the Deed of Trust / Power of Attorney / Probate / Letters of Administration (if applicable);
- c. One photocopy of the applicant(s)' Business Registration Certificate (if applicable);
- d. Planning Approval from the Town Planning Board (if any); and
- e. (Building plans / Site formation plans/ Drainage plans)* of the proposal (if any).

- f. Records / photos of pre-clearance survey number marked by Lands Department; and / or notices / letters sent from Lands Department or other departments to demonstrate I am / my tenant * was / is the business operator affected by land resumption and clearance exercise under the government development project (if applicable).

I / We understand that if I / we do not provide sufficient documents or information including, without limitation, the above required documents or information, the Lands Department may not be able to process my / our application. I / We hereby acknowledge that you may nevertheless request for further relevant information or convening meetings to clarify any aspects of this application as appropriate and necessary.

I / We hereby expressly declare, confirm, acknowledge and agree that all the particulars and the information provided herein and in support of my / our application are true and correct in all respects. I / We have not withheld any information required in the application, nor have I / we provided any misleading information.

I / We further expressly acknowledge that the personal data provided by me / us in this Waiver Application Form will be used by the Lands Department in connection with the processing of my / our application.

I / We hereby authorize the Lands Department to disclose my / our personal data in the application form and the attached documents to such Government Departments and any other body, organization or person(s) as it may see fit at its absolute discretion to obtain such information which is deemed relevant to my / our application, whether on policy or any other grounds.

I / We further authorize and direct and request any Government Department or other body which may be approached by the Lands Department, to supply any and all information which it may require.

Applicant(s)'s Signature: _____
(H.K.I.D. Card Number(s): _____)

Name of the Applicant(s) in Block Letters: _____

Address: _____

Telephone Number: _____

Date: _____

* *Delete as appropriate*

Note on Use of Personal Information

Purpose of Collection	<p>The personal data provided by means of this form will be used by the Lands Department for the purpose of considering and processing the Waiver application.</p> <p>The provision of personal data as required in this form is obligatory. If you do not provide the personal data, the Lands Department may not be able to process this form.</p>
Class of Transferees	<p>The personal data you provided by means of this form may be disclosed to other Government bureaux / departments for the purpose mentioned above.</p>
Access to Personal Data	<p>The individual who is the subject of the personal data has a right of access and correction with respect to personal data as provided for in Sections 18 and 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Such right of access includes the right to obtain a copy of the personal data provided in this application form upon payment of the applicable charge.</p>
Enquiries	<p>Enquiries concerning the personal data collected, including the request for access and corrections, should be addressed to:</p> <p style="text-align: center;"> Departmental Personal Data Controlling Officer of the Lands Department 20/F., North Point Government Offices 333 Java Road, North Point Hong Kong </p>