

**DRAFT**

TPB PG-NO. C

**TOWN PLANNING BOARD GUIDELINES ON SATISFYING  
THE 'OWNER'S CONSENT/NOTIFICATION' REQUIREMENTS  
UNDER SECTIONS 12A AND 16 OF THE TOWN PLANNING ORDINANCE**

[Important Note:

The Guidelines are intended for general reference only.

Any enquiry on this pamphlet should be directed to the Secretariat of the Town Planning Board (15th Floor, North Point Government Offices (NPGO), 333 Java Road, North Point, Hong Kong – Tel. No. 2231 4810 or 2231 4835) or the Enquiry Counters of the Planning Department (17th Floor, NPGO – Tel. No. 2231 5000 and 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin - Tel. No.                     ).

The Guidelines are subject to revision without prior notice.]

**1. Introduction**

- 1.1 In submitting an application for amendment of a draft or approved plan under section 12A or planning permission under section 16 of the Town Planning Ordinance (the Ordinance), the applicant must :
  - (a) obtain the consent of or notify each and every 'current land owner' of the application site in writing if he is not the 'current land owner' or the sole 'current land owner' (hereinafter referred to as the 'owner's consent' and 'owners' notification' requirements respectively); or
  - (b) demonstrate that reasonable steps have been taken to obtain/give the necessary owner's consent/notification (hereinafter referred to as the 'reasonable steps' requirements).
- 1.2 The Town Planning Board (TPB) may refuse to process the concerned application if the applicant fails to satisfy the 'owner's consent', 'owner's notification' and/or 'reasonable steps' requirements.
- 1.3 These Guidelines provide guidance on the interpretation of 'current land owner' as set out in the relevant provisions of the Ordinance; the documents required to be submitted together with the application to demonstrate the ownership of the application site; and the manner in which the applicant would be considered by the TPB to have satisfied the 'owner's consent', 'owner's notification' and/or 'reasonable steps'

requirements.

## **2. Interpretation of ‘Current Land Owner’**

- 2.1 ‘Current land owner’ means any person whose name is registered in the Land Registry as that of an owner of the land to which the application relates, as at the commencement of such period before the application is made as is specified by the Board by notice published in the Gazette. According to Gazette Notice No. xxx, ‘such period’ is taken as ‘4 weeks’ before the application is made\*. In satisfying this requirement, more updated record of owner registered in the Land Registry will also be accepted.
- 2.2 It should be noted that ‘land’ includes any premises constructed thereon. Where the land includes part of any lot/premises, the ‘current land owner’ in respect to such lot/premises should also be included. Also, where any related lot/premises is/are owned by more than one person according to the records at the Land Registry (LR records), each and every such person should be regarded as ‘current land owner’.

## **3. Documentary Proof of Ownership Status**

- 3.1 Together with the application, the applicant must also submit to the TPB a full set of the relevant LR records showing the updated information on the total number and names of ‘current land owners’ registered against the application site.
- 3.2 If the applicant is a ‘current land owner’ of the application site, the relevant part of the LR records should be highlighted for easy reference.
- 3.3 Unless the applicant is the sole ‘current land owner’ of the application site, he is also required to submit Appendix A of the relevant application form for section 12A or section 16 application and provide all the required documents.

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\* The definition of ‘current land owner’ does not include the HKSAR Government even though Government land may be included in the application site.

#### **4. The ‘Owner’s Consent’ Requirements**

4.1 If the applicant has obtained the consent of any ‘current land owner’ to make a particular application, such information including the number of ‘owner’s consent’ obtained should be included in Part I of Appendix A of the relevant application form. He is also required to provide the relevant documentary proof in the form of a completed statement of consent, as set out in Part II of the same form, signed by the concerned ‘current land owner’ as appeared in the LR records. Copies of the sample statement of consent for reference by the applicant can be obtained from the Secretariat of the TPB and the Enquiry Counters of the Planning Department or downloaded from the TPB’s website (<http://www.info.gov.hk.tpb/>).

#### **5. The ‘Owner’s Notification’ Requirements**

5.1 If the applicant has notified any ‘current land owner’ of the application, such information including the number of ‘owner’s notification’ given should be included in Part I of Appendix A of the relevant application form and complete Part III of the same form.

5.2 An ‘owner’s notification’ should preferably be in the form of a written notification of the application. Such notification may be sent by registered mail or local recorded delivery mail (e.g. courier service) to the name of individual ‘current land owner’ as appeared in the LR records. The mail may be sent to the address of the ‘current land owner’ registered on the LR records,; or to the relevant address of the land/premises under application. A sample format of the notice for reference by the applicant is shown in **Annex 1**. A full set of the record of ‘owner’s notification’ given (e.g. mail records) should be submitted together with the application and the prescribed form.

#### **6. The ‘Reasonable Steps’ Requirement**

6.1 Apart from obtaining owner’s consent or making notification, an applicant may demonstrate that reasonable steps have been taken to such effect before the application is made to the TPB. To facilitate easy checking, the applicant is required to indicate the number of ‘current land owner’ with/to whom he has tried to obtain consent or give notification in Part I of Appendix A of the relevant application form, and complete Part IV of the

same form. A full set of the relevant documents showing the steps taken should be submitted together with the application.

6.2 The applicant is required to provide evidence to demonstrate that he has taken reasonable steps to obtain owner's consent or give notification to the 'current land owner', such as the following :

(a) sending a statement of consent (attached to Part II of the relevant application form) to all the 'current land owner'. Relevant evidence (e.g. mail records) should be submitted together with the application; or

(b) (i) publishing a notice of the application once in two Chinese and one English local newspapers. The newspaper notice should be in the size of not smaller than 30 square centimetres (five square inches). A sample format of the newspaper notice is shown in **Annex 2**. The newspaper notice should be published in a specified list of local newspapers as shown in **Annex 3**; and

(ii) either posting a notice of the application in a prominent position on or near the application site, preferably at the entrance/lobby of the site or building concerned. The notice should be at least A4 size and legible from a public place (a sample format is shown in **Annex 4**); or

sending a notice to the Owners' Corporation(s), Owners' Committee(s), Mutual Aid Committee(s) or management committee(s), where applicable, of the building(s) erected on the application site or, where appropriate, to the relevant Rural Committee. Relevant evidence (e.g. mail records) should be submitted together with the application. A sample format of the notice is shown in **Annex 4**.

The TPB may require the applicant to take other reasonable steps in satisfying the "owner's consent/notification" requirements as circumstances require.

6.3 Generally speaking, the applicant may consider resorting to fulfill the 'reasonable steps' requirements under the following circumstances :

- (a) where the applicant is unable to contact the 'current land owner' due to the absence/inadequacy of the relevant information in the LR records, or
- (b) where the number of 'current land owners' involved in the application is large (i.e. above 50), and obtaining individual owner's consent and/or notifying each and every owner becomes too onerous.

## **7. Validity Period of Owner's Consent/Notification**

The Ordinance stipulates that the applicant shall comply with the 'owner's consent/ notification' requirements within a reasonable period before the application is made. What constitutes 'reasonable period' will depend on individual circumstances of each case taking into account the justification to be provided by the applicant. In general, one year before the application will be taken as the reasonable validity period of the owner's consent/notification, provided that such owner remains the 'current land owner'. Beyond the reasonable period, the applicant may be required to obtain the consent of or notify the 'current land owners' or satisfy the 'reasonable steps' requirement afresh.

## **8. Important Points to Note**

8.1 The above guidelines are for general reference only. In deciding whether the applicant has satisfied the 'owner's consent', 'owner's notification' and/or 'reasonable steps' requirements, the TPB will take into account individual circumstances of each case.

8.2 The TPB may require the applicant to verify any matter or particulars set out or included in the application, whether by statutory declaration or otherwise. In accordance with section 40(2)(c) of the Interpretation and General Clauses Ordinance (Cap. 1), the TPB may withdraw its decision on an application if the applicant is found to have made any false declaration or statement on the application. Any person who knowingly or wilfully makes a false declaration or statement would be liable to prosecution under the Crimes Ordinance (Cap. 200), the Oaths and

Declarations Ordinance (Cap. 11) and/or other relevant Ordinances.

**9. Guidance Notes**

Before making the application, the applicant is also encouraged to make reference to the Guidance Notes for Application for Permission under Section 16 of the Town Planning Ordinance (Cap. 131) or Guidance Notes for Application for Amendment of Plan under Section 12A of the Town Planning Ordinance (Cap. 131), where applicable.

**TOWN PLANNING BOARD  
SEPTEMBER 2004**

**SAMPLE FOR REFERENCE ONLY**

*Sample notice to be sent to the 'Current Land Owner' of the application site*

**NOTICE OF APPLICATION FOR  
AMENDMENT OF PLAN/PLANNING APPLICATION\***

Notice is hereby given to (*name of the 'Current Land Owner'*) of (*address of the 'Current Land Owner'/address of the relevant lot/premises\**) that I/we\* intend(s)\* to apply for amendment of plan/planning permission\* under section 12A/16\* of the Town Planning Ordinance to (*nature of the proposal – the subject of amendment should be indicated for a section 12A application, while the proposed use/development and major development parameters such as site area and the proposed plot ratio/gross floor area/site coverage/building height etc should be indicated for a section 16 application*) at (*address of the application site*) owned by you. If you agree to give consent to the aforementioned application, please fill in the statement of consent [*i.e. Part II of Appendix A of the relevant application form*] and return it to me/us\* by (*date*). Please forward this notice to the relevant owner if you are not the owner of the aforementioned application site.

(*Name of the applicant*)

(*Date of notification*)

\* *delete where appropriate*

*The sample notices can be downloaded from the TPB's website (<http://www.info.gov.hk.tpb/>).*

**SAMPLE FOR REFERENCE ONLY**

*Sample notice for publishing on newspaper or posting on application site.*

**NOTICE OF APPLICATION FOR  
AMENDMENT OF PLAN/PLANNING APPLICATION\***

Notice is hereby given to the owner(s) of *(location of the application site)* that I/we\* intend(s)\* to apply for amendment of plan/planning permission\* under section 12A/16\* of the Town Planning Ordinance to *(nature of the proposal – the subject of amendment should be indicated for a section 12A application, while the proposed use/development and major development parameters such as site area and the proposed plot ratio/gross floor area/site coverage/building height etc should be indicated for a section 16 application).*

*(Name of the applicant)*

*(Date of notification)*

*\* delete where appropriate*



**I. List of Specified Local Chinese Newspapers**

Oriental Daily News  
Sing Pao Daily News  
Ming Pao Daily News  
Sing Tao Daily  
Wen Wei Po  
The Sun  
Hong Kong Daily News  
Hong Kong Economic Journal  
Hong Kong Economic Times  
Ta Kung Pao  
Apple Daily  
Hong Kong Commercial Daily

**II. List of Specified Local English Newspapers**

South China Morning Post  
The Standard  
Asian Wall Street Journal  
China Daily Hong Kong Edition  
The Financial Times

**SAMPLE FOR REFERENCE ONLY**

*Sample notice for sending to Owners' Corporation(s)/Owners' Committee(s)/Mutual Aid Committee(s)/management committee(s)/Rural Committee(s).*

**NOTICE OF APPLICATION FOR  
AMENDMENT OF PLAN/PLANNING APPLICATION\***

Notice is hereby given to the owner(s) of *(location of the application site)* that I/we\* intend(s)\* to apply for amendment of plan/planning permission\* under section 12A/16\* of the Town Planning Ordinance to *(nature of the proposal – the subject of amendment should be indicated for a section 12A application, while the proposed use/development and major development parameters such as site area and the proposed plot ratio/gross floor area/site coverage/building height etc should be indicated for a section 16 application)*. Please post this notice on the notice board of your building/office\*, or other conspicuous place as you think fit, to inform the owners about this application.

*(Name of the applicant)*

*(Date of notification)*

*\* delete where appropriate*