

For discussion
on 24 January 2006

**Legislative Council
Panel on Planning, Lands and Works**

**Fee Proposal under the
Town Planning (Amendment) Ordinance 2004**

Purpose

This paper seeks Members' views on the fee proposal for the making of relevant Regulation under the Town Planning (Amendment) Ordinance 2004 (the Amendment Ordinance).

Background

2. The Amendment Ordinance was passed by the Legislative Council (LegCo) on 7 July 2004 and came into operation on 10 June 2005. The new section 14(2) of the Amendment Ordinance empowers the Secretary for Housing, Planning and Lands to prescribe fees for planning applications by regulation. Consultation with the stakeholder groups on the fee proposal was conducted by the Planning Department between September and December 2004. The consultation paper on the original fee proposal together with the outcome of the consultation was reported to the Panel on 22 March 2005 vide LC Paper No. CB(1)1116/04-05(06).

3. Having considered the views expressed by the stakeholder groups and the Panel, we have revised the fee proposals as set out in the fee schedule at Annex. The fee proposals are explained in the following paragraphs.

Part A – Application for Planning Permission under section 16

4. There are basically three main groups of applications for planning permission, namely, new application, renewal of temporary permission and re-submission. In respect of the new applications, a distinction is drawn between those for permanent development and those for temporary use/development.

Permanent Development (Groups 1(a) to (d))

5. New applications for permanent development are subject to an application fee ranging from \$5,000 (for pond or land filling to effect a use always permitted, for example, agricultural use in a “Conservation Area” zone) and \$7,500 (for development involving a site area and gross floor area of up to 1,000 m²) to a maximum of \$90,000 (for a comprehensive development involving a site area of over five hectares). The scale of fee is worked out on the basis of the nature and scale of the proposed development.

Temporary Use/Development (Group 1(e))

6. This group mainly caters for temporary open storage use in rural areas. During consultation, the open storage trade operators considered that the originally proposed fee (\$7,500 and \$10,000 for an application involving a site area of below and above one hectare respectively) would impose heavy financial burden on them and deter them from submitting planning applications. Having considered their views and the temporary nature of such permission, we now propose to set the fee at a lower rate at 50% of the full cost, i.e. \$3,750 and \$5,000 for an application involving a site area of below and above one hectare respectively. We accept that since a temporary permission for open storage use in rural areas normally lasts for only one to three years, and a fresh application accompanied with the requisite fee will be required to renew the temporary permission, it is reasonable to charge a lower fee for this kind of applications.

Renewal of Temporary Permission not exceeding five years (Group 2)

7. This group is only applicable to the renewal of a temporary permission granted under Group 1(e). Whilst technical assessments are normally required for a Group 1(e) application involving a site area of above one hectare, no new technical assessments will be required in the submission for renewal of the temporary permission. The cost involved in processing a renewal application is \$7,500 irrespective of the size of the site. Considering the temporary nature of the planning permission similar to that stated in paragraph 6 above, we propose to set the fee at a flat rate of \$3,750, which is 50% of the full cost.

Re-submission (Group 3)

8. For the following types of re-submission of application, we propose that the fees payable should be reduced by 50% of the normal prescribed fee, provided that a full fee has been paid for the original application:

- (a) re-submission of an application within one year of refusal or approval of a “similar” application (i.e. an application is similar to the original application if it is, in the opinion of the Town Planning Board (TPB), of the same or similar character and will not result in a material change to the original development proposal) by the TPB; or
- (b) re-submission of a similar application previously withdrawn by the applicant.

9. Our proposal is based on our experience that less workload would be involved in the processing of a similar application within a short lapse of time. For avoidance of doubt, given our revised proposal in respect of applications for temporary use/development in paragraph 6 above, the fees payable for re-submission of this group of applications, i.e. Group 1(e), will remain to be \$3,750 and \$5,000 as the case may be.

Part B – Application for Class B Amendment to Permission under Section 16A

10. We propose to set the application fee for Class B amendments (i.e. certain minor amendments to approved development proposals specified by the TPB) to approved development proposals at a standard rate of \$4,000.

Part C – Application for Amendment of Plan

11. For an application for amendment of plan, a flat rate of \$25,000 is proposed if only amendments to the Notes of the plan are involved. Where an application involves amendments to the zoning (with or without amendments to the Notes of the plan), the fee proposed will range from \$25,000 (for a site of up to 0.5 hectare) to a maximum of \$90,000 (for a site of over 5 hectares) depending on the site area involved.

Fee Waiver

12. We propose that the prescribed application fee may be waived only if the application is directly and exclusively for “charitable purposes” and is submitted by a “charitable body” as defined under section 88 of the Inland Revenue Ordinance (IRO). We will require a charitable organization to submit an application for fee waiver before submitting the relevant planning application. A blanket approval for charitable bodies’ application is considered not appropriate given that certain activities of the charitable organizations might involve commercial elements and hence would not warrant the subsidy by public fund. An application for fee waiver would be considered on a case-by-case basis. Guidance notes on waiving of application fees under the Amendment Ordinance will be prepared to provide general guidance to the public.

13. During the public consultation, a number of stakeholders, including the Hong Kong Bar Association, the Hong Kong Institute of Planners, the Hong Kong Institute of Architects, the Democratic Party

and the environmental concern groups, considered that waiver of application fees should be extended to all applications relating to “public causes”. We consider that there would be difficulties in defining the concept. There is no provision in law on what would constitute a “public cause” or “public purpose”. On the other hand, a “charitable body” is clearly defined under the IRO, and includes a wide range of organizations such as churches, schools, community and environmental concerned groups. Their charitable activities could generally be regarded as “for the public good”. There are also well established guidelines for “charitable purposes” drawing from case laws.

Costing Principles

14. In formulating the fee proposals, we had conducted a costing exercise following the established costing principles and methodology generally used for ascertaining the costs of government services. Separate costing exercises were conducted for section 12A, section 16 and section 16A applications as the processes involved in the consideration of these applications are different. The costs of service were worked out based on a set of streamlined and essential procedures involved in processing the applications. In line with the legislative intent of not charging fees for section 17 reviews and section 17B appeals, the costs for processing any subsequent reviews and appeals had not been accounted for in determining the fees.

15. The costs incurred in processing each group of applications were worked out by reference to a random selection of sample applications¹. The fee scale is then set by reference to the different types of applications within each group, the area of the site and the GFA involved. This is a common practice adopted by many overseas countries, and in charging fees for building plan submissions under the Buildings Ordinance in Hong Kong.

¹ About 10% of the total applications considered by the TPB in 2002 were selected for calculating the costs, and the costs were subsequently updated to the 2005/06 level.

Way Forward

16. Subject to Members' views on the fee proposal, we will proceed to prepare the Fees Regulation.

Annex Fee Schedule

Housing, Planning and Lands Bureau
Planning Department
January 2006

Fee Schedule

PART A : Applications for Planning Permission under s.16	
<i>1. New Applications</i>	
(a) All applications (unless otherwise specified)	
(i) First 1,000m ² of site area and first 1,000m ² of GFA	\$7,500
(ii) Each additional 100m ² of site area or part thereof (subject to a maximum of \$5,000 for the additional fee)	\$50
(iii) Each additional 100m ² of GFA or part thereof	\$150
the total fee is subject to a maximum of \$90,000	
(b) Utility Installation	
Per application	\$18,000
(c) Minor relaxation of the stated development restrictions for any Column 1 use specified in the Schedule of Uses, or any use/development always permitted under the covering Notes	
(i) First 1,000m ² of site area and first 1,000m ² of GFA	\$7,500
(ii) Each additional 100m ² of site area or part thereof	\$50
(iii) Each additional 100m ² of GFA or part thereof	\$150
the fee is based on the site area and total GFA of the entire development and the total fee is subject to a maximum of \$15,000	
(d) Filling of land/pond or excavation of land or diversion of stream for any Column 1 use specified in the Schedule of Uses, or any use/development always permitted under the covering Notes	
Per application	\$5,000
(e) Temporary use/development of land and/or building(s) not exceeding five years	
(i) Area of application site of 10,000m ² or less	\$3,750
(ii) Area of application site of more than 10,000m ²	\$5,000
2. Renewal of Permission Granted by TPB under Group 1(e)	\$3,750
3. Resubmission of any subsequent application within one year of refusal, approval or withdrawal of a similar application made under Group 1(a), (b) or (c)[#]	50% of the fee based on the fee schedule which is effective when the application under resubmission is made, subject to a minimum fee of \$7,500

Part B : Applications for “Class B” amendments under s.16A	
Per application	\$4,000
Part C : Applications for Amendment to Statutory Plan under s.12A	
1. Amendment to zoning with or without amendment to Notes of the plan	
(a) First 5,000m ² of land area	\$25,000
(b) Each additional 100m ² of land area or part thereof	\$150
the total fee is subject to a maximum of \$90,000	
2. Amendment to Notes of the plan only	\$25,000

The discounted fee is applicable only when a full fee has been paid for the original application. The detailed criteria for determining “similar” application will be set out in the relevant TPB Guidelines.