



Lands Administration Office
Lands Department
Practice Note

Issue No. 6/2001

Premium Assessment for
Exemption of Balconies from GFA and SC Calculation
under Joint Practice Note No. 1
(Supplementary to Practice Note No. 3/2001)

Practice Note 3/2001 refers to a need to modify the lease before consent to exclude balconies from gross floor area calculation can be given. A number of leases have been examined and it has been decided that where the lease contains the following wording in the "Definition of GFA" clause, there is no need for a modification in the strict sense; instead, a consent letter will suffice: -

" Notwithstanding sub-clause (a) of this Special Condition the Director at his sole discretion may in determining the gross floor area *[or the site coverage]* exclude or any floor space which the Building Authority may permit to be excluded. "

Where leases contain the above clause, the consent letter will be issued within 1 - 2 months from the date of the owner's application. In this regard, a sample waiver letter is set out at Appendix I (The sample letter is for reference only and my department will have the absolute discretion to add to, vary or omit any items as contained in this sample letter for each individual case.).

However, where the lease does not contain the wording as highlighted and underlined above, then a modification to the existing lease to add wording similar to sub-clause (b)(i)(II) at Appendix II will be required before the consent letter can be issued. This process will take longer.

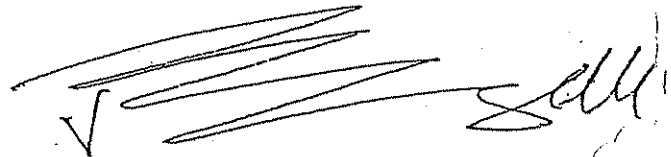
For major modification and land exchange cases the whole clause set out in Appendix II will be used. A consent letter, which will be subject to payment of premium and administrative fee, will still be required for exempting balconies from GFA and SC calculation.

For sites to be sold by auction and tender, the following wording will be added to the end of sub-clause (b)(i)(II) of Appendix II: -

“it being agreed and declared that no additional premium will be payable for the exclusion of any structure or floor space under this sub-clause (b)(i)(II).”

This will allow the lot owner to benefit from any exemption given by the Building Authority in respect of green and innovative features from GFA or SC calculation, and no premium or administrative fee will be demanded by Lands Department.

Application for issue of the consent letter should be made as soon as possible after the Building Authority has granted its exemption for the balcony floor space. The letter will only be issued after settlement of both premium and administrative fee, where these are payable. If no application has been received by the time of issue of the OP, the Department reserves the right to take whatever action it may seem necessary to protect Government's interest.



(J. S. Corrigan)
Director of Lands (Atg)
20 July 2001

Dear Sirs,

Re: (Lot No. & Address)

In consideration of your payment to the Government of the Hong Kong Special Administrative Region of a premium amounting to \$ { } and an administrative fee amounting to \$ { } (the receipts whereof are hereby acknowledged) and pursuant to Special Condition No. { } of Conditions of { }/New Grant No. { } (hereinafter referred to as "the Conditions"), under which the above lot is held, I hereby agree to exclude from the calculation under the Conditions of the gross floor area *[and the site coverage] of any building or buildings erected or to be erected on the above lot any structure or floor space which in the opinion of the Building Authority is a balcony and which or part of which has been excluded by the Building Authority subject to the following conditions:

(a) The number of residential units in the building or buildings erected or to be erected on the above lot to be provided with balconies the floor area of which or part thereof will be excluded from the calculation of the gross floor area *[and the site coverage] shall not be more than the aggregate of the number of units specified in the first column of the Schedule annexed hereto (hereinafter referred to as "the Schedule").

(b) The floor area that will be excluded from the calculation of the gross floor area *[and the site coverage] under the Conditions shall be determined by reference to and be restricted as set out in the Schedule. In respect of the units appearing in the first column of the Schedule, provided that the maximum permissible balcony floor area of a unit does not exceed the corresponding figure in the second column of the Schedule, the maximum floor area of the balcony of such unit that will be excluded from the calculation of the gross floor area *[and the site coverage] shall be the corresponding figure in the third column of the Schedule. For the purposes of this condition (b), the maximum permissible balcony floor area of a unit shall be 4% of the usable floor space of such unit or 5 square metres, whichever shall be the less, and the usable floor space of a unit shall be as determined by the Building Authority.

(c) (Other conditions which D of L may wish to impose).

2. This letter should be registered by you or your solicitor by Memorial in the Land Registry/{ } New Territories Land Registry within one calendar month of the date of this letter. You are required to forward a photocopy of the registered letter to me within three calendar months from the date of this letter.

3. You should attach this letter to the other land documents in your possession for record purposes.

*4. My previous letter dated { } under reference { } is superseded by this letter.

Yours faithfully,

()

Delete [] as appropriate

Delete as appropriate

SCHEDULE

| Number of Units | Maximum Permissible Balcony Floor Area of Each Unit | Maximum Floor Area of Balcony in Each Unit that will be excluded under the Conditions |
|-------------------------|---|---|
| Not more than [] units | [] square metres | [] square metres |
| Not more than [] units | [] square metres | [] square metres |
| | | |
| | | |
| | | |

Definition[s] of gross floor area *[and site coverage]

(%) (a) For the purposes of these Conditions the expression "gross floor area" means the area contained within the external faces of the external walls (or in the absence of such walls the external perimeters) of any building or buildings erected or to be erected on the lot measured at each floor level (including any floor below the level of the ground), together with the area of each balcony in such building or buildings, which shall be calculated from the overall dimensions of the balcony (including the thickness of the sides thereof) [, and the expression "site coverage" means the area of the lot or part of the lot that is covered by any building or buildings or part of such buildings erected thereon].

*Delete [] if site coverage is not referred to in any SC

(b) Notwithstanding sub-clause (a) of this Special Condition the Director at his sole discretion may:

+ Insert [] only where other SCs specifically exclude an area from g.f.a. and site coverage calculations

(i) in calculating the gross floor area *[or the site coverage] of any building or buildings erected or to be erected on the lot exclude +[(in addition to any floor space which may be excluded by Special Condition No. () hereof)]:

(I) any floor space that he is satisfied is constructed or intended to be used solely for the parking or for the loading or unloading of motor vehicles or occupied solely by machinery or equipment for any lift, air-conditioning or heating system or any similar service and any space for refuse disposal; and

(II) any structure or floor space which in the opinion of the Building Authority is a balcony, corridor, lift lobby, %[communal sky garden] \$[communal podium garden], acoustic fin, noise barrier, sunshade, reflector, wing wall, wind catcher or funnel or part thereof and which has been excluded by the Building Authority and any other structure or floor space which may at any time be excluded by the Building Authority.

% Insert [] for residential or composite commercial/residential development
\$ Insert [] for pure commercial or industrial development

Calculation of gross floor area in buildings with curtain wall system forming external face of building

- (ii) accept, for the purpose of calculating the gross floor area, the outer face of the structural elements of the building or buildings erected or to be erected on the lot as the external wall where a curtain wall system forms the external face of any building or buildings erected or to be erected on the lot provided that the outer face of the curtain wall system shall project no more than 300 millimetres from the outer face of the structural elements and provided also that the Director shall have the sole discretion in deciding what comprises a structural element of any building or buildings erected or to be erected on the lot.

% Insert [] for residential or composite commercial/residential development
\$ Insert [] for pure commercial or industrial development

#Delete as appropriate

(c) % [Communal sky gardens] \$ [Communal podium gardens] and any other structure or floor space referred to in sub-clauses (b)(i)(I) and (b)(i)(II) of this Special Condition shall, if so required by the Director, be designated as and form part of # [the Common Areas referred to in Special Condition No. () hereof.] # [the common areas designated as such in any Deed of Mutual Covenant in respect of the lot or where appropriate, any section thereof.]