

土地審裁處

LANDS TRIBUNAL



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土地審裁處

審裁處的組成

土地審裁處是根據(香港法例第17章)《土地審裁處條例》而設立的，有三位專業法官，包括由一名高等法院原訟法庭法官出任的土地審裁處庭長，以及由兩名區域法院法官出任的土地審裁處法官。審裁處還有一位身為認可測量師的審裁處成員。庭長和法官可單獨或會同審裁處成員審理案件，審裁處成員亦可單獨審理案件。

土地審裁處的司法管轄權

土地審裁處具有司法管轄權，可以審理和判定下列幾大類案件：

1) 收回管有權的案件

土地審裁處有權力裁定業主根據(香港法例第7章)《業主與租客(綜合)條例》或普通法而提出的收回樓宇管有權申請。在這類申請中，審裁處除了可以作出收回管有權的命令外，也有權作出繳納租金及中間收益的命令，處置租客遺留在樓宇內的任何財物，及就違反租賃或分租租賃的條件作出支付損害賠償的命令。

II) 建築物管理案件

土地審裁處有權力裁定建築物管理的爭議，包括有關(香港法例第344章)《建築物管理條例》及公契解釋和執行的爭議，委任或解散管理委員會，召開業主大會及委任管理人等事宜所引起的爭議。

III) 補償案件

當政府因進行公共發展而根據有關條例強制收回某些人士的土地，或令他們的土地減值，審裁處有權力裁定政府所須支付的補償款額。

IV) 強制土地售賣案件

多數份數業主根據(香港法例第545章)《土地(為重新發展而強制售賣)條例》為售賣土地作重新發展而提出申請，審裁處有權力作出裁定。

V) 上訴案件

任何人士根據(香港法例第116章)《差餉條例》、(香港法例第515章)《地租(評估及徵收)條例》和(香港法例第283章)《房屋條例》提出上訴，審裁處有權力作出裁定。

土地審裁處在行使司法管轄權時，具有與高等法院原訟法庭相同的權力，可以授予衡平法或普通法的補救及濟助。

提出申請和上訴的程序

I) 收回住宅或非住宅管有權的申請

提交申請

業主若要根據(香港法例第7章)《業主與租客(綜合)條例》或普通法提出申請，必須向土地審裁處司法常務官提交大致上符合表格22格式的申請通知書，列明申請的性質。提交表格時需要支付費用。申請人須親自或授權代表(須連同授權書)填寫表格。申請通知書可以用中文或英文填寫。

業主若要根據《2004年業主與租客(綜合)(修訂)條例》第5(2)條發出過渡性終止通知書作為終止租賃的申請，須使用表格22A而非表格22。同樣，業主若要根據《2004年業主與租客(綜合)(修訂)條例》第7(1)條申請收回樓宇自住，則須使用表格22B。

送達申請通知書

申請人在提交申請通知書後的7天之內，必須把一份蓋上土地審裁處蓋章的申請通知書副本送達答辯人。

申請人可把副本親自交給答辯人，亦可以把副本放置於答辯人在香港最後為人所知的或通常的居住或營業地址，或以普通郵遞方式寄出。如果答辯人的送達地址或在香港最後為人所知的或通常的居住或營業地址有信箱，申請人也可以把副本放進信

封內，在信封上寫上答辯人的姓名和地址，再把信封封口，然後投入信箱內。假如無法以這個方法送達，申請人可要求審裁處作出「替代送達」命令，指明必須以甚麼方式使答辯人知道這份申請通知書已經發出。

申請人在提交申請通知書後，必須盡快把申請通知書的副本張貼在他打算收回的樓宇入口的顯眼處。申請人也必須以同樣的方式，連續三天張貼通知佔用人有關此申請的通告。

申請人必須於申請通知書送達後的3天之內，提交送達確認書或誓章(表格30)。

反對通知書

答辯人若要反對申請，必須在收到通知書後的7天之內填妥反對通知書(表格7)，說明他反對的理由，然後把反對通知書送交司法常務官存檔。答辯人也必須把反對通知書的副本送達申請人。提交反對通知書須支付費用。

在無反對的情況下作出判決

如果答辯人沒有提交反對通知書，申請人可以用書面形式向審裁處申請在無須審訊的情況下按照申請人的申請作出命令。

申請排期聆訊

如果反對通知書已經提交，司法常務官會盡快把案件排期聆訊，並通知各方關於聆訊的詳情。有關通知必須在聆訊前的14天或之前發出，或在各方所同意的其他期限前發出。

II) 建築物管理案件的申請

提交申請

根據(香港法例第344章)《建築物管理條例》第4條向審裁處提出申請，要求審裁處命令業主召開會議以委任管理委員會，必須使用表格27。這項申請須由業權不少於百分之十的業主，或由民政事務局局長或他所授權的人員提出。

如果業主、註冊承按人、管理人、民政事務局局長或他所授權的人員有意根據(香港法例第344章)《建築物管理條例》第31條申請解散管理委員會並委任一名管理人，或撤換管理人，必須使用表格29。

所有根據(香港法例第344章)《建築物管理條例》附表10提出的申請，都必須使用表格29。

表格27和表格29都必須送交土地審裁處的司法常務官存檔，並送達答辯人。

申請通知書的送達

申請人可以把申請通知書的副本親自交給答辯人，也可以把副本放置於答辯人在香港最後為人所知的或通常的居住或營業地址，或以普通郵遞方式寄出。如果答辯人的送達地址或在香港最後為人所知的或通常的居住或營業地址有信箱，申請人也可以把副本放進信封內，在信封上寫上答辯人的姓名和地址，再把信封封口，然後投入信箱內。申請人也可以採用由審裁處指示的其他送達方式。

反對通知書

答辯人若要反對有關申請，必須在收到申請通知書後的21天之內，把反對通知書(表格7)送交審裁處存檔並送達申請人。

排期聆訊

如果答辯人已經提交反對通知書，或者提交的期限已過但沒有人提交反對通知書，有關申請中的任何一方在通知其他各方後，可以使用符合表格31格式的申請書，向司法常務官申請將有關申請排期聆訊。

案件管理和調解程序

為簡化建築物管理案件的處理程序及使審裁處能更有效率、迅速及公平地處理建築物管理案件，土地審裁處庭長已於2009年5月21日頒佈編號為LTPD: BM No. 1/2009的指示。由2009年7月1日起，在適當的情況下，如果沒有必要進行口頭聆訊便可以作出指示，審裁處會根據呈交的文件作出指示，以減少不必

要的聆訊。不必要的非正審申請會受到阻止，及在合適案件中判處訟費的罰則。在提出訴訟之前或之後，鼓勵建築物管理案件中的爭議各方嘗試透過調解，以消除彼此的分歧。

有關建築物管理案件的案件管理及調解的詳細資料，可登入司法機構網址參閱土地審裁處庭長所頒佈的指示和案件管理及調解的小冊子。

III) 申請有關補償的裁定

補償案件可以分為幾類，由不同的條例規管，譬如(香港法例第124章)《收回土地條例》、(香港法例第276章)《地下鐵路(收回土地及有關規定)條例》和(香港法例第370章)《道路(工程、使用及補償)條例》。任何人士如根據以上各項條例提出法律程序，必須遵守(香港法例第17章)《土地審裁處規則》所規定的程序。

IV) 申請強制售賣土地命令

提交申請

任何一方若要根據(香港法例第545章)《土地(為重新發展而強制售賣)條例》第3(1)條申請由土地審裁處作出售賣土地的命令，必須向審裁處的司法常務官提交大致上符合表格32格式的申請通知書。

申請通知書的送達

申請人必須在提交申請通知書後的7天之內，安排把申請通知書的副本送達有關土地的每一位少數份數業主。

有關的申請通知書必須在提交後的7天之內，按照(香港法例第128章)《土地註冊條例》的規定進行註冊。

此外，申請人必須在提交申請通知書後的7天之內，把(香港法例第545章)《土地(為重新發展而強制售賣)條例》附表1第2部所指明的通告的中英文版本張貼，以及刊登於一份中文報章和一份英文報章之內。

在採取以上行動後，申請人必須把一份有關送達的誓章、一份有關註冊的誓章、一份有關張貼的誓章和一份有關刊登報章的誓章，送交審裁處的司法常務官存檔。

反對通知書

答辯人如果反對有關的申請，他必須在收到申請通知書後的21天之內，把反對通知書送交審裁處司法常務官存檔，並把副本送達申請人。

排期聆訊

審裁處的司法常務官會把聆訊通知書的副本送達訴訟中的各方。

V) 根據不同條例提出的上訴案件

上訴案件可以分為幾類，由不同的條例所規管。訴訟各方必須遵守各項條例中的規定，以及(香港法例第17章)《土地審裁處規則》中的規定。最常見的上訴案件，是根據(香港法例第116章)《差餉條例》提出的上訴。

根據《差餉條例》，任何人士如果反對差餉物業估價署署長所評估的應課差餉租值，可向土地審裁處提出上訴。上訴可分為兩種：

a) 根據《差餉條例》第37條提出的上訴

任何人士如果不服差餉物業估價署署長就某一樓宇應課差餉租值所作的評估，可以在四月份至五月份之內，向署長提交建議表格，要求修改應課差餉租值。不服評估的人可以是業主、佔用人 and 業主的代理人。署長會作出決定，維持原本的評估，或更改有關評估，之後會發出通知書。

b) 根據《差餉條例》第40條提出的上訴

任何業主或佔用人(不是第37條所指的人士)如果不服差餉物業估價署署長所作出的關於更正、刪除或臨時估價的決定，可以在署長發出決定通知書送達後的28天之內，提交反對通知書。署長會考慮業主或佔用人的反對，然後通知他們署長的決定是維持臨時估價或是把臨時估價降低。

署長在作出決定後會把通知書送達有關人士，不服署長決定的人士可於收到通知書後28天之內，向土地審裁處提出上訴。

有關程序如下：

把上訴通知書送交存檔和送達

在收到署長的決定通知書後28天之內，上訴人必須把上訴通知書(表格19)連同署長的決定的副本，送交土地審裁處司法常務官存檔，並將上訴通知書的副本送達差餉物業估價署署長，也就是上訴中的答辯人。

反對通知書

差餉物業估價署署長如反對上訴，可以在收到上訴通知書後的21天之內，把反對通知書(表格7)送交土地審裁處司法常務官存檔，並把副本送達上訴人。

排期聆訊

上訴人必須在收到有關反對通知書後的14天之內，或者在提交反對通知書的期限屆滿後的14天之內，以書面形式向土地審裁處的司法常務官提出申請，要求為上訴排期聆訊，上訴人並須同時將該申請書副本送達差餉物業估價署署長。如果上訴人在指明的期限內沒有提出申請，有關上訴將會失效。

任何人士如果不服土地審裁處的決定，應採取正確而有效的做法，按照法律所訂明的程序，申請覆核或上訴。

案件的排期、延期和撤銷

在任何不屬於收回樓宇管有權的申請中，如果反對通知書已經提交，或者提交的期限已過但沒有人提交反對通知書，此項申請中任何一方，在向所有其他各方發出通知書後，可以使用符合表格31格式的申請書，向司法常務官申請排期聆訊該申請或上訴。提交表格31之人仕需支付提交費用。要求排期聆訊的申請書內須提供估計所需的審訊時間和準備傳召的證人數目等資料。

在收回樓宇管有權的申請中，如果反對通知書已經提交，司法常務官必須盡快為有關申請排期聆訊，然後通知各方排期聆訊的詳情。有關通知必須在聆訊前的14天或之前發出，或在各方所同意的其他期限前發出。

差餉估價上訴案件、地租上訴案件及房屋上訴案件的各方應注意，若在提交反對通知書後的14天內無人申請排期聆訊，則上訴程序將失效。

聆訊日期通常安排在最早可用的日子。假若任何一方認為某些日期不便，應在安排聆訊日期前通知排期主任。在編定聆訊日期後，排期主任會把聆訊通知書送達雙方。一般來說，聆訊日期一經編定，審裁處不會更改日期來遷就任何一方的旅行計劃、工作安排或生活方式。在編定的聆訊日如果某一方不能出庭，可委派代表前來土地審裁處處理案件。假使需要延期或取

消已編定的聆訊日期，任何一方均可以非正審申請方式申請安排一個新的日期。提交申請需支付費用。除非事先得到對方同意並在傳票上簽註，否則與訟各方須向土地審裁處法官或審裁成員申請及解釋延期的原因，由法官或審裁成員決定是否批准延期申請。

倘若雙方達致和解，可一同以傳召訴訟各方的經同意申請或傳票向法庭申請，使和解協議條款成為審裁處的法庭命令。除此之外，也可由申請人或上訴人在任何時間申請終止案件。

申請人若想中止或撤銷對答辯人或其中一名或超過一名答辯人的全部訴訟，應向登記處提交一份由他簽署的正式中止程序通知書，並須支付提交費用。申請人須將這份通知書的副本送達有關答辯人。

支付費用

提交各樣文件或使用服務，須按照(香港法例第17章)《土地審裁處(費用)規則》的附表支付法庭費用。各類慣常收費表已張貼於會計部外，以供參閱。付款可以用現金、『易辦事』或支票，支票收款人應註明「香港特別行政區政府」。

支付裁定某方應得的款項

若法庭頒令某方須支付判給對方的款項，除非審裁處另有指令，否則須付款的一方應嘗試將判給對方的款額以及任何已確定或達成協議的訟費直接付給對方，並索取有關收據。假若審裁處指令付款人須把款項交予土地審裁處，付款人應預留充分時間在辦公時間結束前到來會計部辦理。繳付欠租和訟費任何人按照指令把款項支付給審裁處，必須用現金、香港的銀行發出的本票或香港的律師事務所發出的支票，收款人請註明「區域法院」，私人支票恕不接受。

屬實申述

屬實申述是述明提出有關文件的一方相信該文件中所述事實屬實，或就有關證人陳述書或專家報告，相信該文件中所述事實屬實，及(如適用的話)其中所表達的意見屬真誠地持有的。

下述文件必須按照《高等法院規則》(第4A章)第41A號命令的條文以屬實申述核實：

- (a) 申請 / 上訴通知書，及經修訂的申請 / 上訴通知書；
- (b) 反對通知書，及經修訂的反對通知書；
- (c) 證人陳述書；
- (d) 專家報告；

- (e) 損害賠償陳述書，及損害賠償陳述書之答覆書；
- (f) 根據審裁處命令的規定須核實的任何其他文件。

屬實申述須由有關一方或其律師親自簽署。

出庭發言權

在土地審裁處進行訴訟的各方，可以親自應訊及陳詞，也可以延聘大律師或律師代表應訊，或在獲得審裁處的許可後授權他人代表應訊。任何一方若要申請許可，可以在聆訊前以書面提出申請，或在聆訊中提出口頭申請。

使用語言

本審裁處可在任何程序或部分程序中使用中文或英文，或中英文並用。

指示聆訊

案件可排期作指示聆訊或審訊，指示聆訊的目的是就案件如何進行向法庭尋求指示。在簡單的案件中，如收回樓宇的案件，則可排期在首次聆訊中直接審訊。如情況適合的話，審裁處可以信函形式發出指示，而無須進行過堂聆訊。

審訊

一般來說，在本審裁處所進行的審訊，方式與高等法院和區域法院的民事案件相若，但會較不拘泥於形式。本審裁處會在不損害公平原則的情況下，向沒有律師代表的訴訟人作出指引。

在審訊中，訴訟各方可口頭作證、呈交支持文件和傳召證人。本審裁處會在聆聽各方的證供和陳詞後作出判決。

證人傳票

與訟任何一方均可使用表格3向土地審裁處的司法常務官申請發出證人傳票，司法常務官會就此作出決定。司法常務官可向任何人發出證人傳票，規定該人按照傳票中所指定的時間及地點到土地審裁處出庭作證，或向土地審裁處提交任何由其管有或控制的文件（有關文件的詳情會在傳票中述明）。

為了確保證人傳票可在聆訊前送達證人，證人傳票的申請必須在聆訊前至少10個工作天提出。

非正審申請

除非經本審裁處另行批准，否則非正審申請須以書面形式提出，申請書並須送交司法常務官存檔，申請書的內容主要以表格1為依據。

申請擱置在無反對的情況下作出的判決

若沒有人提交反對通知書，法庭會根據(香港法例第17章)《土地審裁處規則》第15條規則，頒令在無反對的情況下作出判決，如果答辯人不服法庭的命令，可盡快發出傳召訴訟各方的傳票，以申請擱置法庭的命令。提交這項申請必須支付指定的費用。審裁處會在傳召訴訟各方傳票的聆訊中，對這項申請作出裁定。

重開法律程序

如果申請人或上訴人沒有在編定的聆訊時間和地點出現，審裁處可撤銷有關法律程序。申請人或上訴人若要重開法律程序須在程序撤銷後21天內於土地審裁處登記處發出傳召訴訟各方的傳票，才可申請重開法律程序。提交此項申請須支付指定的費用。

覆核

如你不滿土地審裁處的決定，你可以根據(香港法例第17章)《土地審裁處條例》第11A條申請覆核。

審裁處可以在作出決定的一個月內，決定覆核該項決定，並可按其認為足夠的理由，將該項決定作廢，或推翻、更改或維持該項決定。審裁處可應任何一方的申請或主動覆核決定，但須先向法律程序中所有其他各方發出通知。

在2009年5月21日，土地審裁處庭長發出編號為LTPD: Review No. 1/2009的指示，規定申請覆核的程序。由2009年7月1日起，任何一方如欲審裁處覆核某個決定，須填妥及存檔一份覆核申請書。該覆核申請書可向審裁處登記處索取。覆核申請必須以一份宗教式或非宗教式的誓章作為支持，誓章內須說明所有覆核的理由。提出覆核申請的一方必須在上述第11A(1)條規定的1個月限期結束之前不少於5個工作日(不包括星期六)，把覆核申請書和支持覆核申請的宗教式或非宗教式的誓章呈交司法常務官，和送達所有其他對此申請有利害關係的各方，及提出覆核申請的一方必須在送達後3個工作日(不包括星期六)內呈交有關的宗教式或非宗教式送達誓章。其他各方在收到覆核申請書和支持覆核申請的宗教式或非宗教式的誓章後，必須於3個工作日(不包括星期六)內存檔和派送他們回應覆核申請的書面陳詞，否則審裁處便只會考慮申請覆核的一方呈交的支持覆核申請的宗教式或非宗教式的誓章來作出決定。除非審裁處命令以別的方法

式處理，審裁處將不會進行聆訊，而只會憑審閱文件來決定是否接受該覆核申請。

如果審裁處決定接受覆核申請，便會在行使覆核權力之前定下聆訊日期聆聽各方。司法常務官便會通知所有有關各方出席聆訊。如果審裁處決定不覆核其決定，司法常務官便須發出書面通知，將審裁處的決定通知各方。

凡某項決定已作出覆核，或該項決定是有關審裁處根據（香港法例第17章）《土地審裁處條例》第11A條決定作廢或推翻或更改或確認另一項決定的，則審裁處不得就該項決定行使其覆核決定的權力；或任何一方已藉上訴或其他方式展開法律程序以質疑某項決定，則除非該等法律程序已遭放棄，否則審裁處不得就該項決定行使其覆核決定權力。

除非審裁處另有命令，覆核的申請不具有擱置執行任何裁決或命令的效用。

上訴

在審裁處進行法律程序的任何一方，可以基於審裁處的判決、命令或決定在法律論點上有錯誤的理由，針對該判決、命令或決定，向上訴法庭提出上訴。因此，如只對有關事實的爭議作出上訴，該上訴將不會被接受。有意提出上訴的一方在向上訴法庭申請上訴之前，必須先向審裁處的法官或成員申請上訴許可。

如要對非正審的判決、命令或決定作出上訴，則必須在非正審判決、命令或決定作出後的14天之內提出上訴許可的申請；而在其他情況下，則必須在有關的判決、命令或決定作出後的28天之內提出上訴許可的申請。如有關的判決、命令或決定是在各方之間展開的法律程序中作出，則上訴許可的申請必須在各方之間提出。申請上訴許可的一方須存檔及派送表格1和支持申請上訴許可的宗教式或非宗教式的誓章，誓章內須說明所有上訴的理由。

如果審裁處拒絕這項申請，有意提出上訴的一方可以在申請被拒絕後的14天之內，向上訴法庭提出進一步的上訴許可申請。

當上訴許可獲得批准後，有意提出上訴的一方必須在審裁處給予許可後的7天之內，把上訴通知書派送審裁處及法律程序的各方。

上訴人必須在上訴通知書送達後7天內，向高等法院的司法常務官交出有關審裁處的判決或命令的加蓋印章文本一份，以及附有理由的決定(如有的話)文本一份及兩份上訴通知書。

即使上訴的期限或申請上訴許可的期限已經屆滿，但審裁處或上訴法庭仍可在任何時間延展上訴的時限或申請上訴許可的時限。

除非審裁處或上訴法庭另有命令，上訴許可的申請或上訴均不具有擱置執行任何裁決或命令的效用。

如有任何查詢，請與高等法院書記主任辦事處聯絡，地址是香港

金鐘道38號高等法院大樓地下（電話號碼：2825 4643）。

針對司法常務官的決定而提出上訴

根據(香港法例第17章)《土地審裁處條例》第11AA條和《土地審裁處規則》第30A條規則的規定，針對司法常務官的判決、命令或決定而向土地審裁處法官提出上訴，屬當然權利；不論該判決、命令或決定祇是根據書面陳詞作出或經過聆訊後而作出。任何人若要提出上訴，必須把審裁處指明格式的通知書填妥，然後把通知書送達有關法律程序中的其他各方，要求他們在通知書指明的日期或按指示的其他日期，在法官席前出席聆訊。

除非審裁處另有命令，通知書必須在上訴所針對的判決、命令或決定作出後的14天之內，送交司法常務官存檔；及必須在送交存檔後5天之內送達。

除非審裁處另有指示，在有關法律程序中根據(香港法例第17章)《土地審裁處規則》第30A條規則提出的上訴，不具有擱置該法律程序的作用。

訟費評定

如土地審裁處判給訟費，有關的訟費單須：

- (1) 提交高等法院（如土地審裁處命令全部或部分訟費須按照高等法院訟費表評定）；
- (2) 提交區域法院（如土地審裁處命令訟費須按照區域法院訟費表評定）；
- (3) 提交土地審裁處由總司法書記暫時評定訟費（如訟費單中所列款額少於200,000元）。

有關訟費評定的詳細程序資料，請於高等法院無律師代表訴訟人資源中心索取“訟費的評定”小冊子參閱，或登入司法機構網址 rcul.judiciary.gov.hk 下載該份有關的小冊子。

查詢與程序有關的事宜

土地審裁處人員只能解釋提出申請或上訴的一般程序，及法律程序展開之前及之後任何需要完成的必要法定手續。由於他們沒有專業的資格，以及為了維持審裁處的中立性，審裁處職員奉命不得向任何一方提供法律意見。

諮詢有關《業主與租客(綜合)條例》及《2004年業主與租客(綜合)(修訂)條例》的租務事宜，請致電2150 8229與差

餉物業估價署的租務主任聯絡。

有關法律責任、理據、文件的效力等等，請諮詢你的律師、或按當值律師服務計劃安排在指定的民政事務處當值的律師。如有查詢請致電民政事務總署中央電話諮詢中心，電話號碼是2835 2500。

執行審裁處的命令

在土地審裁處作出收回樓宇、討回欠租或訟費的命令後，如果有關人士不遵從命令，勝訴的一方可以向審裁處申請適當的執行令狀，並要求執達主任執行該令狀，向判定債務人收回樓宇或債項。

本審裁處並不保證申請人能夠討回全部或部分判定款項，或甚至討回執達主任在執行令狀時所花費的費用，情況必須視乎執達主任能否扣獲貴重的資產而定。申請人須衡量追討判定款項的成功機會以及執達主任執行令狀時所花費的費用，再作決定。

執達主任獲得授權：

(一) 扣押判定債務人的財物和資產，價值相等於判定債項的金額以及執行命令或者判決所需要的開支。

(二) 收回住宅或非住宅的管有權。

申請人可以根據有關命令的性質，申請適當的執行令狀。

I) 執行令狀

申請人執行收回樓宇管有權的命令，必須首先向司法常務官提交申請通知書，然後把申請通知書的副本張貼在涉案的樓宇的大門入口的顯眼處；申請人必須同時把將致實際管有或居住者通知書的副本連續3天張貼於該樓宇的大門或入口處。如果申請人沒有張貼有關通知書，他必須在審裁處作出收回管有權的判決或命令後，把判決通知書連續3天張貼在該樓宇的大門或入口處；判決通知書是向答辯人和所有實際佔用樓宇的人士發出，要求佔用樓宇的人士在通知書內註明的日期前遷出。在張貼通知書的4個工作天之後，申請人可以誓章形式向審裁處申請『要求批准發出收樓令狀』，申請人須支付繳交費用。

如果審裁處只是因為答辯人欠租而發出收回樓宇管有權的命令，答辯人可以有最少1星期的付款期，讓他支付所有拖欠的租金和訟費。如果審裁處已經批准答辯人在付款期內付款，而答辯人也遵從命令在付款期屆滿當日或之前把所有拖欠的租金和訟費支付給土地審裁處，答辯人可以避免被沒收租賃權，而有關樓宇的租約也可以恢復。審裁處所發出的收回樓宇管有權的命令也會失效。如果答辯人提出申請，審裁處可以延長付款的期限。如果答辯人既沒有在指定的期限內支付所有的欠租和

訟費，也沒有遷出，申請人可以向審裁處申請『要求批准發出收樓令狀』，針對答辯人和所有逗留在樓宇內的人士，強制執行審裁處的命令。

若要以由執達主任執行法庭判予金錢的裁決而追討欠款，勝訴一方可申請扣押判定債務人財產令狀。若同時要收回管有權和追討裁定應得而仍未收到的款項，則必須申請『收樓及扣押判定債務人財產綜合令狀』。申請人須繳付提交費用。

查詢有關執達事務組提供的服務的更詳細資料，請致電執達事務組互動聲訊處理系統，電話號碼是2802 7510。

II) 繳付按金以支付執達主任的費用

除了提交費用外，申請由執達主任執行令狀時必須繳付按金予土地審裁處，以支付執達主任和私人護衛員費用。按金的金額數目視乎執行令狀的性質而定。在執行令狀完成後或申請人指令執達主任終止執行令狀時，申請人需以書面通知執達事務組，要求將所餘按金發還給申請人。

審裁處並不保證申請人能夠討回全部或部分的欠租或判額，或已支付或需要支付的執達主任費用，一切視乎執達主任執行『扣押判定債務人財產令狀』的結果。申請人須衡量追討所欠金額之機會和會涉及有關的執達主任費用，然後請自行決定所

需要的執行方式。

有關執達主任執行令狀的詳細資料，請參閱執達事務組小冊子，小冊子可在土地審裁處登記處取得，亦可致電執達事務組互動聲訊處理系統查詢，電話號碼是2802 7510。

III) 暫緩執行收樓令狀

答辯人若想法庭頒令暫緩執行收樓令狀，可以向土地審裁處登記處提交一份傳召訴訟各方的傳票，並把傳票的副本送達申請人。在情況緊急時，必須以單方傳票向法官申請暫緩執行收樓令狀。答辯人須繳付提交費用。

表格

上述所有法定表格均可向本審裁處的詢問處索取。

服務承諾

案件由排期至聆訊的輪候時間：

- 收回管有權案件：60天
- 建築物管理案件：100天

- 補償案件：100天
- 上訴案件：100天

在收到市民的來信後，司法機構會盡量立即回覆。不管怎樣，我們會在10天內先作出臨時答覆，並在30天內作出詳盡回覆。

歡迎市民來信提出意見和建議，使本審裁處的服務更臻完善，來信請寄香港金鐘道38號高等法院司法機構政務長收。

如何聯絡我們

地址：九龍油麻地加士居道38號

熱線電話：2771 3034

傳真：2384 4896 / 2384 4901

登記處及會計部的辦公時間

星期一至五 上午九時至下午一時

下午二時至下午五時

星期六 上午九時至中午十二時

(星期日及公眾假日休息)

土地審裁處於天氣惡劣時的安排

(i) 請留意司法機構透過電台、電視和其他媒體所作出的宣布，你也可以在辦公時間內致電土地審裁處登記處查詢有關的安排，電話號碼是2771 3034。

(ii) 請參看此小冊子的附件1關於2011年3月14日起生效的安排。

(iii) 請參閱司法機構網頁：颱風及暴雨警告安排。

(http://www.judiciary.gov.hk/tc/crt_services/business_hours_typhoon.htm#typhoon_warning)

司法機構

二〇一二年二月

(第八版)

颱風及暴雨警告的安排 [2011年3月14日起生效]

發出8號或以上熱帶氣旋信號

一般來說，當8號或以上熱帶氣旋信號發出時，法院/審裁處會將聆訊延期，而法院/審裁處的登記處及辦事處亦會關閉。

發出黑色暴雨警告信號

一般來說，若黑色暴雨警告信號在辦公時間前發出，法院/審裁處會將聆訊延期，而法院/審裁處的登記處及辦事處亦會關閉。若有關信號在辦公時間內發出，法院/審裁處會將聆訊延期，但法院/審裁處的登記處及辦事處則繼續開放。

8號或以上熱帶氣旋信號或黑色暴雨警告信號改為較低的信號或取消

法庭程序恢復進行的安排

如有關信號於星期一至五及星期六上午6時或之前改為較低的信號或取消，法院/審裁處會於當天早上慣常時間恢復進行聆訊。

如有關信號於星期一至五上午6時至11時期間或於上午11時改為較低的信號或取消，法院/審裁處便會於下午2時30分恢復進行聆訊。因此，如你本該於當天早上到法院/審裁處出庭，你便須於當天下午2時30分出庭。

如有關信號於星期一至五上午11時後或星期六上午6時後改為較低的信號或取消，法院/審裁處便會於當

天全日休庭。如你本該於當天到法院/審裁處出庭，你便須於隨後一天（公眾假日除外）上午9時30分出庭。

如法院/審裁處於星期五全日休庭，而你又本該於當天到法院/審裁處出庭，你便須於隨後一天，即星期六（公眾假日除外）上午9時30分出庭。

法院/審裁處的登記處及辦事處重新開放的安排

如有關信號於星期一至五及星期六上午6時或之前改為較低的信號或取消，法院/審裁處之登記處及辦事處會於當天早上如常開放。

如有關信號於星期一至五上午6時至11時期間或於上午11時改為較低的信號或取消，法院/審裁處便會於下午慣常時間重新開放。

如有關信號於星期一至五上午11時後改為較低的信號或取消，若當時情況許可，法庭/審裁處的登記處及辦事處或會於當天下午盡早重新開放。然而，如有關信號於星期一至五登記處及辦事處的正常關閉時間前2小時或少於2小時才改為較低的信號或取消，法庭/審裁處的登記處及辦事處便會全日關閉。

如有關熱帶氣旋及暴雨警告信號於星期六上午6時後改為較低的信號或取消，法院/審裁處的登記處及辦事處會繼續關閉。

THE LANDS TRIBUNAL

Constitution of the Tribunal

The Lands Tribunal is established under the Lands Tribunal Ordinance, Cap. 17. It has three professional judges: a President who is a Judge of the Court of First Instance of the High Court and two Presiding Officers, who are District Judges. There is also a Member of the Tribunal who is a qualified surveyor. The President and a Presiding Officer may either sit alone or together with a Member in hearing cases. A Member may also sit alone in hearing cases.

Jurisdiction of the Tribunal

The Tribunal has jurisdiction to hear and adjudicate the following main categories of cases:

I) Possession cases

The Tribunal can determine applications by landlords for possession of premises under the Landlord and Tenant (Consolidation) Ordinance, Cap. 7 or under the Common Law. In such applications, apart from making orders for possession, the Tribunal also has power to make orders for the payment of rent, mesne profits, disposal of any property left in the premises by the tenant and payment of damages in respect of any breach of a condition of the tenancy or sub-tenancy.

II) Building management cases

The Tribunal can determine building management disputes such as the interpretation and enforcement of the provisions of the Building Management Ordinance, Cap. 344 and deeds of mutual covenant, the appointment or dissolution of management committee, convening owners' meeting and appointment of administrator.

III) Compensation cases

The Tribunal can determine the amount of compensation payable by the Government to a person whose land has been compulsorily resumed or has suffered a reduction in value because of public developments pursuant to the relevant ordinances.

IV) Compulsory sale cases

The Tribunal can determine applications made by majority owners of a land for the sale of the land for redevelopment purpose under the Land (Compulsory Sale for Redevelopment) Ordinance, Cap. 545.

V) Appeal cases

The Tribunal can determine appeals brought under the following ordinances:

- Rating Ordinance, Cap. 116
- Government Rent (Assessment and Collection) Ordinance, Cap. 515
- Housing Ordinance, Cap. 283

In the exercise of its jurisdiction, the Tribunal has the same powers to grant remedies and reliefs, legal or equitable, as the Court of First Instance of the High Court.

Procedures for Applications and Appeals

I) Application for Possession of Domestic or Non-Domestic Premises

Filing an application

A landlord who wishes to make an application under the Landlord and Tenant (Consolidation) Ordinance, Cap. 7 or under the Common Law, has to file with the Registrar of the Tribunal a notice of application substantially in accordance with Form 22 in order to set out the nature of the application. A filing fee is charged. The applicant should complete the notice of application, either in person or by an authorised person (with letter of authorisation). The notice of application may be completed either in English or Chinese.

For an application based on the termination of a tenancy by a transitional termination notice served pursuant to section 5(2) of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004, Form 22A is used instead of Form 22. Likewise, for an application based on the ground of self-use pursuant to section 7(1) of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004, Form 22B is used.

Service of notice of application

The applicant must serve a copy of the notice of application, which bears the seal of the Tribunal, on the respondent not later than 7 days from the date it was filed.

Service may be effected by delivering the copy to the respondent personally, or by leaving it for him or her at, or sending it by ordinary post to, his last known or usual place of abode or business in Hong

Kong. If there is a letter box for the address for service or for the last known or usual place of abode or business in Hong Kong, it may be effected by enclosing the copy in a sealed envelope addressed to the respondent and inserting it into the letter box. If such service proves unsuccessful, the Tribunal may, on application, order “substituted service”, i.e. state what steps must be taken to bring the notice of application to the attention of the respondent.

The applicant must also post a copy of the notice of application in a conspicuous place on or at the entrance to the subject premises for which the possession order is sought as soon as practicable after the notice of application has been filed. A notice to occupiers informing them about the application should also be posted up in similar manner on 3 consecutive days.

The applicant must file an affirmation or affidavit of service (Form 30) within 3 days from the date of service.

Notice of opposition

A respondent wishing to oppose the application must file with the Registrar a notice of opposition (Form 7) stating the grounds of opposition within 7 days from the date of service of the notice of application. The respondent must also serve a copy of the notice of opposition on the applicant. A filing fee is charged.

Default judgment

Where no notice of opposition has been filed, the applicant may apply to the Tribunal in writing for an order to be made in terms of the application without trial.

Listing for hearing

Where a notice of opposition has been filed, the Registrar shall list the application for hearing as soon as practicable and give notice of the hearing to all parties. The notice shall not be less than 14 clear days or such other period as may be agreed by the parties.

II) Application for Building Management Cases

Filing an application

Form 27 is used to commence an application for an order to convene an owners' meeting to appoint a management committee under section 4 of the Building Management Ordinance, Cap. 344. Such an application is made by the owners of not less than 10% of the shares, or the Secretary for Home Affairs or his authorised officer.

Where an owner, a registered mortgagee, an administrator or the Secretary for Home Affairs or his authorised officer seeks to dissolve a management committee and appoint an administrator or to remove and replace an administrator under section 31 of the Building Management Ordinance, Cap. 344, Form 29 is used.

Form 29 is also used for all applications under Schedule 10 to the Building Management Ordinance, Cap. 344.

Form 27 and Form 29 have to be filed with the Registrar of the Tribunal and served on the respondent.

Service of notice of application

Service of the notice of application may be effected by delivering it to the respondent personally or by leaving it for him or sending it by ordinary post addressed to him at his last known or usual place of abode or business in Hong Kong. If there is a letter box for the address for service or for the last known or usual place of abode or business in Hong Kong, it may be effected by enclosing the copy in a sealed envelope addressed to the respondent and inserting it into the letter box, or in such other manner as the Tribunal may direct.

Notice of opposition

The respondent must, if he wishes to oppose the application, within 21 days from the date of service of the application, file with the Tribunal and serve on the applicant a notice of opposition (Form 7).

Listing for hearing

Where a notice of opposition has been filed, or the time limited for filing has elapsed and no notice of opposition has been filed, any party to the application, on giving notice to all other parties, may apply to the Registrar by way of Form 31 to list the application for hearing.

Case Management and Mediation

On 21st May 2009, the President of the Lands Tribunal issued Direction LTPD: BM No. 1/2009 to streamline the processing of building management cases and to facilitate the more efficient, expeditious and fair disposal of building management cases. With effect from 1st July 2009, unnecessary hearings will be cut down as the Tribunal will give directions on paper without any oral hearing in circumstances

where it is appropriate to do so. Unnecessary interlocutory applications will be discouraged and in appropriate cases, costs sanctions will be imposed. Parties to building management cases are encouraged to make attempts to resolve their differences by mediation, before or after they issue proceedings in the Tribunal.

For more details on case management and mediation, please refer to the President's Direction and Information Leaflet on Case Management and Mediation for Building Management Cases in the Lands Tribunal which are accessible at the Judiciary's website.

III) Application for Determination of Compensation

There are different types of compensation cases. They are governed by different ordinances, such as the Lands Resumption Ordinance, Cap. 124, the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance, Cap. 276 and the Roads (Works, Use and Compensation) Ordinance, Cap. 370. Parties bringing proceedings under these various ordinances should observe the respective rules laid down in these ordinances as well as the respective procedural requirements laid down in the Lands Tribunal Rules, Cap. 17.

IV) Application for Order of Compulsory Sale

Filing an application

A party seeking for an order for sale under section 3(1) of the Land (Compulsory Sale for Redevelopment) Ordinance, Cap. 545 must file with the Registrar of the Tribunal a notice of application substantially in accordance with Form 32.

Service of notice of application

The applicant must cause a copy of the notice of application to be served on each minority owner of the land in question not later than 7 days after it is filed.

The notice of application must also be registered under the Land Registration Ordinance, Cap. 128 not later than 7 days after it is filed.

In addition, the applicant must cause a copy of the notice as specified in Part 2 of Schedule 1 to the Land (Compulsory Sale for Redevelopment) Ordinance, Cap. 545 in the Chinese and English languages to be affixed and published in a Chinese language newspaper and an English language newspaper not later than 7 days after filing of the notice of application.

The applicant must file with the Registrar of the Tribunal an affidavit of service, an affidavit of the registration, an affidavit of affixture and an affidavit of the publication after such actions are effected.

Notice of opposition

The respondent, if he wishes to oppose the application, must file with the Registrar of the Tribunal a notice of opposition and serve a copy of it on the applicant within 21 days of the service of the notice of application on him.

Listing for hearing

The Registrar of the Tribunal shall serve a copy of the notice of hearing on all parties concerned.

V) Appeal Cases under Different Ordinances

There are different types of appeal cases under different ordinances. Parties should observe the requirements under the respective ordinances as well as the relevant requirements in the Lands Tribunal Rules, Cap. 17. The most common appeal cases are brought under the Rating Ordinance, Cap. 116.

Under the Rating Ordinance, appeals may be brought to the Tribunal against the decision on the assessment of rateable value made by the Commissioner of Rating and Valuation. Two kinds of situations give rise to such appeals:

a) Under Section 37 of the Rating Ordinance

Any person not satisfied with the rateable value assessed by the Commissioner in respect of a premises may, within the months of April and May, serve a proposal form on the Commissioner for alteration of the rateable value. Aggrieved persons include owners, occupiers and agents for owners. The Commissioner will give notice of his or her decision, either confirming or varying the original assessment.

b) Under Section 40 of the Rating Ordinance

Any owner or occupier (not any person as under Section 37) aggrieved by the Commissioner's decision on the corrections, deletions, and interim valuations may lodge a notice of objection within 28 days of service on him of such notice of decision. The Commissioner will consider the objection and notify the owner or occupier of his decision, either confirming or reducing the interim valuation.

Any person on whom a notice of the decision has been served by the Commissioner may, within 28 days from the date of such service, appeal to the Tribunal against the decision.

The procedures are briefly stated below:

Filing and serving of appeal

Within 28 days of the service of the Commissioner's notice of decision, the appellant must file with the Registrar of the Tribunal a notice of appeal (Form 19) together with a copy of the Commissioner's decision and serve a copy of the notice of appeal on the Commissioner, who is the respondent in the appeal.

Notice of opposition

Within 21 days from the date of the service of the notice of appeal, the Commissioner may file with the Registrar of the Tribunal and serve on the appellant a notice of opposition (Form 7) if he wishes to oppose the appeal.

Listing of hearing

The appellant must, within 14 days from the date of the service of the notice of opposition, or within 14 days after the time limited for filing the notice of opposition has expired, make an application in writing to the Registrar of the Tribunal for a date to be fixed for the hearing of the appeal, and serve a copy of the application on the Commissioner. If such an application is not made within the time specified, the appeal shall lapse.

If any party is not satisfied with any decision of the Tribunal, the correct and effective step is to apply for review or appeal with the procedures prescribed by the law.

Listing Matters, Adjournments and Withdrawals

In relation to an application other than an application for an order for possession of any premises, where a notice of opposition has been filed, or the time limited for filing has elapsed and no notice of opposition has been filed, any party to the application, on giving notice to all other parties, may apply to the Registrar by way of Form 31 to list the application or appeal for hearing. Payment of filing fee is required. For the application to list for hearing, information has to be given as to the estimated duration of trial and the number of witnesses to be called.

In relation to an application for an order for possession of any premises, where a notice of opposition has been filed, the Registrar shall list the application for hearing as soon as practicable and give notice to all parties. The notice shall be not less than 14 clear days or such other period as may be agreed by the parties.

It should be noted that in the case of rating appeals, government rent appeals and housing appeals, the appeal proceedings will lapse if the application to list for hearing is not made within 14 days of filing of the notice of opposition.

A hearing date will usually be fixed on the earliest available date. If certain dates are not convenient to either party, he or she should inform the listing officer before the hearing date is fixed. The listing

officer will serve notice of hearing on both parties when the hearing date has been fixed. In general, once a hearing date has been fixed, the Tribunal will not change the date to suit the travelling schedule or work arrangements or life style of any party. If a party cannot attend a hearing on a fixed date, he or she may appoint a representative to come to the Tribunal to deal with the case. If it is absolutely necessary to postpone or vacate a hearing date already fixed, either party may apply for a new date by way of Interlocutory Application. Payment of filing fee is required. Parties will have to explain to a Presiding Officer or a Member the reasons for postponement unless the consent of the opposite party is obtained and endorsed on the summons. The application for postponement will be considered and approved by the Presiding Officer or the Member.

If both parties come to terms of settlement, they may jointly apply by way of consent application/summons for the terms of settlement to be made an order of the Tribunal. Alternatively, the applicant or appellant may apply to discontinue his case at any time.

If an applicant wishes to discontinue or withdraw the whole proceedings against the respondent or one or more of the respondents, he or she should file a formal notice of discontinuance duly signed by him at the registry. Payment of filing fee is required. A copy of such notice should be served on the respondent concerned.

Payment of Fees

Court fees are payable for items of documents filed or for service provided as specified in the Schedule to the Lands Tribunal (Fees) Rules. A schedule of usual fees payable is posted up for inspection at outside the Accounts Office. Payment may be in cash, EPS or by cheques, which should be made payable to the Government of Hong Kong Special Administrative Region.

Payment of Awards

Where a party has been ordered to pay money awarded to the other party, unless otherwise directed by the Lands Tribunal, he or she should try to pay the amount awarded together with any costs fixed or agreed direct to the other party and obtain a receipt. If the Tribunal orders that payment must be paid into the Lands Tribunal, he or she should call at the Accounts Office well before the close of business hours. All sums ordered to be paid into the Tribunal must be in cash or by cashier orders issued by a bank of Hong Kong or by a cheque drawn by a solicitors' firm of Hong Kong, which should be made payable to the "Registrar, District Court". Personal cheques are not acceptable.

Statement of Truth

A statement of truth is a statement that the party putting forward the document believes that the facts stated in the document are true; or in the case of a witness statement or expert report believes that the facts stated in the document are true and (if applicable) the opinion expressed in it is honestly held.

The following documents must be verified by a statement of truth in accordance with the provisions of Order 41A of the Rules of the High Court, Cap. 4A:

- (a) Notice of Application/Appeal and the Amended Notice of Application/Appeal;
- (b) Notice of Opposition and the Amended Notice of Opposition;
- (c) Witness Statement;
- (d) Expert Report;
- (e) Statement of Damages and Answer to Statement of Damages; and
- (f) Any other document verification of which is required by order of the Tribunal.

A statement of truth shall be signed by the party or his solicitor personally.

Right of audience

A party may appear and be heard personally or by counsel or a solicitor or by any other person allowed by leave of the Tribunal to appear instead of that party. An application for leave may be made in writing before the hearing or orally at the hearing.

Use of language

The Tribunal may use either Chinese or English or both languages in any proceedings or a part of any proceedings.

Call-over hearing

A case may be listed for call-over hearing or for trial. A call-over hearing is a hearing for directions on how the case should proceed. In simple cases like possession cases, the case may be fixed directly for trial at the first hearing. In appropriate cases, the Tribunal may give directions by letters instead of holding a call-over hearing.

Trial

Generally, trials at the Tribunal are conducted in similar manners like those civil cases at the District Court or the High Court, but can be less formal. Without prejudice to the Tribunal's impartiality, guidance may be given to parties who are not legally represented.

At the hearing, parties may give oral evidence, produce documents in support and call witnesses. After hearing evidence and submissions from both parties, the Tribunal will then make its decision.

Witness summons

A party may apply to the Registrar of the Tribunal by way of Form 3 for a witness summons to be issued. The Registrar will decide whether a witness summons is to be issued or not. Witness summons can be issued to any person requiring him to attend at a time and place to be specified in the summons to give evidence before the Tribunal, or to produce to the Tribunal any documents (particulars of which shall be stated in the summons) in his possession or control.

In order to ensure that the witness summons is served on the witness before the hearing, application for witness summons should be made at least 10 working days before the hearing.

Interlocutory application

Unless the Tribunal otherwise permits, an interlocutory application shall be made in writing by filing with the Registrar an application substantially in accordance with Form 1.

Setting aside default judgment

If a respondent is not satisfied with a court order made under rule 15 of the Lands Tribunal Rules, Cap. 17 for default judgment, where no notice of opposition has been filed, he may apply to set aside the court order by taking out an inter-partes summons as soon as possible. Filing of the said application requires payment of the prescribed fees. The application shall be determined by the Tribunal at the hearing of the inter-partes summons.

Reinstatement of proceedings

If an applicant or an appellant does not appear at the time and place fixed for the hearing, the proceedings may be dismissed by the Tribunal. The applicant or the appellant has to take out an inter-partes summons to reinstate the proceedings within 21 days after the dismissal. Filing of the application requires payment of the prescribed fees.

Review

If you are not satisfied with the Lands Tribunal's decision, you may apply for a review pursuant to section 11A of the Lands Tribunal Ordinance, Cap. 17.

The Tribunal may, **within one month from the date of any decision** by it, decide to review that decision and may set aside, reverse, vary or confirm the decision on such grounds as it may think sufficient. The Tribunal may review a decision on the application of any party or on its own motion, and on notice to all other parties to the proceedings.

On 21 May 2009, the President of the Lands Tribunal issued a Direction LTPD: Review No. 1/2009 to lay down the procedure on review. **With effect from 1 July 2009**, a party seeking review of a decision of the Lands Tribunal should complete and file an Application for Review, a copy of which can be obtained from the Lands Tribunal Registry. The Application for Review must be supported by an affidavit or affirmation stating all the grounds of the review. The Application for Review and the supporting affidavit or affirmation must be filed with the Registrar and served by the party making the application on all

the other interested parties **not less than 5 working days (excluding Saturdays)** before the end of the one-month period stipulated in section 11A(1) as aforesaid, and the party making the review application must file an affidavit or affirmation of service within **3 working days (excluding Saturdays)** after the service. After receiving the Application for Review and the supporting affidavit or affirmation, the other parties must file and serve their written submission in response to the review application **within 3 working days (excluding Saturdays)**, failing which the Tribunal shall decide whether there should be a review by considering the supporting affidavit or affirmation of the party making the review application only. Unless otherwise ordered by the Tribunal, the Tribunal shall decide whether to entertain the review on papers without a hearing.

If the Tribunal decides to entertain the review, a hearing date will be fixed to hear the parties before the Tribunal exercises its power of review. All the parties concerned will then be notified by the Registrar to attend the hearing accordingly. If the Tribunal decides not to review its decision, the Registrar shall give written notice of the Tribunal's decision to the parties accordingly.

The Tribunal shall not exercise its power of review in respect of a decision if the decision has already been the subject of a review or the decision is a decision setting aside, reversing, varying or confirming another decision of the Tribunal under section 11A of the Lands Tribunal Ordinance, Cap. 17; or subsequent to the commencement of proceedings by any party with a view to questioning the decision, by way of appeal or otherwise, unless such proceedings have been abandoned.

An application for review shall not operate as a stay of execution of a judgment, order or decision unless the Tribunal orders otherwise.

Appeal

Any party to the proceedings before the Tribunal may appeal to the Court of Appeal against a judgment, order or decision of the Tribunal on the ground that such judgment, order or decision is erroneous in point of law. Thus, no appeal will be entertained if it concerns with factual issues only. A party wishing to lodge an appeal must apply to the Presiding Officer or Member of the Tribunal for leave to appeal first.

If the appeal is in respect of an interlocutory judgment, order or decision, the application to the Tribunal for leave to appeal must be made within 14 days from the date of the interlocutory judgment, order or decision; otherwise, the application must be made within 28 days from the date of the judgment, order or decision in respect of which leave to appeal is sought. An application for leave to appeal must be made inter partes if the proceedings to which the judgment, order or decision relates are inter partes. Application for leave to appeal should be made by way of filing and serving Form 1 and a supporting affidavit or affirmation setting out the grounds of appeal and the reasons in support of such grounds.

Where the Tribunal refuses the application, a further application for leave to appeal may be made to the Court of Appeal within 14 days from the date of refusal.

When leave to appeal is granted, a notice of appeal must be served

on the Tribunal and all parties to the proceedings within 7 days from the date on which leave to appeal is granted.

The appellant must also produce to the Registrar of the High Court a copy of the sealed judgment or order of the Tribunal and a copy of the reasoned decision (if any) as well as 2 copies of the notice of appeal within 7 days after service of the notice of appeal.

The Tribunal or the Court of Appeal may, at any time, and notwithstanding that the time for an appeal or an application for leave to appeal may have already expired, extend the time for the appeal or for applying for leave to appeal.

An application for leave to appeal or an appeal shall not operate as a stay of execution of a judgment, order or decision unless the Tribunal or the Court of Appeal orders otherwise.

Enquiries may be made at the Clerk of Court's Office, G/F, High Court Building, 38 Queensway, Hong Kong (Tel: 2825 4643).

Appeal against Registrar's Decision

According to section 11AA of the Lands Tribunal Ordinance, Cap. 17 and rule 30A of the Rules of the Lands Tribunal, Cap. 17, an appeal lies as of right to a Presiding Officer from a judgment, order or decision of a registrar, irrespective of whether the judgment, order or decision was given or made on the basis of written submissions only or after hearing. The appeal must be brought by serving on every other party to the proceedings a notice in the form specified by the Tribunal, requiring the party on whom the notice is served to attend before the

Presiding Officer on a day specified in the notice or on such other day as may be directed.

Unless the Tribunal otherwise orders, the notice must be filed with the Registrar of the Tribunal within 14 days after the judgment, order or decision appealed against was given or made and must be served within 5 days after filing.

Except so far as the Tribunal may otherwise direct, an appeal under rule 30A of the Lands Tribunal Rules, Cap. 17 does not operate as a stay of the proceedings in which the appeal is brought.

Taxation of Costs

Where the Lands Tribunal has made an award of costs, the bill of costs in respect of such costs shall be filed:

- (1) in the High Court if the Tribunal has ordered that all or part of such costs are to be taxed on the High Court scale;
- (2) in the District Court if the Tribunal has ordered that such costs are to be taxed on the District Court scale;
- (3) in the Lands Tribunal for provisional taxation by the Chief Judicial Clerk (“CJC”) if the amount of the bill of costs is under \$200,000.

For more details on the procedures for taxation of costs, please refer to the Leaflet “What is taxation of costs” which can be obtained at the Resource Centre for Unrepresented Litigants in the High Court or downloaded from the Judiciary’s website at rcul.judiciary.gov.hk.

Enquiry on Procedures

Staff of the Lands Tribunal can only explain the general procedures to lodge an application or appeal and the statutory pre-requisite formalities, if any, to be completed before commencement of proceedings or thereafter. As they are not professionally qualified, and in order to maintain neutrality of the Lands Tribunal, the staff are ordered not to give legal advice to any party.

For advice on tenancy matters arising from the Landlord and Tenant (Consolidation) Ordinance, Cap. 7 and the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004, please consult Rent Officers of the Rating and Valuation Department at 2150 8229.

For legal advice on liabilities, merits, validity of documents, etc., please consult your own solicitor or the lawyers on duty in designated district offices under the Duty Lawyer Scheme. For enquiries, please call the Central Telephone Enquiry Centre of the Home Affairs Department at 2835 2500.

Enforcement of Tribunal Orders

After a party has obtained from the Tribunal an order for possession, recovery of arrears of rent or costs and when the other party fails to comply with the order, the successful party may apply to the Tribunal for an appropriate writ of execution. He may request the bailiff to execute the writ in order to recover possession of the premises or debt from the judgment debtor. Please refer to the “Bailiff Section” booklet for further details.

There is no guarantee that a party can recover in full or in part the judgment sums or even the costs of execution incurred or to be incurred with the bailiff. It all depends on whether there are valuable assets to be possessed by the bailiff. Parties should consider the chances of recovery and the expenses that would be incurred for the bailiff's actions.

Bailiffs are authorized to:

- (1) seize goods and chattels at value equivalent to the judgment debts plus incidental expenses of the execution; and
- (2) repossess suit premises.

You can apply for an appropriate Writ of Execution depending on the nature of the order concerned.

I) Writs of Executions

To enforce an order for possession, the Applicant shall, after filing the Notice of Application with the Registrar and posting up a copy of the Notice of Application in a conspicuous place on or at the entrance of the suit premises, at the same time also post up a copy of the Notice to Persons In Actual Possession/Occupation in a conspicuous place at the main door or entrance of the subject premises on 3 successive days. If the Applicant has not done this procedure, after obtaining a judgment/order for possession from the Tribunal, he has to post up a Notice of the judgment addressed to the Respondent and all persons in actual possession of the suit premises at the main door or entrance to the premises on 3 successive days. The notice requires occupants to move out by a date stated therein. After 4

working days counting from the last day of posting up the Notice, the Applicant may apply by way of affidavit to the Tribunal to issue a writ of possession against the Respondent and all persons remaining in the premises. Payment of fees is required.

Where an order for possession has been granted on the ground of non-payment of rent only, the Respondent may be granted relief for a period of not less than 1 week to pay all the arrears of rent and costs. Where relief has been given, and if all arrears of rent and costs ordered to be paid are paid into the Lands Tribunal on or before the relief expiration date, the Respondent is relieved from the forfeiture incurred and the lease of the suit premises is reinstated. The order for possession of the suit premises will become invalid. The Tribunal has power to extend the relief period for payment upon application by the Respondent. If the Respondent fails to pay all the arrears of rent and costs within the time allowed and fails to move out, the Applicant may apply to the Tribunal by way of affidavit to issue a writ of possession against the Respondent and all persons remaining in the premises and enforce the order issued by the Tribunal.

To enforce monetary awards outstanding by the bailiff, the winning party may file in an application for the issue of a writ of fieri facias. To recover both possession and any monetary award outstanding, it is necessary to apply for the issue of a writ of possession and fieri facias combined. Payment of filing fee is required.

For further information on the service provided by the Bailiff Section, please call the Interactive Voice Response System of the Bailiff Section at 2802 7510.

II) Payment of deposits to cover the bailiff's expenses

In addition to filing fees, it is necessary to pay deposits into the Lands Tribunal to cover the Bailiff's expenses and the cost of security guards. The amount of deposit varies according to the nature of executions.

After completion of the execution or discontinuance of the execution by the Applicant, the Applicant should write to the Bailiff Section asking for the refund of balance of the deposit to him.

There is no guarantee that the Applicant can recover in full or in part the arrears of rent, sums adjudicated or even the costs of execution incurred with the Court Bailiff. It all depends on the results of execution of the Writ of Fieri Facias by the Court Bailiff. Please decide on the mode(s) of execution after considering the chance of recovery and the expenses that would be incurred for the Bailiff's actions.

For details about execution by the bailiff, please refer to the pamphlet on Bailiff's service available from the Lands Tribunal Registry or make enquiries with the Bailiff Section by calling the Interactive Voice Response System of the Bailiff Section at 2802 7510.

III) Stay of Execution of Writ of Possession

The Respondent wishing to apply for an order for stay of execution of the Writ of Possession may do so by filing an inter-partes summons with the Lands Tribunal Registry and serving a copy on the Applicant. In case of urgency, application for interim stay must be made by an ex-parte summons. Filing fees are payable.

Forms

All the statutory forms mentioned above can be obtained from Enquiry Counter of the Tribunal.

Performance pledge

Waiting time from setting down of a case to hearing in respect of:

- possession cases: 60 days
- building management cases: 100 days
- compensation cases: 100 days
- appeal cases: 100 days

Wherever possible, the Judiciary will reply at once to correspondence from members of the public. In any case, an interim reply will be given within 10 days and a full response within 30 days of receiving a letter.

All comments and suggestions for improving the Tribunal's services are welcome. Please send them to the Judiciary Administrator at the High Court, 38 Queensway, Hong Kong.

How to Contact Us

Address: 38, Gascoigne Road, Yau Ma Tei, Kowloon

Hotline: 2771 3034

Facsimile: 2384 4896 / 2384 4901

Business Hours of the Registry and Accounts Office

Monday to Friday 9:00 a.m. to 1:00 p.m.
 2:00 p.m. to 5:00 p.m.
Saturday 9:00 a.m. to 12:00 noon
(Closed on Sundays and Public Holidays)

Arrangements of the Lands Tribunal in case of bad weather

- (i) Please take notice of the announcements of the Judiciary through radio, television or other media. You may also call the Lands Tribunal Registry at Tel. No. 2771 3034 during office hours to enquire about the arrangements.
- (ii) Please refer to Appendix 1 of this publication for the arrangements operative from 14 March 2011.
- (iii) Please refer to Typhoon and Rainstorm Warning Arrangements in the Judiciary Website.
(http://www.judiciary.gov.hk/en/crt_services/business_hours_typhoon.htm#typhoon_warning)

Judiciary
February 2012
(8th Edition)

Typhoon and Rainstorm Warning Arrangements [with effect from 14 March, 2011]

When Tropical Cyclone Signal No. 8 or above is issued

In general, the Courts/Tribunals would have the hearings adjourned when Tropical Cyclone Signal No. 8 or above is issued, and the court/tribunal registries and offices will also be closed.

When Black Rainstorm Warning Signal is issued

In general, the Courts/Tribunals would have the hearings adjourned when a black rainstorm warning signal is issued before office opening hour, and the court/tribunal registries and offices will also be closed.

If such signal is issued during office hours, the Courts/Tribunals would have the hearings adjourned but the court/tribunal registries and offices will remain open.

When Tropical Cyclone Signal No. 8 or above or Black Rainstorm Warning Signal is lowered or cancelled

Resumption of Court Proceedings

If the signal is lowered or cancelled at or before 6:00 a.m. on Monday to Friday and Saturday, the Courts/Tribunals will resume hearing at the usual time in the morning.

If the signal is lowered or cancelled between 6:00 a.m. and 11:00 a.m. or at 11:00 a.m. on Monday to Friday, the Courts/Tribunals will resume hearing at 2:30 p.m. So, if you are supposed to attend Court/Tribunal that morning, you are required to attend Court/Tribunal for the hearing at 2:30 p.m. on that day.

If the signal is lowered or cancelled after 11:00 a.m. on Monday to Friday or after 6:00 a.m. on a Saturday, hearings of the Courts/Tribunals will remain adjourned for the whole day. If you are supposed to attend Court/Tribunal on that day, you are required to attend Court/Tribunal at 9:30 a.m. the next day which is not a public holiday.

If the date on which the hearing of the Courts/Tribunals remains adjourned for the whole day is a Friday and if you are supposed to attend Court/Tribunal on that day, you are required to attend Court/Tribunal at 9:30 a.m. the next day, that is a Saturday, which is not a public holiday.

Re-opening of Court/Tribunal Registries and Offices

If the signal is lowered or cancelled at or before 6:00 a.m. on Monday to Friday and Saturday, the court/tribunal registries and offices will be opened as usual in the morning.

If the signal is lowered or cancelled between 6:00 a.m. and 11:00 a.m. or at 11:00 a.m. on Monday to Friday, the court/tribunal registries and offices will be re-opened at the usual time in the afternoon.

If the signal is lowered or cancelled after 11:00 a.m. on Monday to Friday, subject to the circumstances prevailing at the time, the court/tribunal registries and offices may be re-opened in the afternoon as soon as practicable. However, the court/tribunal registries and offices will remain closed for the whole day if such signal is lowered or cancelled 2 hours or less before the normal closing hour on Monday to Friday.

The court/tribunal registries and offices will remain closed if such gale or rainstorm warning signal is lowered or cancelled after 6:00 a.m. on Saturday.