

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.

Sample
Standard Application Form for Lease Modification/Waiver 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 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 District Lands Office.
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.

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 Lease Modification/Waiver* to modify/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 pre-clearance survey: _____).]*

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

- a. a certified true copy or copies of the Deed Register/Record of Owner(s) showing the nature of instruments and memorial numbers of all documents registered against 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. a certified true copy or copies of the Lease or the New Grant or the Conditions (including all modifications and attachments thereto) in respect of the subject Lot / Premises;
- d. One photocopy of the applicant(s) Business Registration Certificate (if applicable);
- e. Planning Approval from the Town Planning Board (if any); and
- f. (Building plans/Site formation plans/Drainage plans)* of the proposal (if any); and
- g. 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 hereby expressly warrant and declare that the above information provided in support of my/our application is correct and genuine and I/we expressly acknowledge that I am/we are aware and accept that the Lease Modification/Waiver* applied for will be made on the basis of the information supplied by me/us and will be immediately cancelled in the event such information is found to be false or misleading.

I/We further expressly acknowledge that the personal data provided by me/us in this Lease Modification/Waiver* Application Form will be used by the Lands Department in connection with the processing of my/our said application. The provision of any personal data requested in the application form is voluntary. I/We understand that if I/we do not provide sufficient information, Lands Department may not be able to process my/our application.

I/We hereby authorize the Lands Department to disclose my/our personal data in the application form 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.

**Delete as appropriate*

Applicant(s)'s Signature : _____
(H.K.I.D. Card Number(s) : _____)
Name of Applicant(s) in
Block Letters : _____
Address : _____

Telephone Number : _____
Date : _____