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ESTATE AGENTS ACT 2010
(ACT 25 OF 2010)

ESTATE AGENTS (APPEALS)
RULES 2010

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In exercise of the powers conferred by section 62 of the Estate Agents Act 2010, the Minister for National Development hereby makes the following Rules:

PART I

PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Estate Agents (Appeals) Rules 2010 and shall come into operation on 1st November 2010.

Definitions

2. In these Rules, unless the context otherwise requires —

“appeal” means an appeal under section 59 of the Act;

“Appeals Board committee” means the committee of the Appeals Board constituted under section 58(9) of the Act to consider and determine an appeal;

“appellant” means any person who lodges an appeal under section 59 of the Act;

“Chairman of the Appeals Board” means the person appointed by the Minister under section 57(2)(a)(i) of the Act;

“committee chairman” means the person presiding the proceedings of a committee of the Appeals Board under section 58(11) or (12) of the Act;

“Council’s website” means the Internet website of the Council which is accessible at <http://www.cea.gov.sg>;

“decision” means —

- (a) any decision of the Council or a Disciplinary Committee; or
- (b) where the Council or Disciplinary Committee has reconsidered the matter, on application made in writing within 14 days of its original decision, the decision on such reconsideration,

which is being appealed against under section 59 of the Act;

“member”, in relation to an Appeals Board committee, means any member of the Appeals Board committee and includes the chairman so presiding;

“party”, in relation to an appeal, means the appellant or respondent;

“prescribed fee” means the fee prescribed under rule 3(2)(d)(i);

“respondent” means the Council, whether the decision appealed against is a decision of the Council or a Disciplinary Committee;

“secretary” means any secretary to the Appeals Board appointed by the Minister under section 57 of the Act.

PART II

COMMENCING APPEALS

Notice of appeal

3.—(1) For the purposes of section 59(2) of the Act, an appeal to the Appeals Board shall be made by lodging a notice of appeal in accordance with paragraph (2) and a petition of appeal in accordance with paragraphs (3) and (4).

(2) A notice of appeal —

- (a) must be lodged within a period of 14 days after the appellant is notified of the decision appealed against, whether that notification was in person (where the appellant or his solicitor was present before the Council or Disciplinary Committee) or in writing, as the case may be;
- (b) must state the name and address of the appellant and an address in Singapore for the service of documents;

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- (c) must be signed and dated by the appellant; and
 - (d) must be accompanied by —
 - (i) a non-refundable fee of \$1,000; and
 - (ii) a summary of the grounds for appealing against the decision.

(3) Every petition of appeal —

- (a) must be lodged within a period of 21 days after the time limited for lodging the notice of appeal under paragraph (2);
- (b) must state the name and address of the appellant and an address in Singapore for the service of documents;
- (c) must contain —
 - (i) a concise statement of the circumstances under which the appeal arises, the facts and the issues in the appeal; and
 - (ii) a succinct presentation of the arguments of fact or law based upon the grounds for appealing against the decision as summarised in the notice of appeal;
- (d) must be signed and dated by the appellant; and
- (e) must be accompanied by —
 - (i) a copy of the decision appealed against;
 - (ii) any documents supporting the grounds of the appeal; and
 - (iii) any documents supporting the arguments of fact or law.

(4) Unless the Appeals Board committee otherwise directs, the appellant must lodge the duly signed original of the notice of appeal and petition of appeal and its accompanying documents with the Appeals Board together with 6 copies thereof.

(5) An appellant cannot raise or rely on any ground of appeal which is not stated in the notice of appeal or petition of appeal during the hearing of the appeal unless the appellant has permission to amend his petition of appeal to include that ground.

(6) On receiving the notice of appeal and petition of appeal, the secretary must forward a copy thereof to the respondent concerned.

Amendment of petition of appeal

4.—(1) The appellant may, with the permission of the Appeals Board committee, amend his petition of appeal.

(2) Where the Appeals Board committee grants permission under paragraph (1), it may do so on such terms or conditions as it thinks fit to impose, and the Appeals Board committee shall give such further or consequential directions as it may consider necessary.

(3) No permission to amend a petition of appeal in order to add a new ground of appeal shall be granted unless the Appeals Board committee is satisfied that it is just to do so.

Summary disposal of appeal

5.—(1) Where the only parties to an appeal are an appellant and the respondent, the Appeals Board committee may, after giving the parties an opportunity to be heard, at any stage in the appeal proceedings and without calling for a response from the respondent, determine the appeal by confirming the decision appealed against if —

- (a) the Appeals Board committee considers that the notice of appeal and petition of appeal disclose no valid ground of appeal; or
- (b) the Appeals Board committee considers that the appellant is not a person entitled to appeal under section 59 of the Act.

(2) Where the Appeals Board committee determines an appeal under paragraph (1), it may make such consequential order as it considers appropriate.

Constitution of committee of Appeals Board

6.—(1) Upon the receipt of a notice of appeal and the prescribed fee, the secretary shall constitute a committee of the Appeals Board on the instruction or nomination of the Chairman of the Appeals Board.

(2) The secretary shall notify every party to the appeal of the constitution of the committee of the Appeals Board.

(3) Any party who objects to any member of the committee shall, within 7 days after receiving the notification under paragraph (2), lodge with the secretary his grounds of objection.

(4) The Chairman of the Appeals Board may require the party who lodges an objection to furnish him, through the secretary, with such further information or documents in relation to the objection as he deems necessary or relevant.

(5) The secretary shall inform every party —

- (a) of the decision of the Chairman of the Appeals Board to allow or disallow the objection; and
- (b) if the objection is allowed, of the replacement made and the constitution of the new committee.

(6) Where no objection is lodged with the secretary within the period mentioned in paragraph (3), the secretary shall notify the parties accordingly.

PART III

RESPONSE AND ANSWER

Response and answer

7.—(1) The respondent must file with the Appeals Board a response within a period of 21 days after receiving a copy of the petition of appeal from the secretary.

(2) The response —

- (a) must state the name and address of the respondent and an address in Singapore for the service of documents;
- (b) must contain a succinct presentation of the arguments of fact or law upon which the respondent will rely in responding to each ground of appeal; and
- (c) must be signed and dated by a duly authorised officer of the respondent.

(3) To file a response, the respondent must send the duly signed original of the response and its accompanying documents to the secretary together with 6 copies thereof.

(4) On receiving the response, the secretary must forward a copy to the appellant who shall file with the secretary an answer thereto within a period of 21 days after receiving a copy of the response from the secretary.

(5) The answer —

(a) must contain a succinct presentation of the arguments of fact or law upon which the appellant will rely in replying to the response; and

(b) must be signed and dated by the appellant.

(6) To file the answer, the appellant must lodge the duly signed original of the answer and its accompanying documents with the secretary together with 6 copies thereof.

(7) On receiving the answer, the secretary must forward a copy thereof to the respondent.

Amendment of response or answer

8.—(1) The respondent or appellant may, with the permission of the Appeals Board committee, amend the response or answer filed by the respondent or appellant, as the case may be.

(2) Where the Appeals Board committee grants permission under paragraph (1), it may do so on such terms or conditions as it thinks fit to impose, and shall give such further or consequential directions as it may consider necessary.

(3) No permission to amend a response or an answer will be granted unless the Appeals Board committee is satisfied that it is just to do so.

PART IV

HEARING AND CASE MANAGEMENT

Orders and directions

9.—(1) The Appeals Board committee may, on its own motion or on the application of any party, direct the parties to attend a pre-hearing conference before the Appeals Board committee at which such orders or directions may be given as the Appeals Board committee deems fit for the just, expeditious and economical disposal of the appeal.

(2) The Appeals Board committee may also give such orders or directions as are referred to in paragraph (1) by letter served on the parties.

(3) If any party fails to comply with any provision of or any order or direction made in accordance with these Rules, the Appeals Board

committee may in its discretion draw such inference from the failure as it considers appropriate and proceed with the determination or hearing of the appeal.

Consolidation

- 10.** Where 2 or more appeals are pending and it appears that —
- (a) some common question of law or fact arises in both or all of them; or
 - (b) the appeals arise out of the same transaction or series of transactions,

the Appeals Board committee may, on its own motion or on the application of any party, order such appeals to be consolidated or give such directions regarding the hearing of such appeals as it deems fit.

Determination of appeals

11.—(1) In any appeal against a decision of the Council, the Appeals Board committee may —

- (a) make an order or direction for any or all evidence relied upon by the appellant to be confirmed by a statutory declaration by a specific time, and in the event of non-compliance with such order or direction, the Appeals Board committee may disregard such evidence that has not been so confirmed;
- (b) make such other orders or directions as it deems fit; and
- (c) either —
 - (i) summarily determine the appeal after considering the documents and evidence submitted by the parties under these Rules (or on its order or direction) without requiring the attendance of the parties at a hearing; or
 - (ii) conduct a hearing in such manner as the Appeals Board committee deems fit.

(2) In any appeal against a decision of a Disciplinary Committee, a hearing shall be held and conducted in such manner as the Appeals Board committee deems fit.

(3) In any appeal, the appellant shall not tender any new evidence which was not provided to the Council or Disciplinary Committee, as the case may be, unless the Appeals Board committee is satisfied that the new evidence could not have been obtained with reasonable

diligence for provision to the Council or Disciplinary Committee and there are special grounds to admit such evidence.

(4) If the appellant fails to appear at the hearing of the appeal, the Appeals Board committee may, if satisfied that the appellant was duly notified of the hearing date, treat the appeal as withdrawn but may reopen the matter and reschedule the hearing of the appeal if it is just to do so.

(5) The Appeals Board committee may, after having regard to the submissions of the appellant and respondent, determine the appeal by confirming the decision of the Council or Disciplinary Committee, as the case may be, if the Appeals Board committee considers that there is no valid ground of appeal.

(6) Where the Appeals Board committee determines an appeal or an application related thereto, or where an appeal or an application related thereto is withdrawn or deemed to be withdrawn, it may make such consequential orders in respect of costs or otherwise as it considers appropriate.

(7) The Appeals Board committee shall record in writing its decision and shall state the reasons for its decision.

Withdrawal of appeal

12.—(1) An appellant may, at any time before the Appeals Board committee makes its decision in respect of the appeal, withdraw the appeal by serving on the secretary a written notice to that effect.

(2) Where an appellant fails to lodge his petition of appeal within the period specified in rule 3(3)(a) or such extended period as the Appeals Board committee may allow, the appeal shall be deemed to be withdrawn.

(3) The secretary shall, as soon as practicable, notify the respondent of any appeal that is withdrawn or deemed to be withdrawn under these Rules.

Adjournments

13. The Appeals Board committee may, of its own motion or upon the application of any party, postpone or adjourn any meeting or hearing, on such terms as it deems fit.

Secretary to Appeals Board

14.—(1) The secretary shall provide administrative and secretarial support to the Appeals Board in the discharge of its duty under the Act.

(2) The secretary shall act in accordance with such instructions as may be given by the Chairman of the Appeals Board from time to time and shall, in particular, be responsible for —

- (a) the acceptance, transmission, service and custody of documents in accordance with these Rules;
- (b) the establishment and maintenance of a list of all notices of appeal lodged with the Appeals Board; and
- (c) the keeping of a record of the proceedings of the Appeals Board in such form as the Chairman of the Appeals Board may direct and procuring the committee chairman's signature on the record of proceedings.

Form and manner of application or lodgment of documents

15.—(1) Every application made to, and every document lodged with or issued by, the Appeals Board or the secretary shall be in such form as the Chairman of the Appeals Board may from time to time approve and cause to be published on the Council's website.

(2) The Chairman of the Appeals Board may modify any form to be used in an appeal from time to time or in any particular case.

(3) Every application or document submitted to the Appeals Board shall be lodged with the secretary.

(4) Facts in support of, or in opposing, an application shall be adduced by affidavit.

Extension of time and waiver of requirements

16.—(1) Subject to paragraph (3), the Appeals Board committee may extend the period prescribed by these Rules or stipulated in any order or direction of the Appeals Board committee —

- (a) for lodging any document; or
- (b) for doing anything,

on such terms as it deems fit, notwithstanding that the application for extension is made after the expiration of that period.

(2) The Appeals Board committee may waive on such terms as it deems fit any of the other requirements under these Rules if it is just to do so.

(3) The Appeals Board committee may, in any particular case, extend the period for filing a notice of appeal or petition of appeal only if satisfied that by reason of exceptional circumstances, it is just to do so.

PART V MISCELLANEOUS

Confidentiality

17.—(1) Subject to paragraph (2), no person shall, unless authorised by the Appeals Board committee, disclose any information, document or evidence (whether oral or documentary) tendered or produced in connection with the appeal to any other person, except to the secretary, a member of the Appeals Board, the appellant or the respondent.

(2) Paragraph (1) shall not apply to the disclosure of any information, document or evidence, or any part thereof —

- (a) by the person who tendered or produced such information, document or evidence;
- (b) which is in the public domain;
- (c) for the purpose of publication in the register under the Act;
or
- (d) by the Council in the performance of its duties under the Act.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Irregularities

18.—(1) Subject to these Rules, any irregularity resulting from a failure to comply with any provision of these Rules or any order or direction of the Appeals Board committee before the Appeals Board committee has reached its decision shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Appeals Board committee, it may give such directions or order as it thinks just to cure, waive, set aside or strike out any document or act or otherwise deal with the irregularity before reaching its decision if it considers that any person may have been affected or prejudiced by the irregularity and on such terms as it deems fit.

(3) The following may be corrected at any time by the committee chairman by certificate under his hand:

- (a) clerical mistakes in any document recording any appeal proceedings, any decision, order or direction and any other document issued by the Appeals Board committee; or
- (b) errors arising in such a document from an accidental slip or omission.

Made this 26th day of October 2010.

TAN TEE HOW
Permanent Secretary,
Ministry of National Development,
Singapore.

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