

Memorandum for Cabinet by the Hon. Minister of Works
and Housing

Deeds of Emphyteutical Grant

The question has arisen as to which Head of Department, that is whether the Commissioner of Land or the Director of Public Works, should approve general layout, plans, elevations, sections and specifications of buildings, including hotels, to be put up on Government owned land given in emphyteusis.

Since the Land Department was put in being the authority to approve plans, etc. of buildings in terms of the deed of emphyteusis, has been assumed by the Commissioner of Land and provision is made accordingly in the deed of emphyteusis.

The main reasons why this authority has been assumed by the Commissioner of Land appear to be the following;

(a) the Commissioner of Land is the manager of all Government land and he cannot, therefore, be exonerated from the responsibility of approving the plans;

(b) the Commissioner of Land has the professional and technical staff in his department to enable him to discharge this responsibility, and that he should therefore have the final say after taking the best advice available to him;

(c) the Commissioner of Land is responsible for the functions previously performed by the Director of Public Works for the Treasury, the Notary to Government and for the other Government Departments in so far as Land matters are concerned;

(d) the Land Department was specifically set up to centralize and consolidate responsibility for all land matters.

On the other hand the case for the authority to approve plans, elevations, specifications, etc. to be re-vested in the Director of Public Works is based on the following arguments:-

(a) the Public Works Department is by far the better equipped in professional and technical staff to scrutinize the plans and other documents submitted to Government by the emphyteuta in terms of the deed;

(b) the Director of Public Works has always been the adviser to Government in all matters affecting buildings, not merely from the aspect of structural stability but also in regard to general treatment;

(c) under the set up recently in force the Commissioner of Land approves the plans, etc., in terms of the deed of emphyteusis and the Director of Public Works in terms of the deed of financial assistance in that order. It has since been decided that the deed of emphyteutical grant should be entered into after the deed of financial grant and after the investors have shown conclusively that they intend to embark upon the project in earnest. This means

/that the plans

that the plans will have to be approved in the first place by the Public Works in terms of the deed of financial assistance and subsequently by the Land Department in terms of the deed of emphyteusis. That there should be two Head of Departments charged with the responsibility to approve the same set of plans is illogical and incongruous;

(d) plans submitted by the lessees must in terms of the law be approved by the Aesthetics Board and also by the Sanitary Engineering Officer of the Public Works after he gets the clearance of the General Services Board of the Medical and Health on any points of departure from the Sanitary Laws and Regulations. It has always been the practice of the Public Works to consult these two bodies before the plans are approved and this is another argument brought forward why the plans should be approved by the Director of Public Works and not the Commissioner of Land.

The decision of the Cabinet is required whether the responsibility to approve plans etc. in terms of the deed of emphyteusis should be re-vested in the Director of Public Works or retained by the Commissioner of Land.

Closely linked with the above is the question whether the Director of Public Works, who amongst other things, is responsible for town planning and for the design and construction of roads and sewers, should not be brought more into the picture before decisions are taken about the locality and extent of the land to be given on lease. There were instances recently of land being given to investors without the matter having been referred to the Director of Public Works.

16th December, 1965.

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