

Landlord and Tenant (Consolidation) Ordinance  
Demolished Buildings (Redevelopment of Sites) Ordinance

1. Validity of Approved Plans

1.1 Approved plans forming the basis of an Exclusion Order under the Landlord & Tenant (Consolidation) Ordinance are normally excluded by Section 16(3A) of the Buildings Ordinance from the application of Section 16(3)(d).

1.2 Although there is no specific legislative backing, the analogy with Redevelopment Orders under the Demolished Buildings (Redevelopment of Sites) Ordinance is obvious: the position taken by the Building Authority for such cases is that consent applied for after more than two years is given if it is still practical for the work to be completed within the R.O. period and any extension likely to be granted because of justifying circumstances.

2. 'Material Variation'

2.1 When B.O.O. receives amending plans or substitution plans for a project affected by an Exclusion Order made under the Landlord and Tenant (Consolidation) Ordinance it will proceed with their processing in the ordinary way.

2.2 If the plans show:-

- (a) a reduction in floor space of more than 10%; or
- (b) a change in use of any part of the new building or
- (c) the involvement of premises still subject to the Landlord and Tenant (Consolidation) Ordinance (by extension of the project, for example),

a 'material variation' is deemed to have been made and the Authorised Person (or his client's solicitors) must apply to the Lands Tribunal (Registrar, Lands Tribunal, Bank of America Tower, 26/F., 12 Harcourt Road, H.K.) for an amending Exclusion Order to be made. Any approval given by the Building Authority is confined to compliance with the Buildings Ordinance and does not imply acceptance of the plans in relation to the Landlord and Tenant (Consolidation) Ordinance. A reference to this Practice Note will be attached to any approval of plans which show a 'material variation'.

3. Penalty Free Extensions

3.1 In the case of delays which prevent the commencement of building works by the date laid down by an Exclusion Order, the Building Authority has power to grant extensions of commencement time. Examples of delays which are accepted by the Building Authority as being beyond the control of the landlord are:-

- (a) Refusal to give consent to commence demolition works.
- (b) Inability on the part of the building owner to obtain entry to adjacent property to construct adequate shoring as required by the Building Authority.

/(c) .....

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- (c) Inability to obtain vacant possession, subject to the applicant satisfying the Building Authority that he has commenced legal proceedings and that he is pursuing such proceedings with due diligence.

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Ref. BDD(B) GP/LEG/10

Issued Dec 1974  
Rewritten Dec 1983  
Amended Jan 1986

Index under : B.O. Sect. 16(3A) - Approved Plans  
Exclusion Orders  
Redevelopment Orders  
Landlord & Tenant (Consolidation) Ordinance, CAP 7  
Demolished Buildings (Redevelopment of Sites) Ordinance, CAP 337