

Public Circulation

Draft Bermuda Plan 2008 Tribunal

Background

The Tribunal is a panel setup under the Section 78, Rules, of the Development & Planning Act 1974 and in accordance with the Development and Planning (Tribunal Procedure) rules 1992 to review objections and representations and make recommendations to the Minister of the Environment & Sports on a development plan.

Tribunal

The Tribunal is made-up of three (3) individuals (Mr. Bruce Perinchief, Mrs. Janet Smith Bradshaw and Mrs. Cheryl Wade) and two (2) alternates (Messer Henry Ming and Germano Botelho). The members are appointed by the Minister of the Environment & Sports to hear objections to the Draft Bermuda Plan 2008 and to make recommendations on the Plan. The Tribunal has as its own support staff, a technical officer and administrative assistant.

The Tribunal prepares procedural rules for the inquiry/hearing, to ensure that the proceedings are carried out in an orderly and timely manner. The Chairperson will conduct the Tribunal proceedings in accordance with the Development and Planning (Tribunal Procedural) Rules 1992.

Tribunal

All objections and representations on the Draft Bermuda Plan 2008, including withdrawn and invalid objections, are considered by the Tribunal;

1. Resolved Zoning and Policy Objections

If a resolution is reached between the Director and the objector, the objection is then advertised in the official Gazette and on the Department of Planning website www.planning.gov.bm.

Resolved objections are presented to the Tribunal. These objections are those the Tribunal should accept. The Tribunal will receive the Department of Planning reports and recommendations on the resolved objections prior to the inquiry. The Chairperson at the inquiry will advise that the objections were advertised and this is the final opportunity to submit written submissions (counter objections). The Chairperson will further advise that the Tribunal will consider the objections and counter objections after the inquiry hearing. For a limited number of objections the Tribunal may hold a hearing before making a recommendation. The Tribunal recommendations will be forwarded to the Minister.

2. Unresolved Zoning and Policy Objections

If the Director and the objector cannot reach a resolution then the objection is presented at a Tribunal inquiry/hearing. The objection is advertised in the official Gazette and posted on the Department of Planning website

www.planning.gov.bm. Written counter objections may be submitted prior to or at the public inquiry/hearing.

At the inquiry/hearing, the objector will present first, suggesting why the zoning should be amended; followed by the Department of Planning stating the Director's recommendation. If the Tribunal permits, counter objectors may make a representation.

Following, the inquiry/hearing, the Tribunal will deliberate and then make written recommendations to the Minister.

3. Counter Objections

Counter objections are objections from any members of the public, to an individual objection lodged against the Draft Bermuda Plan 2008 before or at the Tribunal inquiry; and may follow the advertisement of the Tribunal inquiry in the Government's official Gazette and posting on the Department's website www.planning.gov.bm. No counter objections will be received after the inquiry. Counter objections are placed on the corresponding zoning objection file and a copy is provided to the principal objector and to the Tribunal.

A counter objector may only be allowed to speak at the Tribunal, if the Tribunal permits.

Role of Technical Officer

The technical officer is an impartial advisor to the Tribunal who does not represent either the views of the Ministry, the Department of Planning or objectors.

The primary role of the technical officer is to advise the Tribunal on technical matters that may arise during the Tribunal proceedings. The technical officer will accompany the Tribunal on site visits (if required). In addition, the technical officer will act as administrator for the Tribunal panel i.e. organizes the Tribunal inquiries/hearing, site visits, advertisements, counter objections and other administration matters relative to panel.

Agendas

Agendas are produced for each Tribunal inquiry. Agendas will be published in the Government's official Gazette, posted on the Department of Planning's website www.planning.gov.bm and posted in the Department of Planning offices reception area.

Inquiry/Hearing

- All inquiries/hearings (involving resolved and unresolved objections) will be recorded i.e. audio recording and in script;
- Tribunal presentations may material include handouts, LCD map images and any other necessary documentation;
- Hearings dates will be advertised and members of the public may attend;
- Each Tribunal inquiry/hearing should take no longer than 15 minutes;
- Inquiry Proceedings:
 1. an opportunity for both the objector and Director to set out their case; allowing the Tribunal members to make objective assessments;

2. no new information shall be introduced orally or in writing at the Tribunal; however, if new information is presented, the Chairperson has the discretion to decide whether to hear the information; notwithstanding, the new information may result in the inquiry/hearing being deferred;
3. the objector will present their position first, followed by the Department of Planning for the Director, Department of Conservation Services technical officers and/or other Government Department representatives, may be called upon to make representation; each presentation to the Tribunal should be limited to five (5) minutes;
4. the Tribunal may decide to hear any other person (counter objector) who, in the opinion of the Tribunal, has an interest in the report (objection) before the Tribunal, the Tribunal may further allow a person entitled to appear at a public inquiry/hearing permission to be represented by any person the Tribunal deems to be a proper person and the Tribunal may also, at the request of the objector or the Minister by notice, summon any person to appear before the Tribunal to be examined;
5. following the Tribunal inquiry/hearing, the Tribunal will make a recommendation; the technical officer may be required to confer with the objector re. policy rewording or zoning map amendments;
6. all recommendations are to be forwarded to the Minister of the Environment and Sports at the conclusion of the Tribunal process in the form of a Draft Tribunal Report;
7. minutes and recommendations of the inquiry/hearing will not be available to the objectors or the public until the conclusion of the Tribunal process.

Site Visits

- Site visits by Tribunal members are for the purposes of visually observing the conditions of the objection site as it relates to the current/proposed zonings;
- Site visits can be conducted in two ways, at the discretion of the Tribunal Chairperson; 1) informal with Tribunal members unaccompanied or only Tribunal members and technical officer in attendance; or 2) formal with Tribunal members, technical officer, Department of Planning officers and objectors present.

Notification

All objectors will be notified of their hearing 7 days prior to the date of the hearing.

Advertisement

All agenda items to be considered by the Tribunal must appear seven (7) days in advance of the inquiry in the Government's official Gazette. Agendas will also be posted on the Department of Planning website www.planning.gov.bm and posted in the Department of Planning offices reception area.

Tribunal Recommendations

A Tribunal report is then sent to the Minister of the Environment & Sports for review and comments. Following the Minister's assessment, policy documents and zoning maps will be amended to reflect the Tribunal Report recommendations and any changes made to the

Draft Tribunal Report by the Minister. The Final Development Plan and Final Tribunal Report are then published. The Minister presents the Final Development Plan and the Final Tribunal Report to the Legislature for consideration and approval. Once approved, the Final Tribunal Report is then forwarded to the objectors and posted the Department of Planning website www.planning.gov.bm for the general public.

Tribunal Deadline

The Tribunal shall make its final recommendations and the Final Bermuda Plan 2008 must be approved by the Legislature by December 6, 2009. Notwithstanding, the operation period of the plan may be extended by the Legislature if either the Tribunal and/or the Department of Planning determine that it is unable to complete the objection reviews and amendments to the Plan within the required statutory (18 month) period.