



GOVERNMENT OF BERMUDA

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Department of Planning

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## **ACCESS TO INFORMATION STATEMENT**

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**Department of Planning**

**Updated: January 17, 2019**

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## Introduction

### Description of General Purpose of Public Access to Information Act 2010:

The Public Access to Information Act became law on the 10 August 2010. It is intended to foster a culture of openness in government. The Act establishes a right of access to all types of “recorded” information held by public authorities and imposes obligations on public authorities to disclose information, subject to a range of exemptions. The Act must be brought into full force by the 1 April 2015.

The purpose of this Act is to –

Give the public the right to obtain access to information held by public authorities to the greatest extent possible, subject to exceptions that are in the public interest, or for the protection of the rights of others;

Increase transparency, and eliminate unnecessary secrecy with regard to information held by public authorities;

Increase the accountability of public authorities;

Inform the public about the activities of public authorities, including the manner in which they make decisions, and

Have more information placed in the public domain as a matter of routine.

As legislatively required to do under the Public Access to Information Act 2010, we will:

- a. Acknowledge receipt of a request within five (5) working days of receipt of the request and inform the requester of the process for dealing with the request and of the requester’s rights under the Act;
- b. No later than six (6) weeks after receipt of the request, decide whether to grant or refuse the request in whole or in part;
- c. Notify the requester of any extensions if responding within the original six (6) week period is not reasonably practicable.

**Structure Organization and Legislation**

**Legislation Governing Department of Planning**

Development and Planning Act 1974

Development and Planning (Amendment) Act 2018

Development and Planning (Application Procedures) Rules 1996

Development and Planning (Appeals to the Minister) Rules 1974

Development and Planning (Tribunal Procedure) Rules 1992

Development and Planning (General Development) Amendment Order 2015

Development and Planning (Use Classes) Order 1975

Development and Planning (Wells and Boreholes) Order 1976

Development and Planning (Base Lands) Act 1996

Development and Planning (Tree Preservation Order) Regulations 1975

Building Act 1988

Building Authority Act 1962

Building Code (Supplementary Provisions) Regulations 1976

Building Code Regulations 1991

Building Authority (Elevators and Lifts) Regulations 1962

Liquefied Petroleum Gases (Handling, Storage, Supply and Transport) Regulations 1988

Building Authority (Fire Precautions) Regulations 1962

Building Authority (Petroleum) Regulations 1962

Building Authority (Public Buildings) Regulations 1962

Town of St. George (Protection of Buildings of Special Interest) 1950

Advertisements Regulations Act 1911

Government Authorities (Fees) Act 1971

Zoning Orders in accordance with The Building and Land Development (Control) Rules 1948

Special Development Orders (SDO)

Section 34 Agreements Under Development and Planning Act 1974

**PLEASE SEE ORGANIZATION CHART APPENDED AT END OF INFORMATION STATEMENT**

**Functions, Powers, Duties and Obligations**

The Minister responsible for Planning ("Minister"), and the Permanent Secretary (the "Head" per the Schedule of the Development and Planning Act.) appoints the following bodies:

**Development Applications Board (DAB)**

The body is appointed by the Minister and consists of lay members whose responsibility (under the Development and Planning Act) is to make decisions on development applications.

**Advisory Architectural Panel**

The body of professional architects/draftsmen is appointed by the Minister and provides recommendations to the DAB as requested on matters of design.

**Historic Buildings Advisory Committee**

The body is appointed by the Minister and is composed of persons with a historic interest to advise the DAB on matters involving developments affecting Listed Building Sites and Historical Protection Areas.

**Building Appeals Tribunal**

The body is appointed by the Minister and is composed of persons to adjudicate grievances brought as a result of a decision or condition of a Building Official.

**MISSION STATEMENT**

**Responsibly serving the people of Bermuda to ensure the sustainable management of the natural and built environment**

**About Us:**

Under the direction of the Director of Planning, the Department is comprised of 33 staff positions assigned to six (6) core/operations divisions, which include Forward Planning, Development Management, Front Desk, Building Permits and Inspections, Enforcement and Searches, and Administration. The combined functions, powers and duties of these sections are as follows:

To plan for the environmental, economic and social needs of Bermuda through the preparation and implementation of land use plans, regulations and policy guidelines, to ensure that development is accommodated in a sustainable way.

To enhance and protect the environment of Bermuda, while at the same time encouraging appropriate development necessary for a successful community and sustainable economy.

To give advice and information to the public in a helpful and efficient manner. To ensure all applications have the required information for processing, and to assist in the facilitation and maintenance of all applications.

To ensure building operations in Bermuda are carried out in compliance with the current building codes and regulations for the safety and welfare of the public.

To investigate and report on unauthorized development in Bermuda in an efficient and timely manner, and to research and report on approved development. To enforce planning policy and building codes to ensure the health, safety and welfare of the public.

### **Obligations Under The PATI Act**

- To provide **an information** statement for the public and promulgate it [s.5]
- To provide **other information** to the public so that the public needs only to have minimum resort to the use of the Act to obtain information [s.6]. This includes:
  - General information, e.g. activities of the Authority
  - Log of all information requests and their outcome
  - Quarterly expenditure (upon request) [s.6(5)]
  - Contracts valued at \$50,000 or more
- To **respond to information requests** in a timely manner [s.12-16]
- To **track information requests**, and provide this data to the Information Commissioner to respond to requests from the Information Commissioner [s.9]
- To **amend personal information** held by the Authority that is wrong or misleading following a written request by the person to whom the information relates [s.19]
- To conduct an **internal review** if formally requested [part 5]
- To give evidence **for review by the Information Commissioner** [part 6, 47(4), or for **judicial review** [s.49], if required
- To provide an **annual written report** to the Information Commissioner of the status of information requests [s.58(3)]
- **To do anything else as required** under The PATI Act and subsequent Regulations [s.59, 60], including:
  - **Fees** for requests for information
  - Management and maintenance of **records**
  - **Procedures** for administering The Act

- **To train staff and make arrangements** so as to facilitate compliance with The Act [[s.61]
- **To designate one of its officers** to be the person to whom requests are directed [s.62]

### **Services and Programs**

The Forward Planning Section prepares the policies, regulations and guidelines used in managing the on-going development of the Island. This includes the preparation of development and local plans. Forward Planning also monitors development trends, provides advice on major development applications, prepares land use surveys, provides advice on the conservation of historic buildings, maintains and develops a Geographic Information System (GIS) and the preparation of supplementary planning guidance.

Development Management is responsible for the review of planning and subdivision applications to ensure compliance with the Development and Planning Act 1974, The Bermuda Plan and local plans. All applications are advertised on the Bermuda Government Official Gazette website [www.officialgazette.gov.bm](http://www.officialgazette.gov.bm) Fridays of each week. The public are given 14 days from the date of the advertisement in which to submit comments on any application. After consultation with relevant agencies and assessment of an application, the application is presented to the Development Applications Board for a decision.

The Front Desk is the Planning Department's front office, and is the first point of contact with members of the public. Front Desk also manages the Department's applications record system, from the time they are submitted to the time they are archived. They also input application data in the Department's information management system (BEMIS/EnerGov) and conduct all planning application referrals.

Building Permits and Inspections consults with other government agencies, reviews building permit applications for compliance with Building Codes and may require professional engineer certification of structures before issuance of building permits. Building Permits and Inspections also includes building and electrical inspectors visiting sites where construction is underway to inspect work and determine if work is in accordance with the planning approval and the building permit. It is the responsibility of the property owner to ensure inspections are requested and the owner may be required to obtain a professional engineer certification of works which have not been inspected. Requests for Certificates of Completion/Occupancy whether partial or final, must be made in writing.

Enforcement and Searches investigates development that has been carried out without the benefit of planning controls or is not in accordance with the planning or building approval. Enforcement and Searches also investigates and makes recommendations on works required to be undertaken to bring the development into conformance and/or may proceed with enforcement action. The types of complaints received include, but are not limited to, the establishment of unauthorized dwelling units, the erection of animal enclosures, the construction of buildings, establishment of business, excavation, and failure to comply with conditions of a planning permission and other acts which contravene the Development and Planning Act 1974 and Building Act 1988 as amended.

**DEPARTMENT OF PLANNING CONTACT LIST**

Government Offices: 295-5151 – Planning Reception: 297-7756 – Planning Fax: 295-4100

**ADMINISTRATION**

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**FORWARD PLANNING**

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Stewart Bruce	Info. Systems Officer	<a href="mailto:scbruce@gov.bm">scbruce@gov.bm</a>	x1361
Kenneth Campbell	Planner	<a href="mailto:kdcampbell@gov.bm">kdcampbell@gov.bm</a>	x1781

**DEVELOPMENT MANAGEMENT**

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**FRONT DESK**

Ronald Smith	Senior Applic. Officer	<a href="mailto:rksmith@gov.bm">rksmith@gov.bm</a>	x1222
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Donna Francis	Applic. Systems Clerk	<a href="mailto:dmfrancis@gov.bm">dmfrancis@gov.bm</a>	x1663/1185
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**BUILDING CONTROL**

Chris Bulley	Building Control Officer	<a href="mailto:cbulley@gov.bm">cbulley@gov.bm</a>	x1375
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Dallian Jones	Elevator Inspector	<a href="mailto:dsjones@gov.bm">dsjones@gov.bm</a>	x1568
Vacant	Electrical Inspector		

**ENFORCEMENT**

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Clinisha Hayward	Enforcement Officer	<a href="mailto:cqhayward@gov.bm">cqhayward@gov.bm</a>	x1365

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Andrew Kennedy	Relief Environmental Health Officer	<a href="mailto:akennedy@gov.bm">akennedy@gov.bm</a>	x3341
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## **Class of Records**

**Planning Files** – These files include the planning application form, plans, historical information, board or committee reports, technical officers notes, consultation (if required) from other public authorities and the Development Applications Board decision letter.

**Building Files – Permits** These files include building permit application form, structural plans, assessment of plans by examiner and health officials, and necessary consultation from pertinent public authorities.

**DAB/DAC Minutes** – Minutes of Development Applications Board/Development Applications Committee meeting.

**Planning Guidance Notes** – Guidance notes that are used by technical officers during assessment and recommendation of proposed development – includes pamphlets that provide guidance on planning and building FAQs.

**Planning Appeals to the Minister** – These files consist of the appeals cases to the Minister.

**Zoning Maps** – These maps indicate the designated zonings as approved under the Bermuda Plan.

**Special Development Orders** – These files consist of the “Special Development Order” decisions of Cabinet. Such legislative orders ordinarily are made as a matter of “national interest”.

**Ordnance Survey Maps** – These aerial ordnance survey maps were used for locating lots and plotting planning application ref. #s in the past.

**Tribunal Reports (Development Plan)** – These reports are results of the deliberations that took place between the Objections Tribunal Board and objectors to a Development Plan.

**Listed Building Register** – Register of all listed building sites throughout the island.

**Historic Buildings Advisory Committee Minutes** – Minutes of meetings of the Historic Buildings Advisory Committee.

**Listed Building Consultation Records** – These records include the assessments which placed structures on the Listed Buildings’ Register as well as the assessment that “de-list” structures.

**Planning Searches** – These are the records that involve the assessment and research by the enforcement section to determine any outstanding planning anomalies during a property conveyance.

**Enforcement (Complaint Files)** – These records involve the complaints made to the Department; notification and reports of illegal development; and retroactive works (**documents considered to be exempt under PATI**).

**Section 34 Agreements** – These are legislative agreements between private land owners and the Minister usually limiting land owner's development potential of their property ordinarily associated with a portion of environmentally protected land.

### **Administrative and Operational Manuals**

#### **Application Forms**

DAP1 – Planning application form

DAP2 – Subdivision application form

Building Permit-Residential/Commercial application form

Revision Form-Revised Plans/Additional Information

Revision Form-Projects already under construction

Permitted Development Permit (GDO Regulation)

Public Assembly Permit

Elevator License

Application for Planning Search

Issuing of Condominium License

Complaint Form

Plant Voucher

Government Fees Amendment Regulation (April 1, 2018) – Planning Application and Building Fees

### **Manuals, Policies, Guidelines, used by Employees to make Recommendations and Decisions**

The Draft Bermuda Plan 2018 Planning Statement and the Bermuda Plan 2008 Planning Statement

The City of Hamilton Plan 2001 and The City of Hamilton Plan 2015

Planning Guidance Notes

Bermuda Residential Code 2014 / Bermuda Commercial Code 2014

Development and Planning Act 1974

Building Act 1988

Advertisement Regulations Act 1911

Development and Planning (General Development) Amendment Order 2015

Development and Planning (Use Classes) Order 1975

Consultee Referral Guide

Vetting Checklist for Planning Applications, Revisions and Building Permits

Vetting Log

Consultee Tracking Log

Incomplete Application Form

Consultation Letter and Return Sheets

### **Submission of Requests for Information**

All PATI requests must be submitted in writing and can only be submitted at the Department of Planning, 58 Court Street, Dame Lois Browne-Evans Building (Fifth Floor), Hamilton, Bermuda HM 12. Requests should be submitted at the Front Counter (only), Monday to Friday, from 8:30 a.m. – 5:00 p.m.

### **Information That Cannot Be Released**

The Public Access to Information Act 2010 sets out exceptional circumstances in which a request for information may be refused. Information that affects other legal rights or processes, particularly where personal privacy may be breached, are considered exempt records and is articulated in Part 4 of The Act.

#### **INFORMATION OFFICER**

Ronald K. Smith

Senior Applications Officer

Department of Planning

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Bermuda

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