SUBSIDIARY LEGISLATION 573.04

TRANSFER OF GOVERNMENT PROPERTY GRANTED FOR COMMERCIAL USE FROM A TENANT TO A FAMILY MEMBER DUE TO RETIREMENT REGULATIONS

6th July, 2018

LEGAL NOTICE 214 of 2018.

Title.

1. The title of these regulations is the Transfer of Government Property Granted for Commercial Use from a Tenant to a Family Member due to Retirement Regulations.

Definitions.

2. In these regulations unless the context otherwise requires:

Cap. 563.

"Authority" means the Lands Authority established under article 5 of the Lands Authority Act or any person or other entity which by law or contract is entrusted with the administration of Government land;

Cap. 563.

"Board of Governors" means the Board of Governors of the Lands Authority set up under article 10 of the Lands Authority Act.

Application to be confirmed by sworn application.

3. Applicants submitting an application under these regulations must confirm by sworn declaration that the content of the application is true and that no information or other relevant facts have been omitted, which had they been known to the Authority would have caused the denial or refusal of said application. Applicants may not justify such omission by arguing that the omitted information or facts were known to the Authority.

Consent and approval of Board of Governors.

4. (1) Every transfer made under these regulations is subject to the approval of the Board of Governors and in accordance with the conditions imposed by the said Board, which conditions must be published.

(2) Before approval by the Board of Governors for the transfer of commercial property as mentioned above:

(a) it should be verified that no law or contractual contract has been breached, including the non-existence of any arrears with regard to such lease; and

(b) a sole additional payment to the Authority of an amount equal to one year’s rent has been made; and

(c) a declaration is made that on the signing of the new contract of lease for the remaining period of the original lease, the applicant does not retain any interest in the property or in the commercial activity following its transfer to a family

member and that he does not have or no longer has any claim against the Authority regarding the same lease for the entire period since the original lease; and

(d) a declaration by the person to whom the lease is to be transferred, in the case of a commercial lease granted prior to 1st June 1995 where no specific duration period is stipulated, or where the lease period was to be renewed automatically or at the lessee's sole discretion, whereby he accepts that the lease shall lapse within a period of twenty years from the 1st of June, 2008.

Transfer of Government property given for commercial use by the lessee to a family member.

5. (1) Any person holding a commercial property by title of lease from the Government or the Authority may during the duration of the original lease and saving other provisions of these regulations, apply to the Authority to transfer or assign his rights to his son/daughter in the event that he would like to retire from the commercial activity he is exercising.

(2) The conditions of the lease shall remain the same until the expiry of the original lease and the only element to be altered in the said lease is the name of the lessee.

(3) In the event that a transfer request is made for more than one son/daughter, only one application shall be made and those recognized children shall be jointly and severally liable for all obligations imposed in the original lease on the original lessee.

Reservations.

6. The Authority has the right to refuse any application made pursuant to these regulations at its entire sole discretion. Such refusal or denial shall be made in writing together with detailed reasons for its decision.

Right of the Authority to proceed before the Court.

7. (1) The Authority is empowered to file an action before the Civil Court, First Hall against any person involved, including the occupant, where it deems that there is a breach of any of the provisions of these regulations, even after the act of transfer in question, and to request the Court to declare null and void any transfer under these regulations or any other transfer which is not undertaken in accordance with these regulations.

(2) In the case mentioned in sub-regulation (1), the Court shall order the eviction of every person from the land or tenement and order that such property, including any improvements made therein, be returned to the Authority without any right of compensation for damages which might be sustained by such person or the occupant, or any kind of compensation for any improvements which have or could have been undertaken in that property.

Costs.

8. The Authority shall ensure that all expenses incurred in relation to the above-mentioned transfers are paid by the family

member to whom the lease is to be passed on for the remaining period of the lease and that before these costs are collected in their entirety no transfer or assignment of rights on the property on which an application has been made can occur.

Transitory provisions.

9. Every request concerning the transfer of Government property due to retirement which has been granted for commercial use by the lessee to a son/daughter, and undertaken before the entry into force of these regulations must be examined and decided pursuant to these regulations. Every scheme existing prior to this day is hereby terminated as a result of the entry into force of these regulations.