Cayman Islands –
Development and Planning (Amendment) Regulations, 2016

Introduction

New legislative amendments have addressed a discrepancy in the Development and Planning Regulations (2015 Revision) (the "Regulations") in respect of setback requirements for buildings of more than seven storeys.

The Amendment

The recently enacted Development and Planning (Amendment) Regulations, 2016 (the "Amendment") have addressed the issue of setback requirements for buildings above seven storeys in height. The Regulations, prior to the Amendment, had permitted the construction of buildings up to ten storeys in certain designated areas in the Cayman Islands, but were silent on setback requirements for those buildings where they exceeded seven storeys. However, despite the construction of several high-profile ten storey developments along 7 Mile Beach over the past few years, the difficulties posed by this apparent omission went unnoticed until the decision of the Grand Court in the case of Grand View Strata Corporation v The Planning Appeals Tribunal and ors (unreported) on 8 April 2016.

Grandview, on which Walkers reported on earlier this year (see the Walkers' article entitled Ten Storeys: Setbacks and Other Restrictions), concerned an appeal against a grant of planning permission for a proposed new ten storey development on the southern end of Seven Mile Beach. With permission having been granted by the Central Planning Authority and upheld by the Planning Appeals Tribunal, a neighbouring three-storey development appealed on behalf of its members to the Grand Court. In his judgment the Hon Justice Seymour Panton upheld the appeal with his finding that the Central Planning Authority lacked the authority to exercise discretion in respect of setback requirements with regards to buildings beyond seven storeys until such time as the Regulations were amended.

With the issue having been highlighted, the Cayman Islands Government has acted quickly to enact the Amendment to, among other things, address the deficiency by expressly providing that the minimum setback requirements for waterfront buildings of between eight and ten storeys are to be the same as that for seven storey buildings, being one hundred and ninety feet. Additionally, the definition of "setback" has been further amended to clarify that where a parcel of land is adjacent to the sea "setback" includes the horizontal distance between the high water mark and any building or structure on the parcel.

Conclusion

This Amendment is an important development in the law and one which clears the way for developers to reach new heights in the Cayman Islands, with a number of developments having stalled in the period between the Grandview ruling and this change in legislation.

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