

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM/518

<u>Applicant</u>	Most Lucky (Hong Kong) Limited
<u>Premises</u>	Portion of Workshop No. 4 on Ground Floor, Good Harvest Industrial Building, No. 9 Tsun Wen Road, Tuen Mun, New Territories
<u>Floor Area</u>	About 8.36m ²
<u>Lease</u>	Tuen Mun Town Lot (TMTL) No. 232 (a) Industrial or godown purposes or both (excluding any offensive trade declared under the Public Health and Municipal Services Ordinance); (b) Erection of a factory or factories or a godown or godowns or both, ancillary offices, such canteen and other welfare facilities for workmen employed on the Lot and caretakers' or watchmen's quarters;
<u>Plan</u>	Draft Tuen Mun Outline Zoning Plan (OZP) No. S/TM/34
<u>Zoning</u>	“Other Specified Uses” annotated “Business” (“OU(B)”) [Restricted to a maximum plot ratio (PR) of 9.5 (including not more than a plot ratio of 1.0 for ‘Shop and Services’ and ‘Eating Place’), or the plot ratio and building height of the existing building, whichever is the greater]
<u>Application</u>	Shop and Services (Real Estate Agency)

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application premises (the Premises) located on the ground floor of an existing industrial building known as Good Harvest Industrial Building (the subject building) for ‘Shop and Services (Real Estate Agency)’ use (**Plans A-1 and A-2**). According to Schedule II of the Notes for the “OU(B)” zone applicable to industrial or industrial-office building, ‘Shop and Services (not elsewhere specified) (ground floor only except Ancillary Showroom which may be permitted on any floor)’ use is under Column 2 which requires planning permission from the Town

Planning Board (the Board). The Premises is being used for the applied use without valid planning permission.

- 1.2 The floor plan and layout plan showing the ground floor of the subject building including the Premises submitted by the applicant are attached in **Drawings A-1 and A-2**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with attachments received on **(Appendix I)** 11.1.2018
 - (b) Applicant's email dated 16.1.2018 clarifying **(Appendix Ia)** the current use of the Premises, proposed use, providing additional planning justifications and providing replacement pages of the application form
 - (c) Applicant's email dated 15.2.2018 providing **(Appendix Ib)** revised floor plan

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form (**Appendix Ia**). They can be summarised as follows:

- (a) The proposed real estate agency is to serve the neighbourhood.
- (b) The Premises is a convenient spot to provide real estate agency service.
- (c) The proposal will not cause inconvenience to pedestrians or cause any traffic or fire safety problems.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a 'current land owner' but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Development within "OU(B)" Zone (TPB PG-No. 22D) (**Appendix II**) is relevant to this application. The following main planning criteria are relevant:

- (d) The “OU(B)” zone has been introduced to allow maximum flexibility in the use of existing industrial and industrial-office (I-O) buildings as well as in the development of new buildings for both commercial and clean industrial uses. The planning intention of the “OU(B)” zone is primarily for general employment uses;
- (e) whilst it is the intention to provide greater flexibility in the use of the existing industrial or I-O buildings before such buildings are redeveloped, it is necessary to ensure that the fire safety and environmental concerns are properly addressed. In view of the possible presence of existing polluting and hazardous industrial uses, it is necessary to ensure compatibility of the uses within the same building until the whole building is modified/converted to accommodate the new non-polluting and less fire hazard-prone uses;
- (c) The Fire Services Department (FSD) should be satisfied on the risks likely to arise or increase from the proposed commercial use under application. Owing to fire safety concern, the aggregate commercial floor areas on the ground floor of an existing industrial or I-O building with and without sprinkler systems should as a general principle not exceed 460m² and 230m² respectively. Separate means of escape should be available for the commercial portion; and
- (d) For all new development, redevelopment, conversion and material change of use, adequate parking and loading/unloading spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines (HKPSG), and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. **Previous Application**

The Premises is the subject of a previous application (No. A/TM/274) for private club (fitness centre) involving a larger floor area when the Premises was zoned “I” on the OZP. The application was rejected by the Rural and New Town Planning Committee (the Committee) of Board on 16.2.2001 on the grounds that the proposed use was not in line with the planning intention of “I” zone, not in compliance with the criteria of the Town Planning Board Guidelines 7A, and the approval of the application would set an undesirable precedents for similar conversion of industrial floor space for non-industrial use. Details of the previous application are provided at **Appendix III**.

6. **Similar Applications**

- 6.1 There are two similar applications (Nos. A/TM/489 and A/TM/492) both for ‘Shop and Services (Furniture Showroom)’ in the same “OU(B)” zone which involves other premises on the ground floor of the same building (**Plans A-1 and A-2a**). Application No. A/TM/489 was approved with conditions on 24.6.2016 while Application No. A/TM/492 was rejected by the Committee on 30.9.2016 due to exceeding the maximum permissible limit for commercial floor area. Details of the applications are provided at **Appendix IV**.
- 6.2 Uses applicable for maximum permissible limit of 460m² for aggregate commercial floor area on G/F of the subject building (with sprinkler systems),

in accordance with Fire Services Department's Circular Letter No. 4/96 (Part X) are as follows:

Application No.	Application Premises (G/F)	Applied/Proposed Uses	Floor Area (about) (m ²)	Date of Decision	Decision
A/TM/489	Unit 3	Shop and Services (Furniture Showroom)	300m ²	24.6.2016	Approved with conditions
A/TM/518 (Current Application)	Portion of Workshop No. 4	Shop and Services (Real Estate Agency)	8.36m ²	2.3.2018	N.A.
Total commercial floor area :			308.36m²		

6.3 In the other "OU(B)" zone located at the southern fringe of the Tuen Mun Area 9, there are seven similar applications for 'Shop and Services' use on the ground floor of the same industrial building (**Plan A-1**) since 2012. The Committee had approved two of these applications (Nos. A/TM/431 and A/TM/479), mainly on the grounds that the applications were in general in compliance with the Board's Guidelines for Development within "OU(B)", while rejected five other applications (Nos. A/TM/472, A/TM/473, A/TM/474, A/TM/475 and A/TM/476), mainly on the grounds of unacceptable means of escape. Details of these similar applications are summarised at **Appendix IV**.

7. The Premises and Its Surrounding Areas (Plans A-1 to A-3 and photos on Plans A-4a to A-4b)

7.1 The Premises is:

- (a) situated on the ground floor of the subject building with a direct frontage onto Tsun Wen Road; and
- (b) currently used as a real estate agency;

7.2 The existing main uses of the subject building are summarised below :

Floor	Main Uses
G/F	The Premises, Furniture Showrooms (A/TM/489) and vacant unit
1/F	Carpark
2/F-15/F	Shop and Services, offices, private club for martial art, schools, mini-storages, workshops, religious institution

7.3 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) The subject building is located at the north-eastern part of Tuen Mun Industrial Area 9 which is predominately occupied by industrial buildings;

- (b) to its immediate east are Tsun Wen Road and LRT tracks;
- (c) to its northwest and north across Ho Wong Street are residential developments, namely Tai Hing Gardens and Greenland Garden; and
- (d) to its immediate south is a recyclable collection centre, a petrol filling station and an electricity sub-station.

8. Planning Intention

The planning intention of the “OU(B)” zone is primarily for general business uses. A mix of information technology and telecommunications industries, non-polluting industrial, office and other commercial uses are always permitted in new “business” buildings. Less fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public is always permitted in existing industrial or industrial-office buildings.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Premises is within Tuen Mun Town Lot No. 232 (‘the Lot’) which is held under New Grant No. 2534 (‘New Grant’). The Lot is subject to the following salient lease conditions:
 - (i) user: industrial or godown purposes or both (excluding any offensive trade declared under the Public Health and Municipal Services Ordinance); and
 - (ii) type of building: erection of a factory or factories or a godown or godowns or both, ancillary offices, such canteen and other welfare facilities for workmen employed on the Lot and caretakers’ or watchmen’s quarters.
- (b) The Premises is subject to a waiver for the lifetime of the existing building presently erected on the Lot for the purpose of a canteen. The proposed ‘Shop and Services (Real Estate Agency)’ use of the Premises does not comply with the lease conditions. If planning approval is given by the Town Planning Board (the Board), the registered owner will need to apply to LandsD for a temporary waiver for the above proposal. The proposal will only be considered upon his receipt of formal application from the registered owner. There is no guarantee that the application, if received by LandsD, will be approved and he reserves his

comment on such. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including, among others, charging of waiver fee and administrative fee.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

He has no comment on the application from traffic engineering viewpoint. Since the scale of the proposed use is small, the existing parking and loading/unloading facilities provided inside the subject building should be able to cope with such changes.

9.1.3 Comments of the Chief Highway Engineer/ New Territories West, Highways Department (CHE/ NTW, HyD)

- (a) the access arrangement to the application site should be commented by TD; and
- (b) adequate drainage measures should be provided to prevent surface water running from the application site to the nearby public roads and drains.

Drainage and Sewerage

9.1.4 Comments of the Chief Engineer/ Mainland North, Drainage Services Department (CE/Mainland North of DSD):

He has no comment on the application from public drainage viewpoint in view of the size of the application premises (i.e. 8.363m²) and the use of the Premises (real estate agency).

Building Matters

9.1.5 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) the adequate fire protection/ separation between uses should be installed;
- (b) barrier Free Access provisions in accordance with Building (Planning) Regulation 72 should be complied;
- (c) before any new building works are to be carried out on the application site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO; and

- (d) detailed comments under the BO will be provided at building plan submission stage.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the application subject to fire service installations (FSI) and equipment being provided to his satisfaction. It is noted that means of escape completely separated from the industrial portion is available for the subject unit.
- (b) Besides, he has the following detailed comments:
 - (i) the building is provided with a sprinkler system so that the maximum permissible aggregate commercial floor area on G/F is 460m² in accordance with TPB PG-No. 25D. The applied use should be counted up to the aggregate commercial floor area.
 - (ii) regarding matters related to fire resisting construction of the Premises, the applicant is reminded to comply with the 'Code of Practice for Fire Safety in Buildings' which is administered by the Building Authority;
 - (iii) if the application is approved, the applicant's attention should be drawn to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises'; and
 - (iv) Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Others

9.1.7 Comments of Director-General of Trade and Industry (DG of TI)

He has no comment on the application given that the planning intention of the "OU(B)" zone is primarily for general business uses.

9.1.8 Comments of the Director of Electrical and Mechanical Services Department (D of EMS):

He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the Premises should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the

vicinity of the Premises. The parties should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the 'Code of Practice on Working near Electricity Supply Lines' established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer's Comments

9.1.9 Comments of the District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD):

She had distributed consultation letters to the locals concerned and understood that they would provide their comments (if any) to the Board direct.

9.2 The following Government departments have no objection/no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Director of Food and Environmental Hygiene (DFEH);
- (c) Director of Leisure and Cultural Services (DLCS);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) and
- (e) District Officer (TM)

10. Public Comments Received During Statutory Publication Period

On 19.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 9.2.2018, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The planning intention of "OU(B)" zone is designated for general business uses. It allows greater flexibility in the use of the existing industrial or I-O buildings before such buildings are redeveloped, provided that the 'Shop and Services' use would not induce adverse fire safety and environmental impacts. Commercial uses in industrial buildings within "OU(B)" zone may be permitted on application to the Board based on individual merits and the planning assessment criteria set out in the Board's Guideline TPB PG-No. 22D (**Appendix II**). The proposed 'Shop and Services' use at the Premises is generally in line with the planning intention of the "OU(B)" zone.
- 11.2 The applied use for Shop and Services on part of the ground floor of an existing industrial building is considered not incompatible with the uses including offices, showroom, workshops within the subject building and the surrounding residential and industrial developments.
- 11.3 According to the Board's Guideline No. PG-No. 22D (**Appendix II**), the Premises is protected by a sprinkler system and therefore the maximum

permissible aggregate commercial floor area on the ground floor is 460m². The aggregate commercial floor area on the G/F of the subject building is 308.36m², which is within the maximum permissible limit of 460m². As the Premises fronts directly onto Tsun Wen Road, means of escape separated from the industrial portion of the subject industrial building is available from the Premises. D of FS has no in-principle objection to the application subject to FSI proposal being provided to his satisfaction.

- 11.4 Relevant Government departments consulted including C for T, CHE/ NTW of HyD, CE/MN of DSD, CE/C of WSD and DFEH have no adverse comments on/objection to the application. No significant traffic, environmental and infrastructural impacts on the surrounding areas are anticipated.
- 11.5 The previously rejected application (A/TM/274) covering the Premises, which was for 'Private Club (Fitness Centre)' use, is different from the current application in nature and the land use zoning for the subject building was "I" at that time. The other rejected application at the ground floor of the same industrial building (Application No. A/TM/492 for furniture showroom with floor area of 270 m²), was rejected on grounds that the total floor area accountable for the aggregate commercial floor area has exceeded the aggregate maximum permissible limit of 460m². For the current application, the maximum permissible limit will not be exceeded. The other 5 similar applications 'Shop and Services' use in a different "OU(B)" zone (Nos. A/TM/398, A/TM/472, A/TM/474, A/TM/475, A/TM/476) were rejected mainly on grounds of unacceptable means of escape. The circumstances of the current application is different in that separate means of escape is available for the Premises.
- 11.6 No public comment was received during the three-week statutory public inspection period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on the commencement is proposed as the 'Shop and Services (Real Estate Agency)' use under application is already in operation at the Premises. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of fire service installations and equipment proposal at the application premises within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **2.9.2018**; and
- (b) if the above approval condition (a) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

12.3 There is no strong reason to recommend rejection of the application.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clause(s), if any, to be attached to the permission.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I Application form with attachments received on 11.1.2018

Appendix Ia Applicant's email dated 16.1.2018 clarifying the current use of the subject premises, proposed use, providing additional planning justifications and providing replacement pages of the application form

Appendix Ib Applicant's email dated 15.2.2018 providing revised floor plan

Appendix II Town Planning Board Guidelines for Development within "OU(B)" Zone (TPB PG-No. 22D)

Appendix III Details of previous application

Appendix IV Details of similar applications

Appendix V Advisory clauses

Drawing A-1 Floor plan submitted by the Applicant

Drawing A-2 Layout plan submitted by the Applicant

Plan A-1 Location Plan

Plan A-2 Site Plan

Plan A-2a Site Plan showing the land uses of the adjoining units of the Premises

Plan A-3 Aerial Photo

Plans A-4a – 4b Site Photos

**PLANNING DEPARTMENT
MARCH 2018**