

慈善团体更换不动产信托人 需知事项与标准作业程序

1. 为何要委任不动产信托人

以慈善信托(Charitable Trust)或社团(Society)形式注册的慈善团体没有法人地位(Non-Legal Entity)，因此，必须根据有关法律和本身的章程或信托契据所规定的准则和程序，将其不动产注册在它所委任的不动产信托人名下。这类不动产的地契除了列出所有信托人的名字之外，也注明这是“受托的共有产权 Joint Tenants In Trust”。

至于据<公司法令第 50 章>以“担保制有限公司 Public Company Limited By Guarantee”形式注册的慈善团体，由于它本身已具有法人地位，就无需委任不动产信托人。它如何处置其不动产，则必须根据有关法律和它本身公司章程(Articles of Association)内的相关条文而妥善与谨慎行事。然而，它仍需向慈善总监或监管部门呈报其每个不动产的地址以及任何更换。

2. 更换不动产信托人的原因

慈善团体更换、递补、委任不动产信托人的主要原因可归纳如下：

2.1 信托人法令第 337 章 (Trustees Act Chapter 337) 第 37 (1) 条

这项条文规定在出现下列任何情况下必须委任新信托人以取代有关的信托人：

- (1) 有关信托人已逝世；
- (2) 住在新加坡境外超过 12 个月；
- (3) 有意卸下全部或部分信托职务；
- (4) 拒绝或不适合执行职务；
- (5) 无能力执行职务；或
- (6) 他本身未成年。

2.2 慈善法令第 37 章 (Charities Act Chapter 37) 第 27 (1) 条

这项条文规定有下列任何情况的人士就**没资格**担任慈善团体的董事、主要职员或信托人：

- (1) 曾因涉及不诚实或欺诈罪行而在新加坡或其他地方被定罪者；
- (2) 曾被判破产而尚未脱离穷籍者；
- (3) 曾和债权人达致债务和解协议或安排，或获得其债权人的信托契据而未解除有关债务者；
- (4) 曾被慈善总监据本法令第 25 (1) (i) 条，或高等法院因他所负责或有关系，或因他的行为造成或促成任何不当行为或管理不当而被革除其慈善团体董事、主要职员或信托人职务者；或
- (5) 据<公司法令第 50 章>第 148 条、第 149 条或第 154 条丧失公司董事资格者。

2.3 慈善团体本身的章程或信托契据 (Deed of Trust)

2.3.1 所有已注册的慈善团体都有一套由当局（如：社团注册局、慈善总监办事处）所批准的监管文件（Governing Instrument）或章程，其中一项是关于不动产及不动产信托人的条文。

2.3.2 一部完善的章程，其不动产信托人条文应包括下列：

- (1) 不动产必须注册在信托人名下
- (2) 信托人的人数
- (3) 信托人的资格
- (4) 委任信托人任职若干年
- (5) 信托人的责任

(6) 信托人在什么情况下丧失资格

(7) 信托人的递补程序

(8) 有关的法定呈报

2.3.3 **附件 1** 是某宗教慈善团体章程内关于不动产信托人的实际条文，它清楚列明不动产信托人在什么情况下会自动丧失资格而且列出递补程序与准则。

3. 国法、行规、家规：样样要遵守、层次有高低

3.1 不论在委任、撤换、递补信托人、随后的跟进工作和法定呈报，都必须遵守下列现行的有关法令及其附属条规，以及本身章程所定的准则与程序：

国法： 如：信托人法令第 337 章、慈善法令第 37 章、社团法令第 311 章及其附属立法（Subsidiary Legislations），以及其他相关法律。

行规： 慈善团体与公益机构监管准则。

家规： 慈善团体本身的章程与条规

3.2 执行时不但要国法、行规、家规样样要遵守，而且以国法最具权威。换言之，若慈善团体本身章程内的信托人条文和法律（如：信托人法令、慈善法令、社团法令、监管准则）有所抵触时，则需以有关法律为根据。

3.3 由于信托人受托保管慈善团体的不动产与资产以助它履行慈善宗旨，其委任、撤换、递补等工作程序不但要合法，也须符合自然正义（Natural Justice）。

4. 标准作业程序（Standard Operating Procedure）

兹列下列标准作业程序供参考，必须强调的是，所有程序与文件须符合法律规定：

4.1 ☐将有关事项列入董事会会议讨论与决定，并附下列证件：

- (1) ☐ 有关信托人的辞职信；
 - ☐ 有关信托人的死亡证书；
 - ☐ 有关信托人的医药报告；或
 - ☐ 有关信托人破产或刑事罪报道/公告。

- (2) ☐ 信托人法令第 37 (1) 条
 - ☐ 慈善法令第 27 条
 - ☐ 本身章程内的信托人条文

4.2 ☐ 据董事会会议的建议，并根据章程规定的程序将有关事项列入常年/特别会员大会作议决。

4.3 ☐ 会长及秘书长（总务，司理）联署发委任信给律师，执行跟进工作，并附下列经会长与秘书长认证的文件：

- (1) 大会的有关议决。
- (2) 发给卸任、续任、新任信托人的指示。
- (3) 死亡证书(Certificate of Registration of Death)及死亡通知书(Notice of Death)（若因信托人死亡而递补）

附件 2：死亡证书样本

附件 3：死亡通知书样本

- (4) 辞职信（若因信托人辞职而递补）
- (5) 新信托人的身份证
- (6) 地契副本
- (7) 原信托人委任书
- (8) 章程

- 4.4 ☐ 会长与秘书长联署公函向卸任、续任、新任信托人发出执行大会议决的指示。
- 4.5 ☐ 和律师协调并安排卸任、续任、新任信托人在律师的见证下，在新的委任书签名。
- 4.6 ☐ 向当局申请新地契，注意下列事项：
- (1) 地契须注明 “Joint Tenants In Trust”
 - (2) 所有信托人的通信地址改为慈善团体本身的地址，以避免当局与信托人通信时出现差误或慈善团体本身完全不知情。
- 4.7 ☐ 向社团注册局与慈善总监作法定呈报。
- (注意：任何形式注册的慈善团体，在处置任何不动产（包括买或卖）或更换不动产信托人时，必须向慈善总监呈报。此外，以社团形式注册者也必须同时向社团注册局呈报）。
- 4.8 ☐ 留意国内税务局（Inland Revenue Authority of Singapore 简称 IRAS）的公函确认有关慈善团体已更换不动产信托人。
- 4.9 ☐ 更新本身的不动产信托人名册。
- 4.10 ☐ 更新本身的常年报告内关于不动产信托人的报告内容。

5. 参考资料

附件 4： 社团、担保制有限公司、慈善信托一览表

附件 5： 信托人法令第 36 条、第 37 条、第 38 条

附件 6： 慈善法令第 27 条、第 28 条

附件 7： 向慈善总监呈报的样本

附件 8： 向社团注册局呈报不动产与信托人的样本

附件 9： 两个寺庙撤换信托人而引起的诉讼案摘录

附件 10： 各类法定呈报一览表

新加坡佛教总会执行长柯孙科撰
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Trusteeship of Immovable Property of Charity
Things You Need to Know
And
Standard Operating Procedure

1. Reasons for Appointment of Trustee

Charity which is set up as a Charitable Trust or registered as a Society under the Societies Act (Chapter 311) is a Non-Legal Entity. Therefore, all its immovable properties must be vested in the Trustees it has appointed in accordance with the provisions of the relevant legislations as well as its governing instrument. Its Certificate of Title must bear the words "Joint Tenants In Trust".

For charity that is incorporated as a Public Company Limited By Guarantee under the Companies Act (Chapter 50), it needs not appoint Trustees to hold its immovable properties since it is an incorporated legal entity, ie: a legal person. How it deals with its immovable properties is subject to the relevant laws and the provisions of its Articles of Association and to deal with such matter with duty of care and prudence. However, it still needs to notify COC or Sector Administrator address of each immovable property and any subsequent change.

2. Reasons for Change of Trustee

Reasons for any change, replacement or appointment of Trustee could be attributed to the followings:

2.1. Section 37 (1) of the Trustees Act (Chapter 337)

Under this section of the Act, replacement shall take place if any of the following occurs to the Trustee concerned:

- (a) is dead;
- (b) remains out of Singapore for more than 12 months;
- (c) desires to be discharged from all or any of the trusts or powers reposed in or conferred on him;
- (d) refuses or is unfit to act therein;
- (e) is incapable of acting therein; or
- (f) is an infant

2.2. Section 27(1) of the Charities Act (Chapter 37)

This section clearly spells out the circumstances in which a person shall be **disqualified** from being a governing board member or key officer of a charity or a trustee for a charity if:

- (a) he has been convicted, whether in Singapore or elsewhere, of any offence involving dishonesty or deception;
- (b) he has been adjudged bankrupt, and has not been discharged;
- (c) he has made composition or arrangement with, or granted deed for, his creditors and has not been discharged in respect of it;
- (d) he has been removed from the office of governing board member or key officer of a charity or trustee for a charity by an order made by the Commissioner under section 25 (1) (i) or by the High Court on the ground of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated; or
- (e) he is subject to a disqualification order under section 148, 149 or 154 of the Companies Act (Cap. 50).

2.3. Own Governing Instrument or Deed of Trust

2.3.1. A registered charity shall have a set of governing instrument approved by the relevant regulating authorities (eg: the Registry of Societies, Office of the Commissioner of Charities or ACRA), one of the provisions of such approved governing instrument dealing with immovable property and trustee.

2.3.2. A well- written governing instrument shall contain the following provisions in relation to its immovable property and trustee:

- (1) Immovable property shall be vested in the trustees.
- (2) Number of trustees.
- (3) Qualifications of trustees
- (4) Appointment of trustees for a specified duration

- (5) Duties of trustees
- (6) Disqualifications of trustees
- (7) Replacement procedure
- (8) Statutory return

2.3.3 **Annex 1** is an extract from a religious charity's governing instrument which has, among others, specified clearly the disqualification clauses and replacement procedure.

3. Statutes, Professional Code and House Rules: Compliance and Order of Precedence

- 3.1. Whether it is an appointment, or dismissal or replacement of trustee, or the related follow-up actions and lodging of statutory return, the procedure and criteria set out in the following legislations or their respective subsidiary legislations or provisions in the charity's governing instrument must be strictly adhered to :

Statutes: Such as the Trustees Act (Chapter 337), Charities Act (Chapter 37), Societies Act (Chapter 311) and their respective subsidiary legislations as well as other applicable laws.

Professional Code: Such as the Code of Governance for Charities and IPCs.

House Rules: Such as the charity own Constitution and Bye-Laws & Regulations.

- 3.2. In the course of executing follow-up actions, the charity concerned must comply with the relevant Statutes, Codes and House Rules. Take note that the Statutes shall take precedence over others and in the event of any discrepancy arises the Statutes shall prevail.
- 3.3. As trustees are entrusted to safeguard the immovable properties and assets of a registered charity in order to fulfil its charitable objects, the procedure for appointment or dismissal or replacement of trustee must be carried out legitimately and in accordance with the principles of natural justice.

4. Standard Operating Procedure

In adopting the following SOP, one must ensure that the procedure and documentation to conform to the legal requirements.

- 4.1. ☐ The matter must be tabled at Board Meeting for discussion and decision and accompanied by the following documentary evidence:
- (1) ☐ Trustee's letter of resignation;
☐ Trustee's death certificate;
☐ Trustee's medical report; or
☐ Written evidence of Trustee's bankruptcy or conviction of criminal offence.
- (2) ☐ Section 37 (1) of the Trustees Act (Chapter 337)
☐ Section 27(1) of the Charities Act (Chapter 37)
☐ Relevant section on trustees in the charity's governing instrument
- 4.2. ☐ Based on the Board Meeting's recommendation, to table the matter at AGM /EGM for adoption and resolution in accordance with procedure stipulated in the governing instrument.
- 4.3. ☐ President and Honorary Secretary to jointly sign and issue letter of appointment to lawyer / law firm to carry the necessary follow-up actions. The following documents which have been duly certified correct jointly by President and Honorary Secretary must be submitted to lawyer/law firm:
- ☐ Resolution of the AGM/EGM
☐ Instruction to Retiring, Continuing and New Trustees.
☐ Certificate of Registration of Death and Notice of Death (in the case of death of trustee)
☐ **Annex 2:** Sample of Death Certificate
☐ **Annex 3:** Sample of Notice of Death
☐ Letter of Resignation (in the case of resignation)
☐ NRIC of new trustee
☐ Copy of Certificate of Title
☐ Original Deed of Appointment of Trustees
☐ Governing instrument / Constitution

- 4.4. ☐ President and Honorary Secretary to jointly sign and issue Direction to Retiring, Continuing and New Trustees instructing them to execute the resolution of AGM/EGM.
- 4.5. ☐ To-ordinate with lawyer to arrange for the Retiring, Continuing and New Trustees to sign the new Deed of Appointment of Trustees in the presence of the lawyer.
- 4.6. ☐ To apply for new Certificate of Title to ensure that:
- (1) The Certificate of Title clearly states “Joint Tenants In Trust”.
- (2) Correspondence address of all trustees to be directed to the charity’s registered place of business in order to avoid any miscommunications or prevent the charity from being kept in the dark.
- 4.7. ☐ To submit statutory returns to the Registrar of Societies and the Commissioner of Charities.
(Note: A Charity irrespective of its type of registration / incorporation shall submit statutory return to COC on particulars of its immovable properties and trustees as well as any change. For a charity registered as a society, a concurrent statutory return must be submitted to ROS).
- 4.8. ☐ To ensure that IRAS (Inland Revenue Authority of Singapore) send its Notification on Transfer of Property.
- 4.9. ☐ To update Charity’s Register of Immovable Properties and Trustees.
- 4.10. ☐ To update Charity’s Annual Report.
5. Reference materials

Annex 4. Table of comparison on Society, CLG and Charitable Trust

Annex 5. Sections 36, 37 and 38 of Trustees Act (Chapter 337)

Annex 6. Sections 27 and 28 of Charities Act (Chapter 37)

Annex 7. Sample of updating of profile at Charity Portal

Annex 8. Sample of submission to ROS on Immovable Properties and Trustees

Annex 9. Extracts of Court Judgements on litigations arising from change of 2 Temples’ trustees

Annex 10. Various Statutory Returns

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Updated on 13 March 2017.

16.3 不动产信托人

16.3.1 人数

本会不动产信托人的人数在任何时刻最少 2 人，最多 4 人

16.3.2 资格

所有不动产信托人必须符合下列所有条件：

- (1) 本会资深会员；
- (2) 新加坡公民；
- (3) 年龄在 21 岁以上；
- (4) 未因违反任何国家的刑事法而被该国法院定罪而坐监两个星期或以上者，或罚款两千元新币或以上者；
- (5) 没有被判入穷籍者；以及
- (6) 理事会随时所订的其他条件

16.3.3 委任程序

- (1) 只有理事会才有权向会员大会推荐符合上述第 16.3.2 条所列资格者担任不动产信托人，并由会员大会加以委任。
- (2) 本会不动产信托人若没事先的批准与指示，不得进行任何产业的买卖或抵押

16.3.4 不动产信托人的责任

- (1) 不动产信托人必须集体签署信托声明书，以及
- (2) 必须执行会员大会有关处理本会不动产的议决案，而有关议决案须经会长和总务联合签署

16.3.5 不动产信托人自动丧失资格

任何不动产信托人若有下列任何一种情况，理事会有权宣布他自动丧失不动产信托人的资格：

- (1) 逝世、精神错乱或神智不清；
- (2) 离开新加坡超过 1 年；
- (3) 拒绝执行会员大会有关处理不动产的议决案；
- (4) 来函辞去不动产信托人职务；
- (5) 来函退会；或
- (6) 脱离佛教者。

16.3.6 空缺的递补

本会不动产信托人若出现空缺时，理事会应据章程第 16.3.2 条和 16.3.3 条规定递补有关空缺。任何革除信托人或委任新信托人填补空缺的动议，必须在召开讨论该事项的会员大会之前至少两

(2) 个星期张贴在本会会所的布告栏。本会必须在会员大会后将有关议决通知社团注册官和慈善总监。

16.3.7 不动产与信托人的法定呈报

本会必须将所拥有不动产的资料，信托人的个人资料以及随后的任何资料上出现变动时向社团注册局和慈善总监呈报

16.3 Trustees for Immovable Properties

附件 1 Annex 1

16.3.1 Number

At any time the number of Trustees shall be at least two and maximum of four.

16.3.2 Qualifications

All Trustees must meet all the following requirements:

- (1) be a Senior Member of ~~XXXX~~;
- (2) be a Singapore Citizen;
- (3) be at least 21 years of age;
- (4) must not have been convicted under the criminal laws of any country by a court of law in such country and sentenced to imprisonment of two weeks or more, or a fine of two thousand Singapore Dollars (\$2000) or more;
- (5) must not be an undischarged bankrupt; and
- (6) satisfy whatever additional requirements as may be set by the management Committee from time to time.

16.3.3 Appointment Procedure

- (1) Only the Management Committee shall have the power to recommend persons who meet the requirements stipulated in Clause 16.3.2 herein to the General Meeting for appointment as Trustees.
- (2) The Trustees of ~~XXXX~~ shall not effect any sale or mortgage of property without the prior approval of the General Meeting of members.

16.3.4 Duties of Trustees

- (1) All Trustees must jointly sign a Declaration of Trust; and
- (2) must execute the resolution of the General Meeting in relation to the dealing with immovable properties of ~~XXXX~~ and a copy of such resolution must be signed jointly by the President and the Honorary Secretary

16.3.5 Disqualifications

The Management Committee shall have the power to disqualify any person from holding the post of Trustee upon him:-

- (1) being dead, lunatic or mentally unsound;
- (2) leaving Singapore for a period of more than one year;
- (3) refusing to execute the resolution of the General Meeting in relation to the dealing with ~~XXXX~~ immovable properties;
- (4) submitting his letter of resignation as Trustee;
- (5) submitting his letter of resignation as member of ~~XXXX~~; or
- (6) denouncing Buddhism.

16.3.6 Filling of Vacancy

Should any vacancy arises in the post of any Trustee, the Management Committee shall fill such vacancy in accordance with the stipulations of Clauses 16.3.2 and 16.3.3. Notice of any proposal to remove a trustee from his trusteeship or to appoint a new trustee to fill a vacancy must be given by positing on the notice board in the ~~XXXX~~'s premises at least two (2) weeks before the General Meeting at which the proposal is to be discussed. The result of such General Meeting shall then be notified to the Registrar of Societies and Commissioner of Charities.

16.3.7 Statutory Return regarding Immovable Properties and Trustees

~~XXXX~~ shall notify the Registrar of Societies and Commissioner of Charities of the particulars of its immovable properties and Trustees and any subsequent changes

REPUBLIC OF SINGAPORE
CERTIFICATE OF REGISTRATION OF DEATH

附件 2
Annex

DECEASED	Death registered at				
	Full name of deceased				
	NRIC/Identification Document No.	Sex	Date of birth		
	Race/Dialect Group	Nationality	Country/Place of birth		
	Home Address		Date and hour of death		
	Place or Address where death occurred		Approximate interval between onset and death		
		Years	Months	Days	Hours
CAUSE OF DEATH BY CERTIFIER	I Disease or Condition leading to death				
	(b)				
	Antecedent Causes				
	(c)				
II Other Significant conditions					
Name and official status of person certifying cause of death			Certificate of Cause of Death Reference No.: Date:		
INFORMANT	Name		I certify that the above information given by me is correct.		
	Address				
	NRIC/Identification Document No.		Informant's Signature/		
	Relationship		Thumb impression Date		
REGISTRATION OFFICER	Name of Registration Officer				
	Designation				
	Date				
for Registrar of Births and Deaths					

DISPOSITION	PERMIT TO BURY/CREMATE BODY [The Environment Public Health Act (Chapter 95)]			
	Place of Burial or Place of Cremation		Religious type	
INFORMANT MAKING APPLICATION	I NRIC/Identification Document No. apply for a permit to <input type="checkbox"/> bury + <input type="checkbox"/> cremate + the deceased referred to in the Death Certificate No. <u>For application to cremate only</u> <input checked="" type="checkbox"/> I certify that to the best of my knowledge, the deceased has no written direction that he/she should not be cremated +		Informant's Signature/Thumb impression Date	
	The Certificate of Cause of Death certified that there is <input checked="" type="checkbox"/> No evidence of pacemaker in the body of the deceased + <input type="checkbox"/> Evidence of pacemaker/device removed from the body of the deceased + Permit is approved.		for Commissioner of Public Health	
REGISTRATION OFFICER	Date			

THE LAND TITLES ACT

(For Official use only)

NOTICE OF DEATH

(A) DESCRIPTION OF LAND

(Land of which deceased and applicant are registered as joint tenants)

If title document is a lease, please include the Vol and Fol No and simply state the Lease No.

*CT/SSCT/SCT		MK/TS	Lot No	Property Address
Volume	Folio			

(B) DECEASED REGISTERED PROPRIETOR

Name :	
Last Address :	

The DECEASED and the APPLICANT are registered as joint tenants of the land above described.

(C) THE APPLICANT

If more than ONE applicant, please refer to explanatory notes.

ID / Co regn no :	
Name :	
Citizenship / Place of Incorporation	
Non-Citizen :	* Permanent Resident / Non-Permanent Resident
Address : (within Singapore for service of notice)	

* Please delete what is not applicable

(D) ENTITLEMENT

Being the surviving joint-tenant/s, HEREBY APPLIES for an entry to be made on the land register of this entitlement and lodges herewith :-

1. * A certified true copy of the Grant of Probate / the Letters of Administration of the estate of the deceased in Probate No. _____/a certified extract of the Death Certificate of the deceased; and
2. * Certificate of Title / Duplicate Lease

* Please delete what is not applicable

(E) DATE OF APPLICATION : _____

(F) EXECUTION BY APPLICANT

SIGNATURE

Witness

(G) CERTIFICATE OF CORRECTNESS

I, the Solicitor for the Applicant hereby certify that this instrument is correct for the purposes of the Land Titles Act and that I hold a practising certificate which is in force as at the date of the instrument.

NAME & SIGNATURE OF SOLICITOR FOR THE APPLICANT

FOR OFFICE USE ONLY

REGISTERED ON	
Initials of Signing Officer :	for REGISTRAR OF TITLES
Received on _____ STARS CT/SSCT NE () _____	
_____ Regn O/C	_____ Clerk's Name & Signature
_____ Del O/C	_____ Name of Law firm

Note : - This portion shall be printed or typed on the reverse side of the last page of the instrument.

应注册为担保制有限公司、社团还是慈善信托？

您还犹豫不决？兹列表比较这三种不同结构形式供参考：

特征	社团	担保制有限公司	慈善信托
另有法人地位 (影响下列的责任)	没有。社团和它们的会员之间并无另有法人的地位	有。担保制有限公司另有法人地位	没有。
会员的责任	负全责。若该社团有任何责任，所有会员可能需负个人责任（如：造成财务损失）。	有限责任。若遇公司收盘时，会员的责任只限于他们对公司资产所作的担保/承诺。	负全责，由于信托没有另外的法人地位，所有法律责任由信托人承担。
注册	社团必须根据社团法令向社团注册局注册。	担保制有限公司必须向会计与企业管制局注册。	慈善信托人必须根据信托人法令向部长申请注册为团体信托人的注册证书。
会务场所	必须在指定的地点收存该社团的记录和帐簿。	必须在新加坡境内设有注册办事处以接收致予公函的正式公函，通常是公司秘书的办事处	不适用

特征	社团	担保制有限公司	慈善信托
主要管理文据	社团章程列明其宗旨与目的、各项条文，担任执委的资格等。	公司组织大网与章程细则，列明公司的宗旨、管理、遇收盘时会员所承诺的金额。	信托契约列明谁是信托人、信托的慈善意图、信托人的作业框架等。
常年会员大会	根据章程条文规定召开常年会员大会。	公司必须为全体会员召开常年会员大会。	不适用。
会员与管理层	至少有 10 个或更多的会员，除了章程内的条文之外，其执委所应具备的资格一般上没有规定。	公司必须至少有一位经常住在新加坡的董事，并且在注册后必须由一位符合公司法令所规定的资格者担任公司秘书并住在本地，以及一位审计师。	信托局至少要有三位成员，负责管理该慈善信托。
法定呈报	一般上社团是比较灵活的自行管理，但仍须遵循其章程条文与社团法令。	担保制有限公司根据公司法令下必须严格遵守各项呈报要求。	根据信托人法令保管帐目和提呈常务帐目报表。

佛总的中译版译自律师公会的网上资料，详见后页。

A CLG or Society or Trust?

A CLG or Society or Trust?

Still haven't made up your mind? This table gives an overview of comparisons between the three legal structures.

Characteristic	Society	Public Company Limited by Guarantee (CLG)	Charitable Trust
Separate Legal Entity (affects Liability below)	No. Societies are not separate legal entities from their members.	Yes. CLGs are separate legal entities.	No.
Liability of the Members	Full liability. All members may be personally liable (ie, incur financial losses) for any liability incurred by the society.	Limited liability. The liability of members is limited to such an amount as they had guaranteed/undertaken to contribute to the assets of the company in the event that it is wound up.	Full liability. All legal liabilities will be borne by the trustees as a trust is not a separate legal entity.
Registration	A society must register with the Registrar of Societies under the Societies Act.	A CLG must be registered (ie, "incorporated") with the Accounting and Corporate Regulatory Authority of Singapore (ACRA).	A charitable trust is formed after application to the Minister for a certificate of registration of the trustees as a corporate body under the Trustees Act.
Place of Business	Has to be a specified place where the records and books of accounts of a society are kept.	Has to be a registered office within Singapore to which official correspondence addressed to the company will be sent, usually at the Company Secretary's office.	N.A.
Main Documentation required [more detail in Setting Up Your Legal Structure]	A Constitution to govern the society which establishes its aims and objects, various rules, qualification for any office and so on.	A Memorandum & Articles (M&A) setting out the objects of the company, the management, the amount each member undertakes to contribute in the event of winding up, etc.	A trust deed stating the trustees, the charitable intentions of the trust, the framework within which the trustees must operate, etc.

Annual General Meeting	AGMs are held in accordance with the provisions in the society's own Constitution.	AGMs must be held by the company for all its members.	N.A.
Members and Management Committee	Should have 10 or more persons in the society. No particular qualifications for office-bearers apart from those in the society's Constitution.	Company must have at least one director who must be ordinarily resident in Singapore, and has to appoint a company secretary residing locally who is qualified under the Companies Act and an auditor after incorporation.	Board of trustees, consisting at least of 3 persons, control the charitable trust.
Statutory Reporting Requirements	Societies are generally more flexible as they are self-regulating, but they have to abide by the rules of their Constitution and of the Societies Act.	A CLG are bound by the more stringent reporting requirements under the Companies Act.	The trustees are to keep accounts and render the annual returns of accounts under the Trustees Act.

A note about this website

The information on this website is intended as a guide only and is not legal advice, so if you have a specific legal issue you should seek legal advice. The information on the website will be updated periodically with relevant changes or additions as we continue to help Singapore non-profits with their legal issues. If you want to provide feedback about the contents on the site or suggest future legal topics, please provide feedback to probonoservices@lawsec.org.sg

信托人法令第 36 条、第 37 条、第 38 条

Limitation of the number of trustees 信托人人数的限制

36.—(1) In the case of settlements and dispositions on trust of property, whether movable or immovable, made or coming into operation on or after 1st September 1929 —

(a) the number of trustees thereof shall not in any case exceed 4, and where more than 4 persons are named as such trustees, the 4 first named (who are able and willing to act) shall alone be the trustees, and the other persons named shall not be trustees unless appointed on the occurrence of a vacancy; and

(b) the number of the trustees shall not be increased beyond 4.

(2) The restrictions hereby imposed on the number of trustees shall not apply in the case of property vested in trustees for charitable, religious or public purposes.

[Trustees Ordinance 1955 Ed., s. 36]

Power of appointing new or additional trustees 委任新或额外信托人的权力

37.—(1) Where a trustee, either original or substituted, and whether appointed by a court or otherwise —

(a) is dead;

(b) remains out of Singapore for more than 12 months;

(c) desires to be discharged from all or any of the trusts or powers reposed in or conferred on him;

(d) refuses or is unfit to act therein;

(e) is incapable of acting therein; or

(f) is an infant,

then, subject to the restrictions imposed by this Act on the number of trustees —

(i) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust; or

(ii) if there is no such person, or no such person able and willing to act, then the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee,

may, by writing, appoint one or more other persons (whether or not being the persons exercising the power) to be a trustee or trustees in the place of the trustee so deceased, remaining out of Singapore, desiring to be discharged, refusing, or being unfit or being incapable, or being an infant.

(2) Where a trustee has been removed under a power contained in the instrument creating the trust, a new trustee or new trustees may be appointed in the place of the trustee who is removed, as if he were dead, or, in the case of a corporation, as if the

corporation desired to be discharged from the trust, and this section shall apply accordingly, but subject to the restrictions imposed by this Act on the number of trustees.

(3) Where a corporation being a trustee is or has been dissolved, either before, on or after 1st September 1929, then, for the purposes of this section and of any written law replaced thereby, the corporation shall be deemed to be and to have been from the date of the dissolution incapable of acting in the trusts or powers reposed in or conferred on the corporation.

(4) The power of appointment given by subsection (1) or any similar previous written law to the personal representatives of a last surviving or continuing trustee shall be and shall be deemed always to have been exercisable by the executors for the time being (whether original or by representation) of such surviving or continuing trustee who have proved the will of their testator or by the administrators for the time being of such trustee without the concurrence of any executor who has renounced or has not proved.

(5) But a sole or last surviving executor intending to renounce, or all the executors where they all intend to renounce, shall have and shall be deemed always to have had power, at any time before renouncing probate, to exercise the power of appointment given by this section, or by any similar previous written law, if willing to act for that purpose and without thereby accepting the office of executor.

(6) Where a sole trustee, other than a trust corporation, is or has been originally appointed to act in a trust, or where, in the case of any trust, there are not more than 3 trustees (none of them being a trust corporation) either original or substituted and whether appointed by the court or otherwise, then and in any such case —

- (a) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust; or
- (b) if there is no such person, or no such person able and willing to act, then the trustee or trustees for the time being,

may, by writing, appoint another person or other persons to be an additional trustee or additional trustees.

(7) It shall not be obligatory to appoint any additional trustee under subsection (6) unless the instrument, if any, creating the trust, or any written law provides to the contrary, nor shall the number of trustees be increased beyond 4 by virtue of any such appointment.

(8) Every new trustee appointed under this section, as well before as after all the trust property becomes by law, or by assurance, or otherwise, vested in him, shall have the same powers, authorities and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust.

(9) The provisions of this section relating to a trustee who is dead include the case of a person nominated a trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee, if willing to act in the execution of the provisions of this section.

(10) Where a trustee lacks capacity (within the meaning of the Mental Capacity Act 2008) to exercise his functions as trustee and is also entitled in possession to some beneficial interest in the trust property, no appointment of a new trustee in his place shall be made by the continuing trustees or trustee, under this section, unless leave has been given by the court to make the appointment.

[Trustees Ordinance 1955 Ed., s. 37]

[21/2008 wef 01/03/2010]

委任信托人的附加条款

Supplemental provisions as to appointment of trustees

38.—(1) On the appointment of a trustee for the whole or any part of trust property —

- (a) the number of trustees may, subject to the restrictions imposed by this Act on the number of trustees, be increased;
- (b) a separate set of trustees, not exceeding 4, may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property, and any existing trustee may be appointed or remain one of such separate set of trustees, or, if only one trustee was originally appointed, then, except as hereinafter provided, one separate trustee may be appointed;
- (c) it shall not be obligatory, except as hereinafter provided, to appoint more than one new trustee where only one trustee was originally appointed, or to fill up the original number of trustees where more than 2 trustees were originally appointed, but, except where only one trustee was originally appointed, and a sole trustee when appointed will be able to give valid receipts for all capital money, a trustee shall not be discharged from his trust unless there will be either a trust corporation or at least 2 individuals to act as trustees to perform the trust; and
- (d) any assurance or thing requisite for vesting the trust property, or any part thereof, in a sole trustee, or jointly in the persons who are the trustees, shall be executed or done.

(2) Nothing in this Act shall authorise the appointment of a sole trustee, not being a trust corporation, where the trustee, when appointed, would not be able to give valid receipts for all capital money arising under the trust.

[Trustees Ordinance 1955 Ed., s. 38]

〈慈善法令〉第 27 条及 28 条

没资格担任慈善团体董事的人士等等

27 (1) 受本条文所制，一个人若有下列情况就没资格担任慈善团体的董事或主要职员或信托人：

(a) 曾因涉及不诚实或欺诈罪行而在新加坡或其他地方被定罪者；

(b) 曾被判破产而尚未脱离穷籍者；

(c) 曾和债权人达致债务和解协议或安排，或获得其债权人的信托契据而未解除有关债务者；

(d) 曾被慈善总监据本法令第 25 (1) (i) 条，或高等法院因他所负责或有关系，或因他的行为造成或促成任何不当行为或管理不当而被革除其慈善团体董事、主要职员或信托人职务者；或

(e) 据〈公司法令第 50 章〉第 148 条、第 149 条或第 154 条丧失公司董事资格者。

(2) 当一个以公司形式注册为慈善团体其董事或主要职员或信托人据第 (1) (b) 副条文（惟不包括本副条文）而丧失其资格时，若后来据〈公司法令〉第 148 条获得许可将不再视为丧失资格；同样地，若获得许可担任慈善团体董事，则不能据上述第 (1) (e) 副条文撤销他的慈善团体董事或主要职务或信托人的资格。

在丧失资格继续担任慈善团体董事等等

28 (1) 任何人若据本法令第 27 条而丧失慈善团体董事或主要职员或信托人时仍担任慈善团体董事或主要职员或信托人将视为犯罪，一旦定罪将被罚款不超过 5000 元或被监禁不超过一年或两者兼施，而若定罪后继续犯此罪行将每日加罚不超过 50 元。

(2) 据本法令第 27 条丧失资格者以慈善团体董事或主要职员或信托人的任何行为均因丧失资格而属无效。

(3) 若慈善总监有充足理由相信：

(a) 在本法令第 27 条下丧失资格的任何入仍担任慈善团体董事或主要职员或信托人；以及

(b) 担任该慈善团体的董事或主要职员或信托人期间从该慈善团体获收任何形式酬劳或费用或任何实物利益时，慈善总监可下令他将有关款额的全数或部分偿还给该慈善团体，或（视有关个案而定）将有关利益的金钱价值（由慈善总监判定）的全数或部分偿还给该慈善团体。

(4) 上述第 (3) 副条文不适用于他在没丧失资格时担任慈善团体董事或主要职员或信托人期间所获收的任何形式酬劳或费用。

Sections 27 and 28 of the Charities Act

附件 6
Annex

Persons disqualified from being governing board members, etc., of a charity

27. —(1) Subject to the provisions of this section, a person shall be disqualified from being a governing board member or key officer of a charity or a trustee for a charity if —

(a) he has been convicted, whether in Singapore or elsewhere, of any offence involving dishonesty or deception;

(b) he has been adjudged bankrupt, and has not been discharged;

(c) he has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it;

(d) he has been removed from the office of governing board member or key officer of a charity or trustee for a charity by an order made by the Commissioner under section 25(1)(i) or by the High Court on the ground of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated; or

(e) he is subject to a disqualification order under section 148, 149 or 154 of the Companies Act (Cap. 50).

(2) Where (apart from this subsection) a person is disqualified under subsection (1) (b) for being a governing board member or key officer of a charity or a trustee for a charity which is a company, he shall not be so disqualified if leave has been granted under section 148 of the Companies Act for him to act as director of the charity; and similarly a person shall not be disqualified under subsection (1)(e) from being a governing board member or key officer of a charity or trustee for a charity if leave under the order has been granted for him to act as director of the charity.

Persons acting as governing board member, etc., while disqualified

28. —(1) Any person who acts as a governing board member or key officer of a charity or trustee for a charity while he is disqualified from being such a governing board member or key officer or trustee by virtue of section 27 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction.

[10/2007]

(2) Any act done as governing board member or key officer of a charity or trustee for a charity by a person disqualified from being such a trustee by virtue of section 27 shall not be invalid by reason only of that disqualification.

(3) Where the Commissioner is satisfied —

(a) that any person has acted as governing board member or key officer of a charity or trustee for a charity while disqualified from being such a governing board member or key officer or trustee by virtue of section 27; and

(b) that, while so acting, he has received from the charity any sum by way of remuneration or expenses, or any benefit in kind, in connection with his acting as governing board member or key officer of the charity or trustee for the charity,

the Commissioner may by order direct him to repay to the charity the whole or part of any such sum, or (as the case may be) to pay to the charity the whole or part of the monetary value (as determined by the Commissioner) of any such benefit.

(4) Subsection (3) shall not apply to any sum received by way of remuneration or expenses in respect of any time when the person concerned was not disqualified from being a governing board member or key officer of a charity or trustee for the charity.

上慈善网站更新资料
Updating of Profile at Charity Portal

附件
Annex

7

Organisation Profile

Organisation Name:			
Organisation Profile	Financial Information	Annual Report	Code Compliance

Organisation Information	
Address:	
Website:	
Email Address:	
Telephone No.:	
Fax No.:	
Contact Person:	
Type of Entity:	
UEN No.:	
Charity Status:	
Date of charity registration:	
IPC Status:	
IPC Period:	
Sector Administrator:	
Last Profile update:	
Objectives	
Vision/Mission	
Programs/Activities	
Patron	
Trustees/Board Members	

S/N	Name	Position on Board
1.		President, Trustee for Immovable Property ●
2.		Vice President
3.		Vice President
4.		Secretary-General
5.		Deputy Secretary-General
6.		Honorary Treasurer
7.		Deputy Honorary Treasurer
8.		CHAIRMAN, COMMITTEE
9.		Chairman, Committee, Trustee for Immovable Property ●
10.		Vice Chairman, Committee
11.		Chairman, Committee
12.		Chairman, Committee
13.		Vice Chairman, Committee
14.		Chairman, Committee, Trustee for Immovable Property ●
15.		Vice Chairman, Committee
16.		CHAIRMAN, COMMITTEE
17.		COUNCIL MEMBER
18.		Council Member
19.		Trustee for Immovable Property ●
20.		Trustee for Immovable Property ●
Key Employees/Executive/Volunteers		

Updating Your Charity Or IPC Profile



What And When To notify

Charities and IPCs are required to inform the Commissioner of Charities (COC) or Sector Administrators (SAs) **within 7 days** if there is any change in their particulars (e.g. change in Board members, key officers or Authorised Personnel). When there are changes in persons accessing the Portal, charities and IPCs may contact their respective Sector Administrators for assistance to delete obsolete user access accounts. This will help avoid unauthorised access to charities / IPCs' records.

Certain updates such as addition and removal of governing board members and change of name or registered address of the charity or IPC will have to be updated through lodgement with Accounting and Corporate Regulatory Authority of Company (ACRA) or Registry of Society (ROS)

Charities and IPCs need to notify COC or SAs for changes in:

- Composition of the governing board;
- Personal details of governing board members;
- Address of each immovable property;
- Appointment of trustees; and
- Any other organisational details such as key officers and contact information.

呈报不动产与信托人

Section 27 of the Charities Act disqualifies a person from being a governing board member or key officer of a charity or trustee for a charity if he/she does not fulfill the necessary requirements. It is the responsibility of the Governing Board to ensure that its members and key officers fulfill the requirements. When updating your Charities and IPC profile, you are required to declare whether your board members and key officers have met the requirements under Section 27. If any appointed person is disqualified, the Governing Board should replace the person and inform the COC or SA on the change in governing board members.

Read next on:

Deregistering Your Charity or IPC

--

向社团注册局呈报不动产与信托人
Submission of Declaration of Immovable
Properties & Trustees to ROS

附件
Annex 8



Registry Of Societies

Singapore Government
Integrity • Service • Excellence

Submission of Declaration of Immovable Properties & Trustees

Summary of Submission

Date of submission for verification :

Case ID :

UEN :

Name of Society :

Place of Business :

Trustees

Name	NRIC/Passport No	Nationality	Date of Birth
1.			
2.			
3.			
4.			

Properties

Address

1.

Contact Details

Name :

Address :

Mobile No :

Office No:

Email :

President

Secretary 28

Treasurer

呈报不动产与信托人的需知事项



Instructions For Submitting a Declaration of Immovable Properties & Trustees.

1. Requirements

- a. This eService will take approximately 3 minutes to complete.
- b. One of the President, Secretary or Treasurer of the society is required to verify the submission using his/her SingPass or SingPass or iROSES account before the system can file the information.

2. Important

- a. The society should ensure that all outstanding annual returns have been submitted before making this submission.

3. User Guide

A. General

1. Before starting on your submission, you are encouraged to read the instructions on submitting a Declaration of Immovable Properties & Trustees.
2. The form consists of three parts:
 - Society's Details
 - Trustees
 - Immovable Properties
 - Contact Details

B. Completing the Form

1. Society's Details

- a. Fill in either the UEN or name of the society.

The screenshot shows a form titled "Society Details". It contains three input fields: "UEN" with a placeholder "Enter UEN number", "Name of Society" with a placeholder "Enter Society Name", and "Place of Business" with a placeholder "Enter Place of Business".

Figure 1. Society's Details

2. Trustees

- a. Click on **Add Trustees** button to create new trustees.



Figure 2. Trustees

- b. A new window will be displayed. Fill in all compulsory fields and click **Save** to save and exit or click **Add More Trustees** to add another trustee.

Figure 3. Details of Trustee

- c. To edit the details of the trustee you had just added (Figure 4), click on the trustee's name, update details and click **Save** button to save and exit.



Figure 4. Edit Trustee

3. Immovable Properties

- a. Click on **Add Properties** button to create new properties.

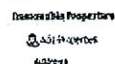


Figure 5. Immovable Properties

- b. A new window will be displayed. Fill in all compulsory fields and click **Save** to save and exit or click **Add More Properties** to add another trustee.

Add Immovable Properties

Properties Address : Local address

☐ Postal Code : _____

Building/Block/House No : _____

Unit No : # _____

Street Name : _____

Building Name : _____

OR Foreign address (For persons not residing in Singapore):

☐ _____

Save Add More Properties Cancel

Figure 6. Details of Immovable Properties

- c. To edit the details of the immovable property you had just added (Figure 7), click on the immovable property, update details and click **Save** button to save and exit.

C. Saving the Submission as a Draft

1. You may want to save the information entered as a draft. At the bottom of the form, you will see:



Figure 9. Action Buttons

2. Click on **Save** button to save the application as a draft.

D. Retrieving a draft submission of Declaration of Immovable Properties & Trustees

1. You may retrieve the draft from the **Outstanding Tasks** tab (Figure 10).

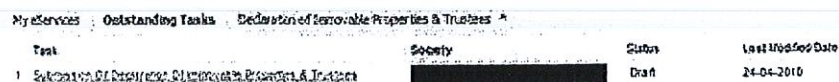


Figure 10. Outstanding Tasks

2. Click on **Change of Management Committee Details** to open the submission.

E. Submit a Declaration of Immovable Properties & Trustees

1. Click on **Declaration of Immovable Properties & Trustees at Outstanding Task** and the form opens in a new tab. At the bottom of the form, click on **Submit** button.

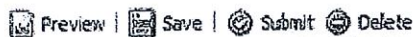


Figure 11. Action Buttons

2. After successful submission, an acknowledgment page will be displayed (Figure 12).

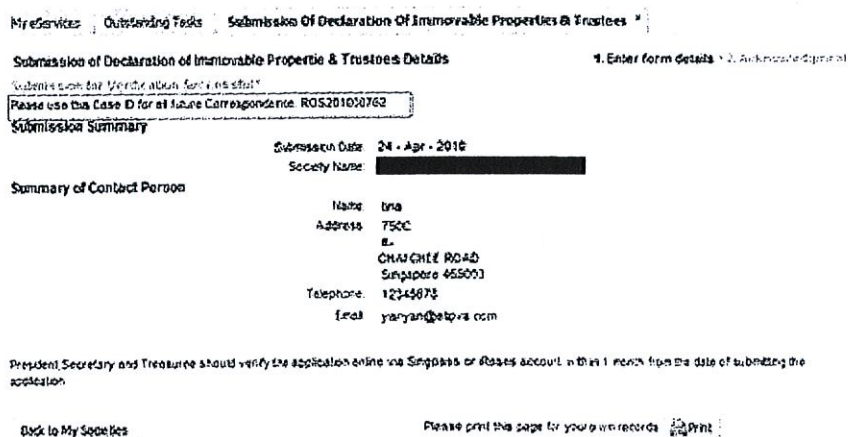


Figure 12. Acknowledgement

F. Verify/Modify/Delete Application

1. Submission of Declaration of Immovable Properties & Trustees should be verified by one of the society's key office-bearers (President, Secretary or Treasurer). To verify/edit/delete, open a **Declaration of Immovable Properties & Trustees** at **Outstanding Tasks** tab.

At the bottom of the form, click on **Verify** button to verify, click on **Modify** button to edit or click on **Delete** button to delete the draft.



Figure 13. Action Buttons

2. After successful verification, an acknowledgment page will be displayed (Figure 14). Once the submission is verified and submitted to ROS, you will not be allowed to delete the submission.

Figure 14. Acknowledgement

G. Status of Submission

1. To check status of the submission, log in with SingPass or iROSES account and click on **Application/Submission Status** on the left hand navigation panel.

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竹林寺事件

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Singapore Law Reports

[2002] 3 SLR

Lau Ah Lang & Ors v Chan Huang Seng & Ors

HIGH COURT — SUIT NO 452 OF 2000

JUDITH PRAKASH J

2 MAY, 10 JULY 2001

Unincorporated Associations — Meetings — Notice of extraordinary general meeting — Sufficiency of notice — Validity of actions taken at meeting

Facts

The plaintiffs sought a declaration that the appointment of the 21 defendants as the seventh management committee of the Zu-Lin Temple Association ('the association') was null and void and that the sixth management committee was still the duly elected and effective management committee of the association. The circumstances giving rise to the application were that an extraordinary general meeting of the association had been called and notice of the meeting was given to all members including the plaintiffs. The notice did not state that the sixth management committee would be dissolved and that an election would be conducted to elect a replacement management committee. The plaintiffs did not attend the meeting and the members present at the meeting voted in favour of the dissolution of the sixth management committee and appointed a new management committee.

Held, granting the declarations:

- (1) The law is clear that meetings would be invalid at the behest of non-attending members if notices convening them do not specify, with sufficient particularity, the matters to be discussed and resolved at the meetings (see ¶21).
- (2) There was nothing in the notice that indicated the purpose of the meeting was to remove and replace trustees and/or committee members (see ¶24). Since no indication of such a purpose was disclosed on the notice, the plaintiffs were deprived of their right to attend and contribute to the discussion and participate in the voting that took place (see ¶27).
- (3) In the circumstances, the notice was bad and the actions taken could not be validated notwithstanding that a majority of the members of the association had voted in favour of them (see ¶29).

[Editorial Note: The defendants' appeal to the Court of Appeal vide CA 600068/2001 was withdrawn on 25 February 2002.]

Case(s) referred to

Kaye v Croydon Tramways Co [1898] 1 Ch 358 (refd)
Young v Ladies' Imperial Club [1920] 2 KB 523 (refd)

A Lawyers

K Shanmugam SC, Christopher Daniel and Sanjiv Rajan (Allen & Gledhill)
for the plaintiffs.

Edwin Tay and Claire Nazar (Edwin Tay & Co) for the defendants.

B Judith Prakash J: All the parties are members of the Zu-Lin Temple Association ('the association') and this action reflects the existence of factions among the members that are struggling for control of the association.

C 2 The action started as a claim by the three plaintiffs against the 21 defendants for a declaration that the appointment of the 21 defendants as the seventh management committee of the association was null and void and that the sixth management committee was still the duly elected and effective management committee of the association. The defendants filed a defence and also a counterclaim. The counterclaim was not only against the three plaintiffs. It was also against two additional members who became two of the five defendants to the counterclaim. Many affidavits were filed and the action was fixed for hearing over ten days.

E 3 When the hearing started before me on 2 May 2001, Mr Shanmugam, counsel for the plaintiffs, put forward two preliminary points. The first point was that no defence to the plaintiffs' claim had been disclosed either in the pleadings or in the affidavits filed by the defendants and therefore judgment should be entered for the plaintiffs without a trial. The second point was that in respect of the counterclaim there was no cause of action disclosed against the original plaintiffs who were the first, second and third defendants to the counterclaim and that the counterclaim could not therefore properly subsist against only the fourth and fifth defendants to the counterclaim who were not parties to the original action.

F 4 I heard submissions from both parties on the first preliminary point. I decided that it was well founded and that judgment should and would be given for the plaintiffs without the necessity of a full hearing. I then proceeded to hear submissions on the second point. Partway through those submissions I was informed that the defendants wished to discontinue the counterclaim without prejudice to their right to start a new action and with no order as to costs on the counterclaim. Mr Shanmugam's clients accepted those terms and I accordingly granted leave to the defendants to discontinue the counterclaim. The defendants have now appealed against the decision in favour of the plaintiffs on the first preliminary point and the consequent declarations that I made in respect of the nullity of the seventh management committee and the continued existence of the sixth management committee.

H Pleadings

I 5 The amended statement of claim started by averring that all the plaintiffs were members of the association and that the second plaintiff was a committee member. It then went on to give a history of the association. Paragraph 6 of the statement of claim gave the names of all 25 members of the sixth management committee of the association. It named the second plaintiff and the third plaintiff as committee members. In para 7, the statement of claim, rather confusingly, asserted that the

武天宮事件

Ling Diung Kwong
v
Bo Tien Temple and Ors

High Court — Originating Summons No 998 of 2014
Steven Chong J
30 March 2015

2 April 2015

Judgment reserved.

Steven Chong J

Introduction

1 These are my brief oral grounds. In the event of an appeal, I reserve the right to supplement them with more detailed written grounds.

2 In Originating Summons No 998 of 2014 (“OS 998/2014”), the plaintiff, Ling Diung Kwong, seeks, *inter alia*, declarations that two decisions made in relation to the affairs of Bo Tien Temple (“BTT”) are invalid. These two decisions are:

(a) A decision by the Management Committee of BTT (“MC”), made at the 9th Bo Tien Temple Committee Meeting held on 22 March 2012 (“the 9th MC Meeting”), to terminate the plaintiff’s membership in BTT (the “membership termination decision”).

(b) A decision of the General Meeting of BTT, made at the 42nd Annual General Meeting (“AGM”) of BTT held on 24 March 2012, to

remove the plaintiff from the Board of Trustees of BTT (“the trusteeship termination decision”).

3 I will refer to the decisions collectively as “the termination decisions”. Having heard the arguments of the parties, I am of the view that the termination decisions are invalid.

4 Before proceeding to examine each of the termination decisions in greater detail, I will first make two preliminary points.

(a) First, it is well established that the relationship between BTT – an unincorporated association – and its members is governed by contract (*Kay Swee Pin v Singapore Island Country Club* [2008] 2 SLR(R) 802 (“*Kay Swee Pin*”) at [2])). Thus, review of the termination decisions is available only if it can be proved that the decisions were (a) ultra vires; (b) not made bona fide; (c) in breach of the rules of natural justice (see: *Chan Cheng Wah Bernard and Ors v Koh Sin Chong Freddie and another appeal* [2012] 1 SLR 506 (“*Bernard Chan*”) at [51]; *Kay Swee Pin* at [2])).

(b) Second, the *merits* of the BTT’s decision are not before me (see: *Bernard Chan* at [51]). Instead, this court is only concerned with the *legality* of BTT’s actions: whether it was procedurally proper, whether it complied with the requirements of natural justice, and whether it was intra vires the BTT Constitution.

The membership termination decision

5 I first begin with the membership termination decision. The plaintiff argues that the membership termination decision is invalid for three reasons:

ought to have recused themselves (see *Lawrence Khong* at [27]). The 2nd to 4th defendants had been personally involved in the matters which the defendants now identify as forming the basis of the membership termination decision. This includes the “Ngor Ya” issue, the altercation in respect of the minutes of the 34th and 35th AGMs, and the intended publication of the draft book.

20 In the circumstances, I find that a reasonable and fair-minded person would have a reasonable suspicion that a fair trial is not possible because the 2nd to 4th defendants would, in voting on the membership termination decision, be motivated by *animus* over the personal disagreements which the defendants had with the plaintiff.

21 Mr Ee submits that the 2nd to 4th defendants’ interest lay only in their opinion that the plaintiff’s conduct was detrimental to the interest of BTT and that they did not have any personal interest in the matter. With respect, this submission misses the point. The issue here is not *actual bias* (*ie*, whether the 2nd to 4th defendants were, in fact, motivated by animosity towards the plaintiff). The issue is one of *apparent bias*. Given the acrimony that had existed between the plaintiff and the 2nd to 4th defendants, a reasonable and fair-minded person would have a reasonable suspicion that a fair trial was not possible for the plaintiff if the 2nd to 4th Defendants were to sit on the MC that decided on his proposed expulsion.

Conclusion

22 In summary, I find that the membership termination decision is invalid for three reasons (though any one of the three would have been sufficient): first, it is *ultra vires* the BTT Constitution; second, it was made in breach of the plaintiff’s right to a fair hearing; and last, it is infected by apparent bias.

模板文件

H5: 各类法定呈报时限

1. 社团注册局

从 2010 年 5 月 17 日, 必须通过 iROSES 电子系统向社团注册局作各类法定呈报。主要或常见的法定呈报如下:

<u>呈报事项</u>	<u>时限</u>	<u>负责呈报者</u>	<u>费用</u>
常年呈报	常年会员大会之后的 30 天之内	会长、秘书及 财政	无
申请更换名称	无	会长及秘书	\$70
申请修改章程	无	会长及秘书	\$120
申请更换地址	无	会长及秘书	\$40
申请使用会徽	无	会长及秘书	\$40
解散证书	7 天之内	会长、秘书 及财政	无
呈报更换执委	无	会长、秘书 或财政其 中二人	-
呈报财务报表 (无常年会员大会者)	财政年结束 后一个月内	会长、秘书 及财政	-
呈报筹款结果	活动结束后 后 60 天之内	会长、秘书 或财政 任何一人	-
呈报不动产与 信托人声明	-	会长、秘书 或财政 任何一人	-

2. 慈善署

- 2.1 常年呈报：财政年结束后 6 个月之内，连同审计帐目一起呈报。
- 2.2 监管评估清单：财政年结束后 6 个月之内。

3. 慈善署或有关的监管部门

- 3.1 慈善团体或公益机构在处理下列事项时，必须先征得慈善署或有关的监管部门的批准，才可向社团注册局或会计与企业管制局提出申请：

修改章程

- 3.2 遇下列事项，除了依法向社团注册局或会计与企业管制局呈报之外，也须在 7 天之内向慈善署及有关监管部门呈报：
 - (1) 更换执委
 - (2) 更换地址
 - (3) 更换信托人
 - (4) 自愿解散

4. 国家福利理事会

慈善团体或公益机构若向国家福利理事会申请筹款准证，须在筹款活动结束后的 60 天之内向国家福利理事会呈报筹款结果。

Various Statutory Returns

1. Registry of Societies (ROS)

<u>Type of Return</u>	<u>Time Limit</u>	<u>Verify By*</u>	<u>Fee</u>
•Annual Return	within 30 days after AGM	P,T & S	Nil
•Application for Change of Name	Nil	P & S	\$70
•Application for Amendment of Rules	Nil	P & S	\$120
•Application for Change Of Place of Business	Nil	P & S	\$40
•Application for Use of Symbol/Logo	Nil	P & S	\$40
•Certification of Voluntary Dissolution	within 7 days After dissolution	P,T & S	Nil
•Change of Management Committee	Nil	Any 2 from P,T,S	NIL
•Submission of Statement of Accounts (for society without AGM)	within 1 month after closing of accounts	P,T & S	Nil
•Return of Fund-Raising Appeal	within 60 days after fund-raising	Any 1 from P,T,S	Nil
•Declaration of Immovable Properties And Trustees	Nil	Any 1 from P,T,S	Nil

* P: President
T: Treasurer
S: Secretary

2. Charities Unit (CU)

- Annual Return: within 6 months after closing of accounts together with audited financial statements
- Governance Evaluation Checklist: together with Annual Return

3. Charities Unit/Sector Administrator (CU/SA)

3.1 All charities must first obtain approval from CU/SA before they could table their proposed amendments to their constitution at AGM/EGM and thereafter to ROS or ACRA.

3.2 In addition to ROS/ACRA, concurrent return related to any of the following matters must be lodged at CU/SA within 7 days:

- (1) Change of Management Committee
- (2) Change of Place of Business
- (3) Change of Immovable Properties and Trustees
- (4) Voluntary Dissolution

4. National Council of Social Service (NCSS)

If a charity has applied to NCSS for fund-raising permit, it must also submit its Return of Fund-Raising Appeal to NCSS within 60 days after the fund-raising event.

宣告破产的宪报

FRIDAY, APRIL 7, 2017

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First published in the Government Gazette, Electronic Edition, on 6 April 2017 at 5 pm.

No. 902 — BANKRUPTCY ACT (CHAPTER 20)

BANKRUPTCY ORDER

1. *Name*—CHARLES STEPHAN (G5650489W). *Bankruptcy No.*—2123 of 2016. *Date of Bankruptcy Order*—23/03/2017.
2. *Name*—CHING SAU FUNG (S7673639A). *Bankruptcy No.*—2236 of 2016. *Date of Bankruptcy Order*—23/03/2017.
3. *Name*—CHONG CHEE XIONG (S8713660D). *Bankruptcy No.*—344 of 2017. *Date of Bankruptcy Order*—23/03/2017.
4. *Name*—CONNIE NG (S7214450C). *Bankruptcy No.*—118 of 2017. *Date of Bankruptcy Order*—23/03/2017.
5. *Name*—ERRAM SANTOSH RAMESH (S7187952F). *Bankruptcy No.*—371 of 2017. *Date of Bankruptcy Order*—23/03/2017.
6. *Name*—GOH KOK SENG (S1159919B). *Bankruptcy No.*—2647 of 2016. *Date of Bankruptcy Order*—23/03/2017.
7. *Name*—JUNAIDI BIN TARAK (S8111358J). *Bankruptcy No.*—21 of 2017. *Date of Bankruptcy Order*—23/03/2017.
8. *Name*—KNAUER FRANK LOTHAR (C5HLLNOF6). *Bankruptcy No.*—984 of 2016. *Date of Bankruptcy Order*—23/03/2017.
9. *Name*—LAI KUM TAI BOBBY (S7607691Z). *Bankruptcy No.*—359 of 2017. *Date of Bankruptcy Order*—23/03/2017.
10. *Name*—LEE WAN SING (S7673398H). *Bankruptcy No.*—2587 of 2016. *Date of Bankruptcy Order*—23/03/2017.
11. *Name*—LEONG CHOON KHEE (S7005588J). *Bankruptcy No.*—2485 of 2016. *Date of Bankruptcy Order*—23/03/2017.
12. *Name*—LIEW NGIAN WOU (S7969207G). *Bankruptcy No.*—234 of 2017. *Date of Bankruptcy Order*—23/03/2017.
13. *Name*—LILY SULINAH BINTE IDHAM (S8518947F). *Bankruptcy No.*—2120 of 2016. *Date of Bankruptcy Order*—23/03/2017.
14. *Name*—LIM PEE SING (S1608232E). *Bankruptcy No.*—340 of 2017. *Date of Bankruptcy Order*—23/03/2017.

脱离穷籍的宪报

FRIDAY, APRIL 7, 2017

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First published in the *Government Gazette*, Electronic Edition, on 6 April 2017 at 5 pm.

No. 903 — BANKRUPTCY ACT (CHAPTER 20)

ORDER BE DISCHARGED

Name—TAN CHENG CHUAN (S0835949J). *Bankruptcy No.*—3631 of 2005. *Date of Order*—21/03/2017. *Nature of Order*—That the Order made on 23/12/2005 against the bankrupt be discharged.

Name—YUONG CHOYE YEE (S1519751Z). *Bankruptcy No.*—1012 of 2007. *Date of Order*—21/03/2017. *Nature of Order*—That the Order made on 01/06/2007 against the bankrupt be discharged.

VINCENT HOONG
*Registrar,
Supreme Court,
Singapore.*

Registry, Supreme Court, Singapore. 22/03/2017.