



NEWSLETTER

Advocates Association of Sarawak, Kuching Branch.

2009, Issue 2

17th July, 2009

RIGHT OF AUDIENCE IN COURT OF APPEAL AND FEDERAL COURT IN PUTRAJAYA

In a landmark decision delivered on 15th April 2009, the Federal Court has decided that only advocates admitted to the High Court of Sabah and Sarawak may appear and argue cases when the Appellate Courts sitting in Putrajaya hear appeals originating from the two states.

The issues before the Federal Court were:-

- 1) Whether an advocate and solicitor from peninsular Malaysia is entitled to appear as advocate in an appeal to be heard in Putrajaya arising from a matter originating from the High Court in Sarawak and Sabah and;
- 2) Whether an advocate from Sarawak or Sabah is entitled to appear as advocate in appeal to be heard in Putrajaya arising from a matter originating from the High Court in Sarawak and Sabah.

The Federal Court answered the 1st issue in the negative and the 2nd issue in the affirmative. With this landmark decision in Federal Court Civil Appeal No. Q-02-3-2009 and Q02-4-2009, lawyers from Peninsular Malaysian cannot appear as advocate in the Appellate Courts in Putrajaya in an appeal arising from a matter originating from the High Court in Sabah and Sarawak

unless they have applied and obtained an ad hoc licence from the Chief Judge of Sabah and Sarawak.

This decision reaffirmed the exclusive constitutional right of advocates from Sarawak and Sabah to appear in the East Malaysian Courts including the appellate courts sitting in Peninsular Malaysia originating from the Courts in Sarawak and Sabah.

The Federal Court being mindful that the matter involved serious Constitutional issues and the Formation of Malaysia itself, wanted to hear full arguments and empanelled five members Coram headed by the Chief Justice of Malaysia to hear the matter.

The Federal Attorney-General, Sarawak Attorney-General, Sabah Attorney-General, the Bar Council, the Advocates Association of Sarawak and the Sabah Law Association were invited by the Federal Court as amicus curiae (friends of the court) to address the court on the historical background and the Constitutional laws that govern the issues before the Federal Court.

The AAS were represented by Frank Tang, Khairil Azmi and Sarbjit Singh Khaira.

The Association wish to thank all members and friends who have extended their kind assistance and support in the said appeal.

NEW CONDITIONS OF SALE OF LAND BY TENDER

The Chief Judge of Sabah and Sarawak have directed that all judicial sale of landed property be conducted by way of public tender with effect from January, 2009.

Following the directive of CJSS, the Association was invited to attend the Tenders Committee meeting and to draft the new Conditions of Sale by public tender, tender form and provide the tender boxes for rental.

The new Conditions of Sale by Tender have been approved by the Registrar on 17th April, 2009. A copy of the letter dated 17.4.2009 from the Registrar and the Conditions of Sale are attached to this newsletter for your reference.

In consideration of the contribution by the Association towards the implementation of an improved method of Judicial Sale by tender and having regard to the substantial loss of the income to the Association arising from the Court's computerization of the cause lists, the Registrar on behalf of CJSS have approved the rate of RM180 per tender for the rental of the tender box payable to the Advocates, Association of Sarawak.

Please note that the words "licensed auctioneer" should be replaced with the words "licensed real estate agent" in the Court's direction for sale by tender.

For rental of tender box, please contact Ms. Naomi at the Bar Room. Tel No. 082-448077

TRIPARTITE BAR GAMES 2009 **DATE: FRIDAY, 7TH AUGUST, 2009 –** **SUNDAY, 9TH AUGUST, 2009** **VENUE : MIRI**

Kindly be informed that the revived TRIPARTITE BAR GAMES 2009 will be held from FRIDAY, 7TH AUGUST, 2009 to SUNDAY, 9TH AUGUST, 2009 between (i) the Bar Council, Malaysia, (ii) the Sabah Law Association and (iii) the Advocates Association of Sarawak.

The recently revived Games will be hosted by the Advocates Association of Sarawak in MIRI and the following events will be held:-

- 1) BADMINTON
- 2) BOWLING
- 3) FOOTBALL
- 4) GOLF
- 5) NETBALL; and
- 6) CROSS-COUNTRY / FUN RUN

We welcome and strongly encourage all Advocates/Members of the bar, both ladies and gentlemen of whatever age, to lend your support to this edition of the Tripartite Bar Games, be it by way of participation in the events or by cheering our teams/participant on to victory.

Registration Forms with details of accommodation can be obtained from the respective branch Bar Rooms, and are to be filled and returned to the respective branch Bar Rooms.

Any persons interested in participating can contact the following persons:-

- (a) Desmond Sahathevan (Kuching)
 - 012 8586688 (h/p)
 - 082 253277 (o)

- (b) Partick Law (Miri)
 - 016-8526155 (h/p)
 - 085 418899 (o)

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