

立法會
Legislative Council

(issued by email only)
LC Paper No. CB(3) 10/20-21

Ref : CB(3)/P/2/OL

Tel : 3919 3300

Date : 8 October 2020

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

**Special leave given under section 7
of the Legislative Council (Powers and Privileges) Ordinance and
Rule 90 of the Rules of Procedure of the Legislative Council
in respect of an Application for Leave to Apply for Judicial Review
(HCAL 814 of 2020)**

This circular informs Members that special leave has been given by the President of the Legislative Council under section 7(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and Rule 90(4) of the Rules of Procedure (“RoP”) for the Clerk to the Finance Committee (“FC”) and the Acting Clerk to the Panel on Home Affairs (“the HA Panel”) (collectively referred to as the “Clerks” below) to give evidence for the captioned proceedings in respect of the contents of the relevant documents laid before the HA Panel, the Public Works Subcommittee (“PWSC”) and FC, or in respect of the relevant proceedings before them. A summary of the captioned proceedings is set out in the following paragraphs.

2. Kwun Tong District Council member, Ms LEUNG Jannelle Rosalynne, and a member of the Kowloon East Community Concern Group, CHUNG Kin-wa, (“the Applicants”) have filed an application dated 4 May 2020 for leave to apply for judicial review (“Leave Application”) in HCAL 814/2020 (“Proceedings”) against the following decisions relating to the construction of music fountains at Kwun Tong Promenade (“Project”), a project of the Signature Project Scheme announced under the 2013 Policy Address:

- (a) the decision made by the HA Panel at its meeting on 21 December 2017 to support the submission of the Project to PWSC for its consideration; and

- (b) the decision made by FC at its meeting on 30 November 2018 to approve the financial proposal for the Project.

3. The Home Affairs Department (“HAD”), the President¹ of FC and the Chairman of the HA Panel are named as the 1st, 2nd and 3rd Putative Respondents respectively. The Applicants allege that HAD, the 1st Putative Respondent, failed to properly consult residents of Kwun Tong before submitting the Project to the HA Panel and FC for their consideration. As the Applicants have filed their Leave Application more than three months after the date(s) of the relevant decisions sought to be impugned, they also seek an extension of time for making the Leave Application. Hon Mr Justice CHOW of the Court of First Instance (“CFI”) has directed, among others, that: (a) the Putative Respondents do file and serve affirmation(s) in opposition (if any) by 25 September 2020; and (b) there be a 1/2 day (estimated length: three hours) oral hearing on 3 December 2020 for the application for extension of time and for the Leave Application.

4. With the consent of the Chairman of FC and the Chairman of HA Panel, Messrs. Lo & Lo and Mr Anthony CHAN of Counsel have been retained to represent the 2nd and 3rd Putative Respondents in the Proceedings

5. On 24 September 2020, the Clerks made two affirmations on behalf of the 2nd and 3rd Putative Respondents (“Affirmations”) for filing and service on 25 September 2020 in accordance with CFI’s direction. As the Council was in recess when the Affirmations were due to be filed, the President gave special leave under section 7(2) of Cap. 382 and RoP 90(4) for the Clerks to refer to, produce and exhibit in the Affirmations the relevant minutes or records of proceedings held, or any relevant documents laid, before FC, PWSC and the HA Panel relating to various issues to be determined in the Proceedings. The Clerks may have to file further affirmation(s) for the Proceedings.

6. Should any Member wish to have sight of the Affirmations, please contact me at 3919 3300 or Mr Thomas WONG at 3919 3302.

(Dora WAI)
for Clerk to the Legislative Council

¹ The Applicants have named the 2nd Putative Respondent in the Proceedings as the “President” instead of the “Chairman” of FC.