

**Letterhead of Office of the Chief Executive of the Hong Kong Special Administrative
Region of the People's Republic of China**

16 March 2001

The Hon Mrs Selina CHOW LIANG Shuk-ye, JP
The Chairman
Legislative Council House Committee
Legislative Council Building
8 Jackson Road
Central
HONG KONG

Dear Hon Chow,

Cottage Area Clearance

The Chief Executive has asked me to thank you for your letter of 1 November, concerning the clearance of Cottage Areas and to reply to it on his behalf.

As explained in my reply to the letter dated 13 June 2000 from the then Chairman of the Legislative Council House Committee, residents of Cottage Areas do not hold legal title to the land they occupy. They are authorised by permits only to erect structures at their own cost and to live in them. The permits may be terminated by the Housing Authority by giving three months' notice. Legislation applicable to Cottage Areas does not provide for compensation upon demolition of structures. Legal advice has confirmed that neither the Government nor the Housing Authority is liable to compensate clearers for the demolition of their structures. Moreover, in delivering the judgement in 1999 on the judicial review in respect of Tiu Keng Leng Cottage Area, the Court of Appeal indicated that residents had no valid claim to any form of monetary compensation. To date, 11 Cottage Areas have been cleared without payment of any compensation or special ex-gratia allowances for the demolition of their structures.

Nevertheless, Government has given consideration to the special nature of Cottage Areas, and Cottage Areas clearerees are already being offered more relaxed and favourable rehousing arrangements than those for other groups. Specifically, they are exempt from the income test, asset test and property ownership restriction, and are given priority for joining subsidised home ownership schemes. The arrangements are more generous than those given to people affected by clearances of Temporary Housing Areas and squatter areas.

We wish to assure Members that the Government has carefully considered the requests of clearerees. We believe that the clearance arrangements offered are both fair and reasonable having regard to the circumstances of the clearerees and the overall clearance policy. We regret that we cannot support the payment of special ex-gratia allowances to clearerees of Cottage Areas in addition to the terms already offered.

Yours sincerely,

(Richard Yuen)

Private Secretary to Chief Executive

RY/rc

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of the People's Republic of China**

LEGISLATIVE COUNCIL

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1 November 2000

The Honourable TUNG Chee-hwa
The Chief Executive of the
Hong Kong Special Administrative Region
of the People's Republic of China
Chief Executive's Office
Hong Kong

Cottage Area Clearance

I write to urge the Administration to reconsider the granting of a special ex gratia allowance to residents affected by the clearance of Cottage Areas.

You may probably recall that my predecessor, Dr LEONG Che-hung, wrote to you on the same matter on 13 June 2000. Your Private Secretary replied on your behalf on 26 June 2000 explaining that the payment of a special ex gratia allowance could not be justified. Members of the Panel on Housing are disappointed at the Administration's position and, at its meeting on 24 October 2000, unanimously passed the motion "that the LegCo Panel on Housing urges the Administration to grant a special ex gratia allowance to residents affected by clearance of structures in Cottage Areas". The Panel also made a report to the House Committee and requested that you be approached again on the matter.

The Panel on Housing has critically examined the respective arguments put forward by the affected residents and the Administration. Members note that the structures in the Cottage Areas were built with the permission of the Administration. Moreover, the special status of Cottage Areas was recognized in the Government's Long Term Housing Strategy Review. In addition, although Cottage Area residents

do not have legal rights to the land, the building structures are their own assets. The Administration's argument is that as a matter of principle, it is not desirable to use public funds to grant a special ex gratia allowance to Cottage Area residents. Legal advice has confirmed that neither the Government nor the Housing Authority is legally liable to compensate Cottage Area residents for the loss of the building structures. The Administration considers that relaxing the rehousing arrangements for Cottage Area residents by, for example, offering public rental housing to eligible households without the income-cum-asset test and domestic property ownership restriction, should suffice.

The Panel on Housing is of the view that having regard to the distinct historical background of the Cottage Areas, the affected residents should be granted a special ex gratia allowance for the loss of the building structures. This view is supported by the House Committee. Members hope that the Administration would reconsider the granting of a special ex gratia allowance to the residents affected by the Cottage Areas clearance, and ask that the matter be brought to your attention again.

(Selina CHOW LIANG Suk-yee)
Chairman
Legislative Council House Committee