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Secretary for Constitutional Affairs
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Dear Katy,

**Electoral Affairs Commission (Electoral Procedure)
(Election Committee) Regulation (L.N. 210)**

Thank you for your letter of 29 October 2001. We have follow-up questions on your reply.

Section 22(2) & (3)

Section 22(1) mentions the death referred to in section 20(1) or the disqualification referred to in section 21(1). In other words, it means the death takes place after the Returning Officer has made a decision that a person is validly nominated as a candidate at the subsector election but before the polling date. By the same token, the disqualification also takes place after the Returning Officer has made a decision that a person is validly nominated as a candidate at the subsector election but before the polling date.

Section 22(2) however makes express references to a notice under section 20(3)(a) or 21(3)(a) which means the death or disqualification takes place after a notice has been published under section 22(2) of the Schedule to the Chief Executive Election Ordinance (Cap. 569). And the "separate notice" appears to refer to the notice to be published where the death or disqualification takes place after the Returning Officer has made a decision that a person is validly nominated as a candidate at the subsector election but before the publication of

the notice under section 22(2) of the Schedule to the Chief Executive Election Ordinance.

If the above analysis is correct, we suggest that section 22(1) be reformulated to refer to death or disqualification of a validly nominated candidate before date of subsector election rather than section 20(1) or 21(1). Further, we suggest that the "separate notice" mentioned in section 22(2) be qualified by a reference to section 20(1) or 21(1).

Section 42(5)

We are still of the view that the reference "to reach that Officer" is unnecessary in the light of section 42(7). Otherwise, the reference "to reach that Officer" should also be added after "the Presiding Officer".

Section 42(9)

For clarity purpose, we are still of the view that "in accordance with" is to be added after "the Presiding Officer".

Section 46(2)

We are still of the view that "or its vicinity" is to be added after "at a polling station". In this respect, you may note that there is the reference "or the vicinity of the polling station" after "the person to leave the polling station" in the same subsection.

Section 55(6)

The Presiding Officer's discretion to grant permission under section 55(3) refers to a request made under section 55(1) not section 55(6). Section 55(1) is drafted to the effect that it is subject to section 55(6), which appears to mean that there are two distinct circumstances under consideration. Section 55(1) concerns a general situation in which the Presiding Officer may exercise his discretion to grant or not to grant permission. However, section 55(6) concerns a specific instance in which the voter is incapacitated from voting by physical illness where section 55(3) is not applicable.

Your reply in both languages is very much appreciated.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

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