

**LegCo case conference on 24 July 2001
about the Container Trailer/Tractor Park in Chuk Yau Road, Yuen Long**

Background

At the case conference on 24 July 2001, LegCo members discussed with the Administration on a complaint lodged by a group of residents about the noise pollution produced by the Chuk Yau Road Container Trailer/Tractor Park. The residents claimed that they were seriously disturbed by the noise, particularly at night. Members noted that the residents had lodged the same complaint to LegCo in May 2000.

2. Members noted that the Town Planning Board (TPB) had approved in March 2000 two applications submitted by the landowner concerned with a number of conditions for a period of three years. The two planning approvals were subsequently revoked in September 2000 because an approval condition against night time operation had not been complied with. The operation then became an unauthorized development. In May 2001, it was found that the operation on the southern portion of the site had discontinued and an Enforcement Notice was issued to the landowner concerned on 31 May 2001 against the portion of the development which remained in operation. According to the Notice, the recipient of the Notice must, by 31 August 2001, discontinue the unauthorized development or obtain approval from TPB for the subject development. Non-compliance would be subject to prosecution under section 23(6) of the Town Planning Ordinance (Cap. 131). The person concerned, if convicted, would be liable to a fine of \$500,000 in the case of a first conviction, or to a fine of \$1,000,000 in the case of a second or subsequent conviction. However, the actual amount of penalty imposed by the court normally ranged from \$15,000 to \$60,000.

Points of concern

3. Members noted that despite repeated enforcement actions taken by the Administration in recent years, the problem of unauthorized development in Chuk Yau Road remained unresolved. Members considered the existing legal provisions and procedures inadequate in tackling the problem effectively. For example, a recipient of an Enforcement Notice might suspend the unauthorized operation for a short period upon the expiry date of the Notice, and shortly afterwards, continue the operation until he received another Enforcement Notice.

4. Members requested the Administration to review the situation and consider the need to empower the enforcement authorities to apply for injunction against unauthorized development. Members also agreed that the subject be referred to the LegCo Panel on Planning, Lands and Works for consideration and follow-up action.

Administration's response after the case conference

5. The Director of Planning, in his letter of 17 August 2001 (attached in Appendix), advised that if necessary, the Planning Department might apply under common law practice for injunction against unauthorized development.

Advice sought

6. To facilitate the consideration of the LegCo Panel on Planning, Lands and Works, the Administration is requested to advise on the following:

- (a) what are the criteria to be fulfilled before the Administration decides to apply for injunction against unauthorized development;
- (b) whether the Administration has previously applied for injunction against unauthorized development; if so, please provide details of the cases involved;
- (c) whether the Administration will apply for injunction against the unauthorized development in Chuk Yau Road; and
- (d) whether the Administration will, in its current review of the Town Planning, Ordinance, consider the need to empower the enforcement authorities to apply for injunction against unauthorized development.

Legislative Council Secretariat
30 August 2001

Appendix
By fax 2521 7518

規劃署
Planning Department
HONG KONG
中央銀行管制及檢控組
Central Enforcement &
Prosecution Section

來函檔號 Our Reference CP/C 581/2001
本署檔號 Your Reference (17)in CEP/G/ADM/67
圖文傳真 Fac No: 2484 9997 (一般 General) 2485 2665 (機密 Confidential)
電 話 Tel.: 2487 5797
電子郵件 E-Mail : cepp@pland.gov.hk

17 August 2001

Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

(Attn: Mrs. Pandora CHAN)

Dear Mrs Chan,

Complaint over the Container Trailer/Tractor Park
in Chuk Yiu Street, San Tin
(Draft Minutes of LegCo Case Conference of 24.7.2001)

Further to (Chan/Cheuk) telephone communication dated 15.8.2001, I would like to propose a post-meeting note for paragraph 15 of the subject minutes as follows:

“(會後事錄：規劃署在一九九六年公布的白紙條例草案，已對禁制令納入條例的建議作出研究和考慮，當時的決定是城條例已賦予有效的執行管制工具去理違例發展，此外，若果有需要的話，規劃署仍可透過普通法去頒佈禁制令去處理違例發展。) “

Yours sincerely

(P.Y.TAM)
for Director of Planning