



地政總署
LANDS DEPARTMENT

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傳真及派遞函件

香港
 中區民臣道 8 號
 立法會大樓
 立法會
 (經辦人：韓律科女士)

韓女士：

審計署署長衡工量值式審計結果報告書
 (第四十三號報告書)

第 6 章：愉景灣和二浪灣的批地事宜

二〇〇四年十二月十五日來信收悉，現謹按要求提供以下補充資料：

二〇〇四年十二月八日舉行的公聽會

- (a) 就一九七六年七月提交當時的行政局審議的土地契約條件而言，負責草擬有關條件的政府官員是誰？(參閱《審計報告》第 2.7 及第 2.8 段。)

我們沒有記錄顯示有關的土地契約條件如何草擬和由誰草擬。

- (b) 依你所見，總綱發展藍圖 4.0 所建議的改動是否改變了愉景灣發展項目的基本概念？(參閱《審計報告》第 2.10 及第 2.11 段。)

度假勝地概念仍然是總綱發展藍圖 4.0 的主要原素，但「花園屋」的引進似乎亦引入了具有相當建築樓面面積的永久居所的可能性。雖然有關建議與批約條件並無抵觸，但當中有某些改變。

- (c) 請提供當局考慮由發展商 A 遞交的總綱發展藍圖 4.0 的有關會議記錄。

當局考慮總綱發展藍圖 4.0 的有關會議記錄如下：

- (i) 一九七七年十月十八日舉行的會議記錄(附錄 I)
- (ii) 一九七七年十月十九日舉行的會議摘要(附錄 II)

二〇〇四年十二月十三日舉行的公聽會

- (d) 請提供註冊總署(田土註冊處)於一九八三年三月三日發出的便箋所述及有關香港興業有限公司於一九八三年二月一日發出的信函副本。

一九八三年二月一日發出的信函見附錄 III

- (e) 請提供當時的屋宇地政署署長於一九八九年十一月二十五日致發展商 A 的信函副本。

一九八九年十一月二十五日發出的信函見附錄 IV

- (f) 在當時的政務司於一九八二年二月批准總綱發展藍圖 5.0 之前(該藍圖剔除提供公眾高爾夫球場的規定)，當局有否就剔除公眾高爾夫球場一事進行跨部門討論？若有，請提供與討論有關的記錄／會議記錄。(參閱《審計報告》第 3.5 至第 3.11 段。)

當局沒有任何在一九八二年二月批准總綱發展藍圖 5.0 之前就剔除公眾高爾夫球場一事進行跨部門討論的記錄。

- (g) 當時的康樂文化署歡迎以其他康樂設施取代公眾高爾夫球場的建議。(參閱《審計報告》第 3.8 段。)請提供顯示其理由的文件。

當局沒有文件顯示為何當時的康樂文化署署長歡迎以其他康樂設施取代公眾高爾夫球場的建議。

- (h) 根據《審計報告》第 4.16 段表三所載資料，對於有關總綱發展藍圖於一九九四年六月七日前所作的修訂(涉及總綱發展藍圖 3.5、4.0、5.0、5.1、5.2、5.3、5.4 及 5.5)，雖然該等修訂涉及改變土

地用途和增加房屋面積，但地政總署未有徵收補價。(a)當局在七十和八十年代就批准改變土地用途而徵收補價所定的政策為何？(b)有關政策是否容許地政總署或有關土地行政當局在批准總綱發展藍圖時無須因土地用途有所改變而徵收補價？以及(c)八十年代期間有否個案顯示當局沒有就類似的改變土地用途徵收補價？

就涉及契約修訂的改變土地用途方面，當局所實施的政策一直維持不變，即倘若有關契約修訂會令所涉土地升值，當局便會徵收補價。不過，在七十和八十年代期間，對於只涉及改變總綱發展藍圖的改變土地用途，只要有相關的建築樓面總面積沒有增加，當局顯然沒有徵收補價。當時政府在這方面並無特定的政策說明。我們亦沒有任何記錄顯示當局在八十年代曾就不涉及契約修訂的總綱發展藍圖修訂徵收補價。

- (i) 地政總署或在七十和八十年代負責土地行政的各局／部門是否有權在批准總綱發展藍圖 3.5、4.0、5.0、5.1、5.2、5.3、5.4 及 5.5 所作修訂時徵收補價？(參閱《審計報告》第 4.21 段。)

當局並非沒有這項權力。

- (j) 按照七十和八十年代的通常做法，是否只要地盤的建築樓面面積沒有超過既定上限，即使其土地用途有所改變，當局亦不會徵收補價？

按照七十和八十年代的通常做法，倘總綱發展藍圖所作修訂不涉及契約修訂，則只要有相關的建築樓面總面積沒有增加，當局便不會徵收補價。

- (k) 根據法律意見，政府目前能否修訂愉景灣發展項目的總綱發展藍圖，以加入契約條件內仍有訂明的公眾高爾夫球場和電單車系統這兩項設施？

政府不能單方面修訂總綱發展藍圖。

- (l) 就《審計報告》第 4.24 段而言，當局會如何修訂《評估收益手冊》和《地政處指引》？(請提供有關修訂的中英文本。)

第 4.24 段是回應第 4.23 段所載的五項建議，而當局亦已因應該等建議對《地政處指引》、《評估收益手冊》和契約條件作出下文所

述的修訂。

- (a) 在批准剔除總綱發展藍圖的設施(特別是公眾設施)前,訂明發展項目的替代公眾設施的建築樓面面積、地盤面積及其他所需規定。

在《地政處指引》內加入下文：

「總綱發展藍圖通常必須標示地盤的平面布局設計和擬建建築物的坐向，並須載有明細表以列出將予提供的各類設施的建築樓面面積和地盤面積。遇有修訂建議，經修訂的總綱發展藍圖必須標示所有將予提供的新設施。任何自原有總綱發展藍圖中剔除的設施，均須載列於獨立的明細表內，並夾附於新修訂的總綱發展藍圖後。此舉有助當局翻查總綱發展藍圖所曾作出的修訂。」

- (b) 備存獲批准的替代公眾設施的適當記錄，並作為其後核證設施確已興建之用。

在《地政處指引》內加入下文：

「所有在契約或總綱發展藍圖內訂明的公眾設施均須在指定的時限內提供。任何已獲批准的替代設施必須備存適當記錄，而有關當局亦須採取適當行動以核證有關設施在指定時限內建成。」

- (c) 批准修訂總綱發展藍圖時，評估這些修訂所需的補價和收取補價(如有的話)；以及
- (e) 在《地政處指引》和《評估收益手冊》中明確說明，地政總署在批准修訂總綱發展藍圖時，須收取補價和行政費用(如有的話)。

修訂《地政處指引》和《評估收益手冊》的相關內容如下：

「給予批准

凡因批准總綱發展藍圖而導致以若干契約條件作出允許或更改若干限制時，署長會施加其認為適當的條件(包括繳付補價或同意費和適當的行政費用)。至於應收取修訂補價或收取同意費，則須取決於所涉土地會否因而升值。署長在研究是否給予批准時，亦可考慮相關部門的意見(例如運輸署就停車位

所提出的意見)。這類批准所涉及的費用，通常須按修訂契約的相同基準評定，並須獲估價委員會／估價會議批准。(M29 in LD TI 11/87/17(II))」

- (d) 在草擬契約條件時，在條件中明確說明會就修訂已批准的總綱發展藍圖收取補價。

總綱發展藍圖條款(c)修訂如下：

「未經署長以書面作出允許，不得修訂、更改、改動、修改或取代已獲批准的總綱發展藍圖。署長在作出此等允許時，可施加包括支付補價等條件。任何就已獲批准的總綱發展藍圖作出的修訂、更改、改動、修改或取代，除非署長和承購人／承批人已簽署有關記錄，而承購人／承批人亦已把該等記錄存放於署長處，否則一律無效，而且對政府或承購人／承批人不具約束力。」

署理地政總署署長
郭理高

連附件

副本分送(不連附件)：

房屋及規劃地政局局長

財經事務及庫務局局長(經辦人：王明輝先生)

審計署署長

房屋及規劃地政局局長政務助理

二〇〇五年一月八日

*委員會秘書附註：附錄 I、II 及 III 只備英文本。

Minutes of Discovery Bay Meeting
held at District Office, Islands
on 18.10.1977 at 10:00 a.m.

<u>Present</u> :	Mr. P.A. Ward	(Chairman)	P.G.L.A., N.T.A.H.Q.
	Mr. M. McGraw		C.E.S./D., N.T.A.H.Q.
	Mr. D.G. Dear		S.E.S./S.D.(2), D.O. Islands
	Mr. H.J. Walton-Masters	(Secretary)	E.S./Islands
	Mr. LAM Ding-kwok		A.D.O.L. (Lantau)
	Mr. R.J. Clibborn-Dyer		Planning & Research Division, R.H.K.P.F.
	Mr. J.P. Wilson		Police Traffic H.Q., R.H.K.P.F.
	Mr. Phillip Lau		Senior Building Surveyor, Building Ordinance Office
	Mr. R.A. Wheatley		Planning Group (P.G.) Fire Services Dept.
	Mr. HAU Hung-chi		Planning Group (P.G.), Fire Services Dept.
	Mr. A.F.T. Chan		C.P.O./N.T., T.F.O.
	Mr. S.F. Lau		Agricultural & Fisheries Dept.
	Mr. P.L. Leung		Port Works Division, P.W.D.
	Mr. Y.L. Chung		Port Works Division, P.W.D.
	Mr. J.H. Gould		Marine Department

1. The meeting opened at 10:10 a.m. with an explanation of the layout area and the changes proposed. The proposed height of the buildings was mentioned in that there would appear to be no height restrictions. The principal change involves a large increase of residential units.

2. The question of height was again raised and it would seem that most of the high rise buildings will be in the Tai Pak area.

3. The whole concept seems to have been changed from a resort to a garden town. The changes do not, however, seem to be against the Lesse Conditions.

Ferry Pier

4. Can the new location take fire boats? This is essential. Minimum depth 12 feet.

Cable Car

5. More information will be needed later about the cable car.

Fire Station

6. No problems at present.

Fire Requirements

7. Detailed talks required later. High rise could cause problems.

8. In general terms, the fire facilities would seem to be adequately provided subject to detailed plans.

Port Works

9. There will be a need to regazette Areas 8 and 18. No objection to change in emphasis.

Marine Department

10. Will be reply later.

Drainage Works

11. Purely technical points-gazetting required if sewer outfall changed. More details required later.

Agricultural & Fisheries

12. See reply. Seems to be a loss of open space. Area of most concern 2a, b & c (garden houses). Buildings should be kept low.

Police

13. No communication by land in and out of the area. Speed of access by emergency services could be a problem. Road system on site not too clear. Plans of road system required. Individual transport for garden houses? Types of vehicles. People - there all the time? Influx at weekends? Emergency plans? Police do not like it as the concept has changed. Vehicles will have to be licenced if the vehicles go where the public can go. All Police Points are subject to detailed plans.

14. Police presence will have to be increased. Premises to be owned by Government? Do not wish to be a private police force. Both Police and two stations need to be surrendered to Government. Proposed lease terms would seem to cover this point. More accommodation needed particularly at ferry pier. Berthing of police launch? Better helicopter site.

15. For Police Force and Fire Services Department, more details required at an early date.

Planning

16. Increase in number of units has far reaching planning implications. Recreation to housing. Planning against change of concept. No longer a leisure resort. Garden Houses - exact layout required. Is this good enough? Generally more details required before any approval even in principle required.

Water Supplies

17. No Government water supply.

18. No question of extending catchwater area.

19. Is there enough water for all these people?

Building Ordinance

20. No comment at this stage.

General Summary

21. Approval in principle cannot be given until more details are sent.

22. If detailed requirements can be met, then approval in principle will have to be given apart from Planning Reservations subject to Secretary for the New Territories' approval.

23. Planning Division and Police Force are against the revised concept due to the increase in population.

24. Developer to be asked to show how these extra houses and 35,000 people can be given water.

Distribution to :

S. for N.T. (2)
C. of Police (2)
C.B.S./N.T.(E)
D. of Fire Services (2)
C.P.O./N.T.
D. A. F.
C.E.P.W. (2)
D. of Marine
P.G.W.E./W.S.D.
C.E.D.W.
D.O.
S.E.S./S.D.(2)
A.D.O.L.(L.)

DISTRICT OFFICE, ISLANDS

19th October, 1977

Notes of Meeting concerning the
Discovery Bay Project held at
District Office, Islands on
Wednesday, 19th October 1977 at 2:30 p.m.

Present :

Government Officials

Mr. Victor C.E. Yung	(Chairman)	D.O. Islands
Mr. P.A. Ward		P.G.L.A., N.T.A.
Mr. M. McGraw		C.E.S./D.
Mr. D.G. Dear		S.E.S./S.D. (2)
Mr. H.J. Walton-Masters	(Secretary)	E.S./Islands
Mr. J. LAM Ding-kwok		A.D.O.L. (Lantau)

Hong Kong Resort Co. Ltd.

Mr. Payson M. Cha	Director of H.K. Resort Co. Ltd.
Mr. W.J. Reynolds	Estate Manager Central Enterprises
Mr. J. Marriott	Consultant
Mr. W. O'Neill	Project Director
Mr. R. Way	Chief Planner Lyon Associates (H.K.)

P.G.L.A. reported on S.N.T.'s initial comments which fall into 4 main headings :-

- (a) Serious reservations on the number of units.
- (b) Does not like the fact the emphasis has changed from lettings of rooms etc. to sales of residential units.
- (c) The staging would seem to indicate that the 'Resort project' are being constructed later.

- (d) There is a much larger population than the original scheme and there could well be a residential population of 25,000 - 35,000 people. He feels that the recreational facilities have not been increased in proportion to this increase in population.

3. S.E.S./S.D.(2) then outlined the Government Departments' comments, a copy of which was circulated. C.E.S./D. made an additional point that B.O.O. would prefer to see plans showing individual house plots and some detailed plans of house types. This could help with speedier passing of plans later. This would be similar to the procedure adopted at Tai Sang Wai.

4. The following general points were made by the Government representatives :-

- (a) There was concern over the general management concept of the scheme. If the scheme turned into a town, Government would be left with management problems.
- (b) In the original scheme there was to be an internal managed vehicle scheme. It is understood that it will now be a mini bus and taxi service.
- (c) In the holiday flat part of the scheme would the developer retain and let any of the units.
- (d) The coastal area on which garden houses were shown was not considered a good point and Government would prefer to see these areas left unspoilt.
- (e) Minor layout plans would be useful although it was agreed this would be subject to change.

5. The Developers made the following points:-

- (a) The main Government points as outlined on the notes in paragraph 3 were mainly points of detail.
- (b) The security, police and emergency problems were ones that of which the developers were fully aware and would want to solve in a 'public' way in order to satisfy potential buyers.
- (c) There would always be an administrative presence in the area as the communal projects would be retained by the Company. The presence would tend to diminish, however, as time went on. There was some interest from Hotel Groups to manage some of the flats.
- (d) The population estimate of 35,000 would seem to be excessive.

.... / (e)

- (e) There is a need to define what type of population. Day visitors, week-end stayers and permanent visitors. It was noted that the Government would consider the scheme a 'resort' success if there was a large influx of people over the week-end. There was a switch in emphasis from an international resort to a Hong Kong resort.
- (f) When the details of the scheme were published more swimming pools and minor recreational facilities would become more apparent.
- (g) The approval of the Master Plan was an essential first stage before details could be considered.
- (h) The need to get on with the scheme was emphasised and time was a costly commodity for the developers. The new scheme designed to be more financially viable than the old scheme.

6. The Developers noted that the meeting with S.N.T. the following week was an important one and that S.N.T. would wish to be satisfied over the points made in paragraph 2 together with the water problem, heights of buildings, road-widths, protection of the coastal area and emergency services.

Non Master Plan Points

- 7. All the Tai Pak Lots have been acquired.
- 8. All houses have now had their roofs removed.
- 9. Lot 365 in D.D. 352 - Nothing on Crown Land around the houses.
- 10. Graves - This matter was now in hand.
- 11. An extension to include the village area and other lots is now required and the developer is to apply in writing.
- 12. The next progress meeting was arranged for 2:30 p.m. on Tuesday, 1st November 1977.
- 13. Mr. Harriot asked if he could keep a copy of the notes on the meeting on 18th October 1977 and was informed he could on a 'confidential - without prejudice basis'.
- 14. The meeting closed at about 4.00 p.m.

DISTRICT OFFICE, ISLANDS

20th October 1977

Hong Kong Resort Co. Limited

(Incorporated in Hong Kong)

Head Office: Rousey Building, 26th Floor 71 Des Voeux Road, Central Hong Kong Tel: 5-260361-8 Cable: RESORTCO Telex: 63179 HKRCC:HX

February 1, 1983

Lands Department Headquarters
Murray Building
Garden Road
Hong Kong

Attn. Mr. J.R. Todd
Director of Lands

Dear Sir,

Discovery Bay - Conditions of Exchange

Further to our letter of 22 Nov. 1982 and following Mr. Marriott's meeting with Mr. Todd and Mr. Mills on 26 Jan. 1982, we write to confirm that we will shortly submit to you a schedule of the total we have expended on Phase I of the project. Each item of expenditure will be backed by an appropriate completion certificate and will be related to Master Plan 5.0. We will also submit a table comparing the number of completed housing units, GBA etc. with the Master Plan 5.0 table.

Simultaneously we will request the District Land Officer to grant us a partial certificate of compliance in respect of Phase I as now completed by us. Previously you wished us to supply an "as-built" Phase I Supplementary Master Plan but we now understand that this will not be necessary as the Phase I Supplementary Master Plan is regarded as having been superseded by Master Plan 5.0.

We would appreciate your confirmation that, once you are satisfied that we have spent not less than \$600 million and once a partial certificate of compliance has been granted, we will then be free under Special Condition 8(d) to assign other parts of the lot for development in accordance with the Conditions of Exchange.

Hong Kong Resort Co. Limited

(Incorporated in Hong Kong)

Head Office: Realty Building, 26th Floor 71 Des Voeux Road, Central Hong Kong Tel: 5-260361-8 Cable: RESORTCO Telex: 65179 HKRCL HX

Lands Department Headquarters
Attn. Mr. J.R. Todd

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We would also like to place on record our understanding that:-

- (a) the Building Covenant (SC5(a)) will be deemed to have been completed, as regards both amounts and dates, once you are satisfied that we have spent not less than \$600 million. Thereafter we will still of course have to complete the full development within a reasonable period. The planned dates for the remaining stages will be indicated in our Phasing Plan which we will need to modify from time to time as circumstances change;
- (b) you see no need for the Conditions of Exchange to be formally amended to reflect the deletion of the non-membership golf course and the cable car system (already agreed), the refuse disposal plant (under consideration by government) and the hotel (apparently not yet agreed) from the minimum associated facilities in SC 5(b). Also you regard the lease plan as having been effectively superseded by Master Plan 5.0. We understand that, although our Conditions of Exchange were originally approved by the Executive Council, power to amend the Conditions has since been delegated to you.

With regard to (b) above, we would welcome from you in due course a formal letter confirming the amendments that have so far been agreed. We think this should be registered at the Land Office so that it can be inspected by any potential assignee who wishes to check on the position.

Reverting to the opening 3 paragraphs of this letter, it will inevitably take us a little time to assemble the necessary documents to submit to you before we can be free to assign under Special Condition 8(d). Since we are anxious to press ahead with all possible speed, we have asked Mr. William Kwan to submit to the Registrar General on our behalf an application under the Land Officer's Consent Scheme for the sale of Area 6B and a joint venture in respect of Area 6C.

Yours faithfully,
HONG KONG RESORT CO. LIMITED



Elaine Li

c.c. District Land Officer
Registrar General

EL/JCHM/mc

屋宇地政署總辦事處
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香港大嶼山
愉景灣商業中心一樓
香港興業有限公司
行政董事
Mr. Jeremy Marriott

J.Marriott 先生：

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一九八九年十一月二十一日來信收悉。我注意到信中陳述的論據，與我們上次會晤中你所提出的論點相同。事實上，自上次會晤後，我已着手研究你所提出的論點，故現時能夠給你確切的回覆。

在可賺取收入的樓面總面積方面，你一直堅持指該面積應為 613,155 平方米(6.6 百萬平方尺)，但我所持的意見恰好相反。

一直以來，並無決定性的證據顯示，可賺取收入的樓面總面積應為 613,155 平方米。在一九八八年四月十四日 Tim Mills 先生回覆一九八八年三月二十九日 Regar Thompson 先生的函件中，已清楚明確地就雙方起初所同意的可賺取收入的應有樓面總面積作出說明。承批人同意支付補地價 6,150 萬元，以換取經核准的總綱圖則 3.5 號。該圖則顯示的 6.6 百萬平方呎總面積，已包括公共工程、消防局、警局及學校的樓面總面積，而房屋、酒店和商業發展(即可賺取收入)的許可樓面總面積淨額為 6.38 百萬平方尺。這個協議結果，肯定是雙方當時對一切有關因素作出考慮後所達成的結果。因此，無論你或我均不宜在現時開展任何有關如何達成協議的討論或揣測為何會有這樣的結果。

雖然總綱圖則 4.0 顯示賺取收入的樓面總面積有所增加，所增加的面積等同原先撥作公共工程用途的面積，但背後原因不明。無論何人對有關面積增加一事給予任何闡釋理由，均只屬揣測。不過，在我的記錄中，對以下一點有較為清楚的載述，就是政府已十分詳細考慮此

事，而政府的立場是貴公司的愉景灣發展項目獲批准的賺取收入樓面總面積現為 608 510 平方米，並以此為限。貴公司如有任何意圖增加該面積，即使有理據支持又獲政府批准，都必須補繳地價。

你提及從原來計算的地價中減去興建警署和消防局的預算費用，本人證實這確是事實。不過，這事實剛好證明有關建築物佔用的土地正是擬作非賺取收入的用途而別無他途。如該幅土地屬賺取收入的土地，當局會從地價中一併減去該土地的價值，而非只減去興建建築物的費用。因此，有關減免的目的很清楚，就是為了向貴公司發還建築的費用，因為各界大多認為政府有責任提供該等建築物。

你表示政府開了先例，以行政方式調整總綱圖則 4.0 的有關數字，因此給予貴公司較強的理據，為有利於貴公司最近申請把學校的樓面總面積納入賺取收入的樓面總面積一事提出爭辯。此說有商榷的餘地。正如我所說，有關調整的論據既屬未知因素，因此政府不應在沒有令人信服的理據下受約束。另一方面，總綱圖則 4.0 已構成貴公司和政府必須共同遵守的基礎。總綱圖則 4.0 現已發展成為總綱圖則 5.4，但賺取收入的樓面總面積依然是 608 510 平方米。

總括來說，有關你提出調整現有賺取收入的樓面總面積，以包括學校樓面總面積的申請，政府必須予以拒絕。請恕本人未能在此事中向貴公司給予進一步協助。

屋宇地政署署長

((H.K. HO) 代行)

特別副本送：離島地政處

一九八九年十一月二十五日