

畢架山花園業主立案法團代表  
於 2005 年 3 月 1 日立法會交通事務委員會  
特別會議席上的發言稿

劉主席、各位議員，

首先我謹代表畢架山花園業主立案法團，多謝 貴委員會邀請本法團出席今次會議，表達法團對「非專營巴士營運的規管架構及發牌制度」的意見。這是個非常難得的機會，因為本法團發覺政府在檢討和制定有關的公共交通政策和措施時，考慮過程中所覆蓋的層面狹窄，忽略**主動**諮詢其他持份者尤其是使用者的意見，只傾向參考業界的想法和關心他們的利益，得出來的結論往往有欠周全，對使用者不公，不能達到雙贏局面，也未能切合政府聲稱以民為本的施政方針。

就以本法團於去年 12 月 16 日向政府提出就申請居民巴士服務牌照 (A06 類別) 程序提出的建議為例〔見法團提交文件內的附錄甲〕，法團是根據本身申請續牌時所遭遇的困擾，本著「擺事實、講道理」的精神，提出引進「原則性批准」的程序，令租用人可以依據經獲運輸署原則性批准的營運範圍如行車時段等等基本資料，招標承辦服務，不致在最後關頭才知道所批准的營運範圍有變，須要與承辦商再度協商合約條款，給租用人添煩添亂。

可惜的是，政府對這合情合理的改良建議以種種理由推卻，詳情見法團提交文件內的附錄乙（內容與委員會提供的文件大致相約）。對於政府的回應，法團有如下意見。

第一點，政府表示，當政府就建議諮詢非專營巴士業界時，業界關注到強制租用人須預先取得運輸署原則性批准的規定，會增加租用人的行政負擔，此舉可能導致某些租用人不願意租賃非專營巴士服務。政府因此建議，租用人申請開辦居民巴士服務時，應繼續聯同營辦商提交申請，以顯示對擬辦服務的支持，也確保租用人與營辦商不會在未獲運輸署批准前，偷步提供擬辦服務。（見事務委員會文件的第二段。）

本法團對這回應不表認同。首先，法團不明白預先申請原則性批准的程序如何會增加租用人的行政負擔。作為負責任的租用人，根據本身服務的需要而定出服務細則如行車時段、班次、路線等營運資料，是起碼的基本功，將這些工作當是行政負擔，不知從何說起。業界是憑什麼理據得出這程序會增加租用人的行政負擔的假設？希望政府作出交代，以釋本法團的狐疑。

而政府在未公開諮詢一般租用人的情況下即深信這論點，視業界的聲音等同租用人的意見，也漠視本法團所提的實例，本法團對政府的判斷大有保留。政府的表現似乎是將非專營巴士的營運定性為非專營巴士業界的事，租用人也只是微不足道的閒角，完全不當有關事情是一項與多方持份者及公眾利益攸關的公共政策。

事實上，現今申請居民巴士服務牌照機制的確存在如本法團所碰到的實在困擾，須予正視。如果政府關心業界利益之餘也願意聽取民意，應該考慮容許「原則性批准」申請與「正式」申請同時存在的同步模式（遞交時限當然分先後），供租用人視乎本身需要，作出選擇。這各取所需的做法有助申請的程序更形暢順，達致雙贏局面。

另一方面，政府認為，繼續現行機制，需租用人聯同營辦商提交申請，可顯示租用人對擬辦服務的支持，也確保租用人與營辦商不會在未獲運輸署批准前，偷步提供擬辦服務。本法團對這說法，有點摸不著頭腦。

就前半部說法而言，租用人就擬辦服務尋求原則性批准正正是顯示租用人支持有關服務的表現！根本上，租用人是擬辦服務的主角，營辦商只是提供服務的代理，政府的說法給人的印象是，除非申請是經由營辦商有份提出，不然不算數，可謂倒果為因，也反映其檢討發牌機制時不期然向非專營巴士業界傾斜的心態。

至於後半部所謂偷步提供服務的顧慮，這是個執法的問題，與「原則性批准」申請的程序完全無關。政府假設租用人取得原則性批准便會偷步提供擬辦服務，作為反對的理由，猶如因噎廢食，本法團認為這論點不能成立，也無法認同。

第二點，政府表示，假如服務租用人希望在招標承辦有關擬辦服務前，先行取得運輸署的初步評估，歡迎他們向運輸署提交服務的擬議營運細節，該署會表明是否原則上接納。至於最後是否獲得正式批准，則要視乎多個因素而定。（見事務委員會文件的第三段。）

根據本法團申請續牌的經驗所得，運輸署對是否原則上接納擬辦服務的詢問，或持不置可否的態度，反促請租用人提交正式申請才作考慮。如果運輸署真的並不抗拒提供初步評估，政府應該將這步驟納入機制，輔以服務承諾，方便租用人招標承辦時有所依據。這樣一來，與先行給予租用人所擬辦服務原則性批准，又有什麼分別？

至於回應所列舉的多個因素，除營辦商過去遵守客運營業證條件的紀錄外，餘下的因素均可以在初步評估時作出定奪。本法團不明白為何政府認為所列舉的因素事必要在正式申請階段才作考慮，而以此作為推卻「原則性批准」的建議的理由。

最後一點，政府在回應中表示對提交申請的時間維持彈性，更能切合租用人和非專營巴士服務營辦商的不同需要。(見事務委員會文件的第四段。)

本法團對政府這點評論沒有異議，問題是有關的回應是斷章取義，沒有交代本法團提出的擬議時限是關乎遞交「原則性批准」申請及「正式」申請時要分先後時段(大前提是資料完備)。撇開例外情況，政府應可從過往多年處理申請的經驗算出慣常所需的大約時限，總不能以「維持彈性」為理由，打發本法團提出的建議。若然政府奉「維持彈性」為圭臬，大可取消所有的服務承諾。

由於時間所限，本法團對政府就「非專營巴士營運的規管架構及發牌制度」的其他意見無法在今次會議一併論述，請議員參閱本法團提交的書面意見書的最後兩頁。

若議員對本法團所表達的意見有提問，本人及另一位代表馬先生會樂意回答。

多謝 貴委員會的垂注。

畢架山花園業主立案法團

2005年3月1日

# THE INCORPORATED OWNERS OF BEACON HEIGHTS

## 畢架山花園業主立案法團

Management Office, Beacon Heights, 9-13 Lung Ping Road, Kowloon, Hong Kong.

香港 九龍 龍坪道 九至十三號, 畢架山花園管理處

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Annex A

16 December 2004

Chairman and Members  
Transport Advisory Committee  
c/o Environment, Transport and Works Bureau  
HKSAR Government Secretariat  
Central, Hong Kong.

Dear Madam / Sir,

### **Licensing System for Non-franchised bus operation: Residents Bus Service – Beacon Heights**

After protracted exchanges of views and, upon approval of the Transport Department, the residents bus service licence (Type A06) for the shuttle bus service routes from Beacon Heights to Shek Kip Mei and Kowloon Tong had been renewed for one year, commencing 1 November 2004. The Incorporated Owners of Beacon Heights (hereunder referred to as this IO) had reviewed the past events and come up with some observations. Given that the Transport Advisory Committee will further consider the Report on the regulatory framework and licensing system for non-franchised bus operation, this IO, being one of the stake-holders of the non-franchised bus services, deems it appropriate to express our observations to the Chairman and Members of Transport Advisory Committee for consideration.

It is noted that the presently approved period of operation falls short of the schedule originally applied for. Although the framework of the period of operation had been agreed between Transport Department and this IO at the Beacon Heights residents meeting held on 8 October 2004, this IO wishes to place on record that realistically the reduced level of service is not adequate in meeting the feeder transport service needs of residents. Nonetheless, at the residents meeting this IO recognised, and so did Transport Department, that it was in the interest of both the Government and residents that such a framework should be agreed upon to achieve a win-win situation under the circumstances. This IO appreciates that the authorities had shown a similar positive attitude in resolving the difference in opinion, without

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which there would not have been an amicable ending to our A06 licence renewal application.

During the process of negotiations for renewal of the licence, it had been brought to light that the present procedural mechanism in regard to application for residents bus service licence is not entirely satisfactory. As explained on a number of occasions during meetings with Transport Department, the existing procedures whereby the operator is responsible for making the application are, to some extent, the source of confusion affecting the de facto user of the service in applying for the licence.

To recap the unsatisfactory state of affairs, this IO invited operators to submit tenders in July 2004 (that is, about 3 months before expiry of our last A06 licence due on 31 October 2004) based on our then existing schedule of services which was the only schedule known to this IO at that time. Operators invited to participate in the tender exercise were asked to make quotations in accordance with the said schedule of services. The Transport Department's approved schedule of services, however, turned out to be different from that in effect prior to November 2004. Furthermore, the approval was sent to this IO just 11 days before expiry of the licence. The change of service schedule, coupled with the late notice of approval, had put this IO in a very difficult situation as we had to re-negotiate with the operator on the service charges according to the revised schedule. The turn of events show that this IO had fallen victim to the present cart-before-the-horse procedural mechanism and suffered as a result. Certainly the same problem is not unique to this IO and will be applicable to other users as well. As remedy, this IO suggests that serious consideration should be given to revamping the mechanism suitably, notably through the introduction of an approval-in-principle system, to address the problem. The suggested workings are elaborated in the following paragraph.

Firstly, registered IOs or relevant organisations of property developments / housing estates wishing to operate residents bus service (Resident Service A06 Licence) for their bona fide residents should be designated as the responsible party applying for approval-in-principle from the licensing authority, i.e. Transport Department, for the service, giving operational details such as the frequency of

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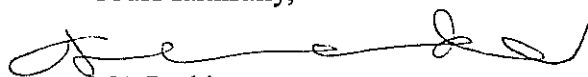
service trips and period of operation. When granting the approval-in-principle, Transport Department should indicate clearly the schedule of services approved for each route. On receipt of the grant of approval-in-principle, the applicant can then proceed to invite service tenders of resident bus operator.

In conjunction with this suggested change, this IO further suggests that Transport Department should require applicant of A06 licence to submit application for approval-in-principle of resident bus service at least 12 weeks before commencement of service (or expiry of the existing licence as the case may be). Subsequently, Transport Department should notify the applicant results of its application no less than 8 weeks before the proposed commencement date of service so as to allow ample time for the applicant to proceed with the necessary tender exercise. The operator so selected should then submit application for A06 operating licence accompanied by the approval-in-principle notification, say, 4 weeks in advance. This IO believes that the above revised procedures will avoid the inconvenience experienced by this IO in the last application exercise.

Apart from the above observations, this IO is also of the view that the Administration (viz. TAC, Transport Department and the Environment, Transport and Works Bureau) should consult all stake-holders on non-franchised bus matters relating to resident services.

Letters of similar contents have also been issued separately to Commissioner for Transport (copied to the Hon. FUNG Kin-kee, Mr TAM Kwok-kiu, Chairman of Shamshuipo District Council, Ms NG Mei, Shamshuipo District Councillor, and District Officer, Shamshuipo), Secretary for Environment, Transport and Works, and Chairman and Members of Transport Panel, Legislative Council.

Yours faithfully,



MA Po-kin

For and on behalf of

The Incorporated Owners of  
Beacon Heights

RECEIVED

- 5 JAN 2005

Annex B

香港特別行政區政府

The Government of the Hong Kong Special Administrative Region

政府總部  
環境運輸及工務局  
香港花園道美利大廈



Environment, Transport  
and Works Bureau  
Government Secretariat  
Murray Building, Garden Road,  
Hong Kong

本局編號 Our Ref.

ETWB(T) 2/4/85

來函編號 Your Ref.

Tel. No. : 2189 2110

Fax No. : 2104 7274

5 January 2005

The Incorporated Owners of Beacon Heights,  
Management Office, Beacon Heights,  
9-13 Lung Ping Road,  
Kowloon.  
(Attn. : Mr Ma Po-kin)

[Fax No. : 2788 1685]

Dear Mr. Ma,

**Licencing System for Non-franchised bus operation:  
Residents' Service – Beacon Heights**

Thank you for your letter dated 16 December 2004 expressing your opinions on the application procedures for non-franchised bus ("NFB") services.

In response to the Government's invitation, the Transport Advisory Committee set up a Working Group on Review of Regulation of Non-franchised Bus Operation ("TACWG") towards the end of 2003 to review the licencing system and regulatory framework of NFB operation. The TACWG consulted various transport trades during the process of the review before it finalised its recommendations in July 2004.

The proposal of requiring the sponsor of NFB service to obtain approval-in-principle from Transport Department ("TD") before they approach NFB operators for the operation of the service was considered by the TACWG. When consulted on the proposal, the NFB trade expressed concern that making it a mandatory requirement for the sponsors to obtain approval-in-principle from TD would put the sponsors under additional administrative burden. This might discourage certain sponsors from hiring NFB services and thus negatively affect the business of the NFB trade. Having regard to the views of the trade, the TACWG recommended that the sponsors and the NFB operators should continue to submit joint application for residents' service ("RS") to show the sponsors' support for proposed service. The joint application arrangement will ensure that both the sponsors and operators would clearly understand that they should not operate the proposed service before TD approves the services.

If the sponsor of a service wish to obtain TD's initial assessment on a proposed service before inviting tender for the service, they are welcomed to approach TD with the proposed operational details of the planned service to obtain TD's initial indication as to whether the proposed service would be agreeable in principle. Whether the proposal and the subsequent formal application will be approved depends on a number of factors including but not limited to the requirements stipulated in section 28 of the Road Traffic Ordinance (Cap. 230), TD's general principles for processing RS applications, the proposed operational details of the concerned RS and past record of the operator in complying with Passenger Service Licence conditions.

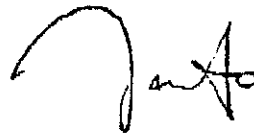
In order to maintain an efficient and balanced public transport system, TD has the responsibility to assess applications for NFB services stringently. Due to the various factors to be considered for each NFB service application and that circumstances related to each case may not be the same, the time required to process each case varies. Instead of specifying the period during which application for a proposed service must be submitted, we consider that maintaining the flexibility on timing for submission of application would best meet different needs of sponsors and



- 3 -

operators of NFB services. Nonetheless, we welcome sponsors to indicate their proposal to introduce RS and operators to apply for approval of the service as early as possible.

After the completion of the review by TACWG on the regulation of NFB operation in July 2004, the Government consulted the Legislative Council Panel on Transport ("the Panel") on the review results, including the proposed measures to improve the regulation of NFB operation, on 19 July 2004. Since then, the Government has consulted the NFB trade on the measures recommended by the TACWG. The review process has been carried out in a transparent manner and views from the public including potential sponsors are always welcomed. We will take into account the views received when considering the TACWG's recommendations and will consult the Panel again before implementing the proposed measures.



(Miss Jacko Tsang)  
for Secretary for the Environment,  
Transport and Works

附件

政府對畢架山花園業主立案法團  
二零零四年十二月十六日致立法會交通事務委員會  
意見書的回應

交通諮詢委員會應政府的邀請於二零零三年年底成立檢討規管非專營巴士營運工作小組(下稱「工作小組」)，檢討非專營巴士營運的發牌制度及規管架構。在檢討過程中，工作小組曾徵詢不同公共運輸業界的意見，並於仔細考慮業界意見後，在二零零四年七月就有關建議作出定案。

2. 關於規定非專營巴士服務租用人先取得運輸署的原則性批准，然後才委聘非專營巴士營辦商提供有關服務的建議，工作小組曾加以考慮。工作小組就上述建議諮詢非專營巴士業界時，業界關注到強制租用人須預先取得運輸署原則性批准的規定，會增加租用人的行政負擔。此舉可能導致某些租用人不願意租賃非專營巴士服務，因而對非專營巴士業的業務造成負面影響。經考慮業界的意見後，工作小組建議，租用人申請開辦居民服務時，應繼續聯同非專營巴士營辦商提交申請，以顯示對擬辦服務的支持。上述安排可確保租用人與營辦商均清楚明白，在未獲運輸署批准前，不應提供擬辦服務。

3. 假如服務租用人希望在招標承辦有關擬辦服務前，先行就有關服務取得運輸署的初步評估，歡迎他們向該署提交服務的擬議營運細節，以便該署初步表明是否可以原則上接納擬辦服務。至於有關建議或其後的正式申請會否獲得批准，則須視乎多項因素而定，包括《道路交通條例》(第 230 章)第 28 條所訂明的規定、運輸署處理居民服務申請的一般準則、有關居民服務的擬議營運細節，以及營辦商過去遵守客運營業證條件的紀錄等。

4. 為維持一個平衡和高效率的公共運輸系統，運輸署有責任嚴格審批非專營巴士服務的申請。由於運輸署於處理每宗非專營巴士服務申請時均須考慮多項因素，而個別申請的細節亦可能各有不同，因此所需的處理時間不一。我們認為在提交申請的時間方面維持彈性，比硬性規定提交申請時限，更能切合租用人和非專營巴士服務營辦商的不同需要。不過，我們歡迎租用人盡早

提出其開辦居民服務的建議，以及營辦商早日提交有關服務的申請。

5. 交諮會工作小組在二零零四年七月完成規管非專營巴士營運的檢討報告後，政府曾就檢討結果及報告建議的措施，在二零零四年七月十九日諮詢立法會交通事務委員會。其後，政府亦曾就工作小組建議的措施諮詢非專營巴士業界及旅遊業議會，並接獲一些居民組織的意見。在研究交諮會工作小組建議時，我們已仔細考慮收集到的意見，並因應有關意見而適當修訂工作小組的建議後，才提出建議落實的措施。

Annex

Government's response to submission from  
Incorporated Owners of Beacon Heights dated 16 December 2004 to  
Legislative Council Panel On Transport

In response to the Government's invitation, the Transport Advisory Committee set up a Working Group on Review of Regulation of Non-franchised Bus Operation ("TACWG") towards the end of 2003 to review the licencing system and regulatory framework of NFB operation. The TACWG consulted various transport trades during the process of the review before it finalised its recommendations in July 2004.

2. The proposal of requiring the sponsor of NFB service to obtain approval-in-principle from Transport Department ("TD") before they approach NFB operators for the operation of the service was considered by the TACWG. When consulted on the proposal, the NFB trade expressed concern that making it a mandatory requirement for the sponsors to obtain approval-in-principle from TD would put the sponsors under additional administrative burden. This might discourage certain sponsors from hiring NFB services and thus negatively affect the business of the NFB trade. Having regard to the views of the trade, the TACWG recommended that the sponsors and the NFB operators should continue to submit joint application for residents' service ("RS") to show the sponsors' support for proposed service. The joint application arrangement will ensure that both the sponsors and operators would clearly understand that they should not operate the proposed service before TD approves the services.
  
3. If the sponsor of a service wish to obtain TD's initial assessment on a proposed service before inviting tender for the service, they are welcomed to approach TD with the proposed operational details of the planned service to obtain TD's initial indication as to whether the proposed service would be agreeable in principle. Whether the proposal and the subsequent formal application will be approved depends on a number of factors including but not limited to the requirements stipulated in section 28 of the Road Traffic Ordinance (Cap. 230), TD's general principles for processing RS applications, the proposed operational

details of the concerned RS and past record of the operator in complying with Passenger Service Licence conditions.

4. In order to maintain a balanced and efficient public transport system, TD has the responsibility to assess applications for NFB services stringently. As factors to be considered for each NFB service application and the circumstances related to each case may not be the same, the time required to process each application varies. Instead of specifying the period during which application for a proposed service must be submitted, we consider that maintaining the flexibility on timing for submission of application would best meet different needs of sponsors and operators of NFB services. Nonetheless, we welcome sponsors to indicate their proposal to introduce RS and operators to apply for approval of the service as early as possible.

5. After the completion of the review by TACWG on the regulation of NFB operation in July 2004, the Government consulted the Legislative Council Panel on Transport ("the Panel") on the review results, including the proposed measures to improve the regulation of NFB operation, on 19 July 2004. Since then, the Government has consulted the NFB trade, the Travel Industry Council, and received opinions from some residents' groups on the measures recommended by the TACWG. We have taken into account the views received when considering the TACWG's recommendations and have made suitable adjustments to the recommendations when proposing the measures to be implemented.