

# 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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### **Submission by the Incorporated Owners of Beacon Heights**

**For**

### **Legislative Council Panel on Transport Special Meeting on 1 March 2005**

The Incorporated Owners of Beacon Heights (hereinafter called “this IO”) would like to express its gratitude for being invited to attend the Panel on Transport Special Meeting of the Legislative Council to be held on 1 March 2005, a meeting which this IO regards as a valuable opportunity for conveying our views and concerns on non-franchised bus (“NFB”) related matters, in specific the regulatory framework and licencing system for non-franchised bus operation, to the legislators and the Administration.

On 16 December 2004, this IO issued a letter to the Environment, Transport and Works Bureau, the Transport Advisory Committee, and the Legislative Council Panel on Transport, proposing the adoption of an “approval-in-principle” procedure for application for NFB services, together with a suggested timeframe for application, with a view to streamlining the application procedure, and reduce the uncertainties and difficulties encountered by the sponsors throughout the application process. A copy of the letter to the Environment, Transport and Works Bureau is attached at Annex A for reference.

The proposal was come up with by this IO after summarizing and reviewing all the difficulties encountered during the application for renewal of the residents bus service licence (Type A06) back in 2004, and was formulated after thorough consideration to address all the uncertainties and difficulties that sponsors would encounter under the existing application mechanism. In brief, the TD’s approved NFB Resident Service schedule for this IO was different from the operator’s agreed schedule stated in the tender. The change of service schedule 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 TD’s approved service schedule. This IO was disappointed to note that in the reply from the Environment, Transport and Works Bureau received on 5 January 2005 (a copy of which is attached at Annex B), the proposal by this IO was turned down with dubious and feeble reasons. The following are our comments on the issues raised, in seriatim --

1. *The Transport Advisory Committee Working Group on Review of Regulation of Non-franchised Bus Operation (“TACWG”) argues that making the approval-in-principle procedure a mandatory requirement would induce additional*

*administrative burden onto sponsors, and might discourage certain sponsors from hiring NFB services and impose negative impact to the business of the NFB trade.*

This IO's view :

- i. The proposed introduction of the approval-in-principle procedure is intended to enhance and streamline the existing residents bus service licence (Type A06) application mechanism. It needs not be made a mandatory requirement to totally replace the existing procedures. On the other hand, there are inadequacies in the present application mechanism and they should be addressed. For example, the existing mechanism does not cater for situations where sponsors have yet to appoint an operator (or are in the process of shopping for a contractor) to run a proposed NFB service. The provision of an approval-in-principle procedure would facilitate those sponsors in getting to know the extent of the service permissible by the authority before they proceed to call for tender for the service under request. An alternative is to make it an option if the TACWG finds this more feasible after consideration.
  - ii. It is fundamentally inappropriate to consult only the NFB trade on the concept of approval-in-principle. The NFB trade is not the sole stake-holder in the operation of NFB services. Provision of NFB services is a matter of public interest. The TACWG should have also consulted sponsors to seek their opinions and extent of acceptance of the proposed scheme, as they are also important stake-holders of the NFB services. Otherwise, the consideration could only be based on biased opinions, which would in turn hinder the making of a fair and balanced decision.
  - iii. It is difficult to understand the conclusion that the two-step application with the approval-in-principle mode would increase the administrative burden of sponsors and even discourage the hiring of NFB services. The TACWG should elaborate on how such a conclusion was drawn. Would it be that it was the outcome of their only consulting the NFB trade who assumed that their sponsors would mind the 'administrative burden'? Is it appropriate to seek the NFB trade to speak on behalf of the sponsors?
2. *The TACWG recommends that the sponsors and NFB operators should continue to submit joint application for residents' service to show the sponsors' support for proposed service.*

This IO's view :

- i. The approval-in-principle mode is not related to the question of whether the sponsors do support the proposed service. It is straightforward logic that NFB operators cannot operate the service without the support of the sponsor. To

reiterate our concern mentioned above, what if the sponsor has yet to appoint its contractor (because of lack of concrete operational details agreeable to the authority) to operate the NFB service under application?

3. *The TACWG is of the view that the joint application arrangement will ensure that both the sponsors and operators would clearly understand that they should not operate the proposed service before Transport Department (TD) approves the services.*

This IO's view :

- i. The proposal of the approval-in-principle mode is to streamline the application process; it is out of the question that the proposal of introducing such a mode carries the motive of attempting to operate the NFB service before grant of approval by TD. The operation of the service will only start upon grant of final approval of the A06 licence, not the preliminary approval in principle.

4. *The TACWG puts that the sponsor may 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. However, approval of the proposal and subsequent formal application will depend on a number of factors like the requirements stipulated in section 28 of the Road Traffic Ordinance (Cap. 230), TD's general principles for processing Resident Service (RS) applications, the proposed operational details of the concerned RS, and past record of the operator in complying with Passenger Service Licence conditions.*

This IO's view :

- i. Given the listed factors in determining the grant of approval, it is obvious that the past record of the operator is the remaining factor which will cause the formal application unsuccessful even with the initial assessment agreed in principle by TD. As such, it cannot be understood why the proposed approval-in-principle mode cannot be accepted, as the past compliance record of operator is not related to proposed operational details such as service schedule.

- ii. If the past record of operators is such an important factor for determining the success or failure of the licence application, it would be beneficial to sponsors if such information of operators could be made available from the TD on request. This would facilitate the sponsors in decision making during the service tender phase, and would minimize the chance of an unsuccessful application due to infamous past record of the operator.
  - iii. If TD can provide the service of initial assessment on proposed NFB service as said, a formal mechanism should be put in place, with performance pledge laid down, so that sponsors would know whether their expectations can be achieved and have a better planning in the application process.
5. *The TACWG advises that maintaining the flexibility on timing for submission of application would best meet different needs of sponsors and operators of NFB services because time required to process each case is different.*

This IO's view :

- i. Having flexibility is good in most cases. However, every Government authority should have its own performance pledge, so that users can better plan the application process according to the estimated lead-time, and the authority itself can have some metrics to measure its own service performance and seek for improvement. Even though the time required to process each case varies, TD should be capable to estimate the lead-time in the worst case based on its past experience. 'Flexible' does not mean indefinite for sure.

Apart from the above points which relate to this IO's feedback to the rejection of the proposed approval-in-principle mechanism, this IO would also like to raise some outstanding questions and concerns which have not yet been addressed, and also some general recommendations on transport related matters.

1. This IO would like to emphasize our strong desire that all stake-holders, including residents/sponsors, should be consulted on NFB matters relating to resident services. Residents are the end users of NFB services, and have much real-life experience with both the usage and application of NFB services. They can provide valuable opinion which facilitate the decision making and drawing up of the regulatory framework by the Government, and should not be ignored in the consultation process.

2. The existing enquiry channel for transport related matters is quite unclear to the public. Take this IO's own experience during the renewal application process in 2004 as example, we were sometimes at a loss as to which relevant authorities we should address our enquiries. In this IO's opinion, there should be a centralized contact point such that the general public can send any kind of transport related enquiries to it, and this single contact point will then be responsible to re-route the enquiries to the appropriate authorities, and also make reply after gathering answers from different authorities. This will certainly reduce the turn-around time for enquiries.
  
3. It is mentioned in the reply from the Environment, Transport and Works Bureau that the process of review and recommendations by the TACWG had been finalized in July 2004. This IO is disappointed to learn that the review has been finalized without being consulted as one of the stake-holders of NFB operation. Moreover, this does not match with the message, which this IO received after the renewal of the A06 licence in November 2004, that the Administration will further consider the Report on the regulatory framework and licensing system for NFB operation.
  
4. It is also mentioned in the reply from the Environment, Transport and Works Bureau that the Government has received opinions from some resident groups on the measures recommended by the TACWG. Has the Government ever collected the opinions from resident groups proactively? If so, is there reason why the IO of Beacon Heights was not invited for expressing views? Which groups have been invited for opinions and what were their opinions?

In conclusion, this IO considers that our previous proposal, concerns and enquiries have not been handled in an appropriate and conscientious manner. This IO hopes that the Legislative Council Panel on Transport could revisit our viewpoints (stated in this submission and in our 16 December 2004 letter to the Administration) and take the opportunity at the Special Meeting on 1 March 2005 to discuss and re-evaluate this IO's viewpoints.

The Incorporated Owners of Beacon Heights

19 February 2005

# THE INCORPORATED OWNERS OF BEACON HEIGHTS

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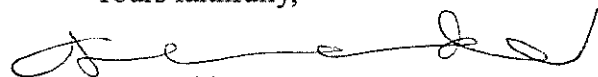
service trips and period of operation. When granting the approval-in-principle, Transport Department should indicate clearly the schedule of services approved for each route. On receipt of the grant of approval-in-principle, the applicant can then proceed to invite service tenders of resident bus operator.

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



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- 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

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ETWB(T) 2/4/85

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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

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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