

香港特別行政區政府  
The Government of the Hong Kong Special Administrative Region

房屋及規劃地政局

香港花園道美利大廈



**Housing, Planning and Lands  
Bureau**

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本局檔號 Our Ref. HPLB(CR)(PL) 1-150/34 (2005) Pt. 6

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7 December 2005

**By fax**

Ms Miranda Hon  
Clerk to Public Accounts Committee  
Legislative Council  
Legislative Council Building  
8 Jackson Road, Central  
Hong Kong

Dear Ms Hon,

**The Director of Audit's Report on the  
Results of value for money audits (Report No. 45)**

**Chapter 3 : Development of a site at Sai Wan Ho**

Thank you for your letter of 2 December 2005.

I would like to provide the requested information as follows :

- (a) The Housing, Planning and Lands Bureau (HPLB) sets the general policies relating to planning, land and building aspects, while the Planning Department (PlanD), Lands Department (LandsD) and Buildings Department (BD) perform their duties in accordance with such policies and the relevant legislation. HPLB does not involve itself in the daily operation of the departments and will not interfere with the exercise of power by department heads under the relevant legislation. However, should the concerned departments encounter issues bearing policy implications, they would consult HPLB.

HPLB recognizes the importance of coordination and interface among the departments involved in the land and building development approval process. Mechanisms at various levels with different degree of involvement from HPLB are in place for this purpose. These include the following channels –

- apart from resolving relevant issues through correspondence, HPLB will also hold housekeeping meetings, Four Directors' meetings (BD, LandsD, PlanD and Civil Engineering and Development Department) to resolve such issues; and
- there are also dedicated forums for resolving differences amongst departments, such as the Task Force on Re-engineering the Development Process and the Working Group on Reviewing the Property Development Approval Process.

The Task Force on Re-engineering the Development Process, set up in January 2002, is chaired by the Director of Buildings with participation of senior officials from BD, LandsD and PlanD. It aims to map out an implementation plan to streamline the process in obtaining planning, lands and building approvals. HPLB has set up the Working Group on Reviewing Property Development Approval Processes since October 2004. The main function of the Working Group is to consider matters relating to the overall simplification and rationalization of the property development approval procedures, particularly those requiring the Bureau's steer and coordination.

We will continue to co-ordinate the work among departments through the above mechanisms and channels in order to enhance communication and cooperation. We will keep under review these arrangements and make improvements from time to time.

- (b) For the Sai Wan Ho site (the Site), a notional scheme of a mixed residential/commercial/GIC development was worked out by the Planning Department in 1998 based on various planning assumptions. Based on the estimated domestic GFA of the notional scheme (85,720m<sup>2</sup>) and an assumed average flat size

(85m<sup>2</sup>) with reference to an adjacent residential development (i.e. Les Saisons) then under construction, the number of flats estimated in the notional scheme was 1,008 units. Taking account of the then estimated average number of persons per occupied flat (PPOF) of 3.5, the estimated planned population of the Site was 3,528.

The notional scheme was only to provide a rough estimate based on a set of planning assumptions. The developer had the flexibility to determine the appropriate mix of residential and commercial GFA and the mix of flat sizes to meet the market demand. In the Sai Wan Ho development, the developer has chosen not to provide commercial floor space within the Site and the average flat size has also turned out to be smaller (67m<sup>2</sup>). With the increase in total domestic GFA, the number of flats provided on the Site has increased to 2,020 units.

With the continuing trend of declining household size, the estimated average PPOF has decreased over the years. The latest planning estimate is 2.58 persons per occupied flat for the subject development, resulting in a population of about 5,212. There is an increase of 1,684 persons compared with the original estimate of 3,528 in 1998.

It should be noted that if the developer decided to build fewer but larger flats with the same domestic GFA, the population in the development would be less.

(c) Provision of community and educational facilities

While there is an increase in population on the Site as compared with the original estimated population in the notional scheme, there is a gradual reduction in the overall population in the Quarry Bay district. The district had a population of 133,522 in 2001 and the latest estimated planned population for the district is 125,200 by 2016, the major reason being that there is a trend of declining household size.

Based on the Hong Kong Planning Standards and Guidelines (HKPSG), the planned provision of community and educational facilities should be adequate to meet the HKPSG requirements with the exception of secondary schools and some youth and elderly facilities.

In terms of the provision of secondary schools, the shortfall of secondary schools could be met by the provision in other adjoining districts, such as North Point, and this is in line with the HKPSG. As regards the youth and elderly facilities, a GIC site of about 2,000m<sup>2</sup>, located in the vicinity of the Site, has been reserved for the provision of community facilities to meet the district's demand. Moreover, as these facilities are small scale and premises-based, they could be accommodated within private commercial or commercial/residential buildings.

A table showing the HKPSG requirements and the existing and planned provisions of community and educational facilities in Quarry Bay district is at **Annex A**.

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- (d) A response will be provided separately and as soon as possible.
  - (e) Government Accommodation is a term used in the Government lease. It refers to facilities or accommodation to be provided by the lessee and assigned to the Government when called upon to do so as required under the lease. It could be for various uses - domestic flats with associated carparks, schools, kindergartens, residential care homes for the elderly, social services centres, open space, PTT etc.

Regulation 23(3)(a) of the Building (planning) Regulations (B(P)R) governs the areas to be included in GFA calculation and Regulation 23(3)(b) of B(P)R provides for areas of certain types of use that may be disregarded in GFA calculation. In both regulations, there is no reference to either Government Accommodation or private accommodation. However if the accommodation falls within the uses stipulated in 23(3)(b) of B(P)R e.g. areas used solely for parking motor vehicles, loading or unloading of motor vehicles, refuse storage chambers, access

facilities for telecommunication etc., it may be disregarded in GFA calculation.

The issue of exclusion of PTT from GFA calculation was discussed, amongst other things, in the Sai Wan Ho case, details of which have been contained in the minutes of the BAC of 1 August 2001 and 22 October 2001.

In the time available, we have focused on PTT, and since October 2001, BD has approved five cases where the PTT was excluded from GFA calculation under Regulation 23(3)(b) of B(P)R. In all these cases, the leases have stipulated the exclusion of the PTT from GFA calculation. The maximum GFA have also been specified under the leases. A list of these cases is at **Annex B**.

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- (f) (i) The Building Authority Conference (BAC) is chaired by the Director of Buildings and comprises the Deputy Director of Buildings, the Assistant Director/Support, the subject Assistant Director and another Assistant Director on rotation as members. A staff member of the Technical Support Section of BD will serve as secretary of the BAC. Representatives of relevant government departments and the subject Chief Building Surveyor attend as attendees.

The BAC held on 1 August 2001 was a meeting with expanded membership as explained in paragraph 2 of the minutes of that BAC.

As the BAC of 22 October 2001 was a regular meeting, the representative of the Planning Department (PlanD) was therefore not a member at that meeting.

- (ii) The secretary to the BAC has conducted a search but could not identify any written records on the invitation of Lands Department to the BAC on 22 October 2001. The secretary at the time cannot recall if Lands Department's representative had been invited or if Lands Department's representative had declined the invitation in this particular case. In this regard, invitation of representatives of the

outside departments was and is usually made by telephone calls followed by memo or email confirming the date and venue of the BAC.

If a representative of LandsD had been invited to the BAC meeting of 22 October 2001, he would have been in attendance and would not have been a member, similar to the PlanD representative.

At the request of members at the last PAC meeting, LandsD has checked its file records and there is no record to show that LandsD was invited to attend the BAC meeting held on 22 October 2001. All relevant officers responsible for handling of the case at the time have been contacted and have advised that they do not recall having received invitation in any form from BD to attend the said meeting.

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- (g) As requested by BD, Professor Alex C W Lui, the external observer at the BAC meetings of 1 August 2001 and 22 October 2001, has provided his career history at **Annex C**.
  - (h) A response will be provided separately and as soon as possible.
  - (i) (i) It would be helpful to first explain how the Building Authority Conference (BAC) operates:
    - The subject Chief Building Surveyor presents the case;
    - The Chairman, members and attendees give their views on the matter; and
    - The Chairman as the Building Authority makes a decision on the matter.

Therefore, in the Sai Wan Ho case, members including Mr CHEUNG Hau-wai gave their own views on the matter, and the Chairman, as the Building Authority, decided on the matter after considering views from members and attendees. No members would suggest or propose to the

Building Authority as to what his decision should be.

The views given by members and attendees are recorded in the minutes, in this particular case in paragraphs 4, 5 and 6 of the minutes of the BAC of 22 October 2001.

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The basis of Mr CHEUNG Hau-wai's view to exclude the PTT from GFA calculation, as was that of the other members in this case, was the legal advice as recorded in paragraph 2 and the considerations as recorded in paragraph 5 of the minutes of the BAC held on 22 October 2001. The relevant extract of minutes is at **Annex D**. In addition, it was also noted that although the PTT of developments in the recent 5 years had all been required to be included in GFA calculation, other cases since 1980 had been inconsistent, and the Chairman had directed in the BAC of 1 August 2001 to seek legal advice to clarify the matter.

- (ii) Mr CHEUNG Hau-wai and the other three members gave the view that the PTT could be excluded from the GFA calculation given the basis in paragraph (i)(i) above.
  - (iii) There was no discrepancy between the views given by members and the Chairman during the meeting. After hearing the views given by members as well as those of the attendees, the Chairman then made the decision to exclude the PTT from GFA calculation.
- (j) The events in respect of the submission history of building plans from 4 July 2001 to 23 October 2001 by the authorized person (AP) are summarized in the table at **Annex E**.
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In respect of the question why the AP submitted the building plans based on different treatments of the Government Accommodation in GFA calculation within a short period of time, we wish to point out that the AP is at liberty to submit different schemes of building proposal for BD's consideration at any time he thinks fit. Since the BAC of 1 August 2001 deferred making a decision on the treatment of PTT, Submission A with PTT

excluded from GFA calculation should have been disapproved by the statutory due date. However, the AP withdrew Submission A and resubmitted Submission B which was identical with Submission A on 3 August 2001 so that, in effect, the due date could be extended. The AP subsequently amended Submission B by including the PTT in GFA calculation.

BD received Submission C on 24 September 2001 and supplementary information on 26 September 2001 which were the initiative of the AP to pursue the outstanding issue of PTT arisen from BAC of 1 August 2001.

In respect of whether there were any events between 2 August and 22 September 2001 that caused the change, the major events include:

- (a) Submission A was withdrawn and Submission B was submitted on 3 August 2001;
- (b) Submission B was subsequently amended by including the PTT in GFA; and
- (c) Submission B was approved on 1 September 2001.

In respect of whether there had been any contact between staff of BD and the AP/developer concerning the case during the period between 2 August 2001 and 22 September 2001, apart from the relevant events recorded in Annex E, the AP and the subject Chief Building Surveyor had a meeting on 2 August 2001 during which the AP indicated his wish to withdraw Submission A which he did on 3 August 2001.

Yours sincerely,



(Rick Chan)

for Secretary for Housing, Planning and Lands



DB	(Attn : Mr Cheung Hau-wai)	[Fax : 2868 0793]
D of Lands	(Attn : Mr Patrick Lau)	[Fax : 2525 4960]
D of Plan	(Attn : Mr Bosco Fung)	[Fax : 2877 0389]
D of ArchS	(Attn : Mr Yue Chi-hang)	[Fax : 2810 7341]
D of Audit	(Attn : Mr Benjamin Tang)	[Fax : 2583 9063]
SFST	(Attn : Mr Martin Glass)	[Fax : 2523 5722]
Mr Leung Chin-man		[Fax : 2870 1737]

*\*Note by Clerk, PAC: Annexes A, B and D not attached.*

*See APPENDIX 18 for Annex D.*

## Annex C

### Career History of Mr LUI Chun-wan, Alex

<b>Period</b>	<b>Employment</b>
1968 - 1969	Hong Kong Housing Authority
1969-1970	Leigh & Orange Architects
1971-1973	Overseas practice
1973-1976	Housing Department, HK Government – Architect
1977-1987	Overseas practice
1988-1998	Simon Kwan & Associates Ltd. – Director
1998-2002	Department of Architecture, Chinese University of Hong Kong – Professor in Architecture
2002-present	Hysan Development Company Limited – Senior Advisor

### Service on Boards and Committees

<b>Name of Body</b>	<b>Position Held</b>	<b>From</b>	<b>To</b>
Town Planning Board	Member	1.4.2000	31.3.2006
Appeal Tribunal Panel (Buildings)	Member	1.12.2003 16.1.1995	30.11.2006 30.11.2000
Rural and New Town Planning Committee	Member	1.4.2000	31.3.2006
Authorized Persons Registration Committee Panel	Member	1.1998	12.2001
Authorized Persons Registration Committee B	Member	1.1998	12.2001
Board of Review (Inland Revenue Ordinance)	Member	1.11.1998	30.6.2004
Resources Committee, Construction Advisory Board	Member	30.09.1999	31.03.2002
Special Selection Board, Tamar Development Board	Member	2002	2004
Planning Sub-committee, Lands & Building Advisory Committee	Member	12.1992 3.5.1999	11.1994 31.3.2003
Hong Kong Housing Society Audit Committee	Member	Mid 2005	Present

**Audit Report on the Sai Wan Ho Case**  
**Submission History of Building Plans from July to October 2001**

<b>Date</b>	<b>Event</b>
4.7.2001	Building plans (Submission A) was received by Buildings Department (BD) for processing, with the PTT <b>excluded</b> from GFA calculation. The statutory due date for processing Submission A was 2.8.2001.
1.8.2001	<b>1<sup>st</sup> BAC meeting.</b> The decision to exclude the PTT from GFA calculation was deferred pending the seeking of legal advice.
2.8.2001	BD received AP's letter, indicating his intention to carry out amendment to Submission A.
3.8.2001	BD received AP's letter dated 1.8.2001, confirming the withdrawal of Submission A and resubmission of the same set of plans as Submission B. The statutory due date for processing Submission B was 1.9.2001. Subsequently, AP carried out amendment to Submission B, amongst other things, by including the PTT in GFA calculation. The amendment of plans was a normal practice and did not affect the status of Submission B.
1.9.2001	BD approved Submission B, with PTT <b>included</b> in the GFA calculation.
24.9.2001	BD received AP's letter dated 22.9.2001, together with amendment plans with PTT <b>excluded</b> from GFA calculation (Submission C). The statutory due date for processing Submission C was 23.10.2001.
26.9.2001	AP submitted a paper, a study report on PTT, a legal opinion and other materials to BD, in support of his application to exclude the PTT from GFA calculation in Submission C.
22.10.2001	<b>2<sup>nd</sup> BAC meeting.</b> It was decided that the PTT could be excluded from GFA calculation.
23.10.2001	BD approved Submission C, with PTT <b>excluded</b> from GFA calculation.