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Urgent By Fax

31 December 2005

Ms Miranda Hon
Clerk to Public Accounts Committee
Legislative Council
Legislative Council Building
8 Jackson Road, Central
Hong Kong
[Fax: 2537 1204]

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 (SWH)

Thank you for your letter of 21 December 2005.

The requested information is as follows :-

(a) The bulk and/or height of a building with a public transport terminus (PTT) exempted from gross floor area (GFA) will inevitably be greater than if the PTT were not exempted, provided the developer is able to enjoy the exemption as he was in the subject cases.. The developer/grantee was not required to pay a premium to the Government as a result for the reasons stated below :-

Item No.	Location of PTT	Reasons for not charging additional premium
(1)	United Centre, Admiralty (Lot sold by auction)	The lease allows for possible exemption of PTT from GFA calculation as it specifies that "the maximum plot ratio (as defined in Section 21(3) of the Building (Planning) Regulations) of any building erected or to be erected on the lot shall not exceed 18".

(2)	China Hong Kong City, Tsimshatsui (Lot sold by tender)	The lease does not contain a maximum GFA clause and therefore possible exemption of PTT from GFA calculation is acceptable under the lease.
(3)	Scout Association, Austin Road, Tsimshatsui (Lot granted by private treaty grant)	The lease does not contain a maximum GFA clause and therefore possible exemption of PTT from GFA calculation is acceptable under the lease. In any case, the grantee is a non-profit-making organization and the lot was granted to it by private treaty grant at nominal premium.

(b) For items (1) and (2), there was no enquiry from any prospective tenderers as to whether the PTT would be included in the GFA calculations.

For item (3), the question does not apply to the case as the lot was granted by way of private treaty grant.

(c) Please see the attached Site Valuation Framework. I have referred to this as a "framework" rather than a formula as the latter has mathematical precision whilst valuation involves assessment based on a number of variables.

(d) When assessing the "after value" of the lot in the $5.97M assessment, whether the value of the lot had increased or decreased after its sale in 2001 was not a relevant factor for consideration. The only matter for consideration was the increase in the then current (i.e. 2003) value attributable to the consent to amend the control drawing. The value of the lot increased because of the certainty of the exemption of the PTT and the availability of bonus GFA having been established by 2003. As a matter of fact land values generally declined between the time of sale of the lot in January 2001 and the time of assessment of premium for consent to amend the control drawing in January 2003. As regards percentages, the increase in value from $2,430.0M to $2,708.4M is an 11% increase.

It is important to appreciate that had the lease conditions limited the GFA to that which could have been achieved under the Schedule 1 to the Building (Planning) Regulations with no PTT exemption and no bonus GFA, the sale price obtained for the lot would have been less than the $2,430.0M actually obtained. In those circumstances, the only way further revenue could have been obtained would have been for the following to have happened :-

(i) the owner would have applied for PTT exemption and bonus GFA. Since he would have to conclude a lease modification to enjoy any such exemption or bonuses should the BA have agreed to grant them (see (ii) below), the time that this would take and the need to pay a premium would have been a considerable disincentive to him and he may well have decided not to pursue that;

(ii) had he pursued that and applied to the BA for exemption and bonuses, it is by no means certain that the BA would have granted them, as the lease would have been quite different. The BA may have rejected the application;

(iii) in the event that an application were made by the developer and approved by the BA, there would have been no certainty as to the subsequent application for lease modification being successfully completed. The developer may have found the premium sought by LandsD unacceptable.

Had the sale conditions contained a restriction as to GFA, the only way extra revenue could have been obtained above the reduced sale price that would have been paid would have been for all three of these hurdles to have been successfully crossed. Failure to cross any one of them would have resulted in less revenue than was actually collected being received.

LandsD took and continues to take the view that where the planning intention is that development should not be less than what can be achieved under the Buildings Ordinance, it is better to obtain maximum value on the original sale by leaving the sale conditions silent as to GFA rather than to limit GFA and take a lower sum at that time in the hope that any potential for achieving a development with greater GFA and therefore greater value will be successfully pursued and result in the payment of a premium on lease modification at some future date. However, as pointed out by the Secretary for Housing, Planning and Lands at the PAC hearing, this matter is currently being reviewed by the Bureau.

The fact that the Audit Report consistently uses the phrase "where appropriate" on this issue is a clear acknowledgement that there are circumstances where it would not be appropriate to set a maximum GFA. Such circumstances arise in cases where the planning intention is, as at the subject site in Sai Wan Ho, that the lot shall be developed to up to the development intensity that can be attained under the Buildings Ordinance.

Yours sincerely,

(Patrick Lau)
Director of Lands

c.c. Secretary for Housing, Planning and Lands
Director of Buildings
Director of Planning
Director of Architectural Services
Secretary for Financial Services and the Treasury (Attn: Mr Martin GLASS)
Director of Audit
Mr LEUNG Chin-man, JP

Site Valuation Framework

(a) **Value of Completed Development**
GFA x efficiency ratio[1] x \$/sq.m.[2]
deferred for x[3] years at i%[4]

(b) **Costs**
GFA x \$/sq.m.[5] x 1.06[6] x 1.n[7]
deferred for $x/2$[8] years at i%[4]

(c) **Land Value** = $\dfrac{\text{(a)} - \text{(b)}}{1.n^{(7)}}$

Footnotes

1. Efficiency ratio (sometimes called saleable ratio) is the saleable area expressed as a percentage of GFA. Saleable area excludes common parts.

2. Unit rate of value of completed development on saleable area basis derived from analysis of comparable transactions.

3. Period from valuation date to receipt of sale proceeds, i.e. the development period.

4. A rate of interest reflecting the cost of borrowing.

5. Unit rate of cost of construction derived from analysis of construction contracts.

6. Allowance for architects' fees.

7. Allowance for developers' profit derived from analysis of land transactions.

8. Period from valuation date to mid-point of the development period.

Lands Department
December 2005