

**Extract from minutes of meeting between LegCo Members
and Sham Shui Po District Council members on 9 June 2005**

Members present : Hon Frederick FUNG Kin-kee, JP (Convenor)
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Miriam LAU Kin-yee, GBS, JP

By invitation : Sham Shui Po District Council

Mr TAM Kwok-kiu, MH (Chairman)
Mr LEUNG Lai (Vice-chairman)
Mr CHAN Keng-chau
Mr CHONG Chi-tat
Mr KWOK Chun-wah, MH
Ms LAI Wai-lan, Tracy
Mr LAM Ka-fai, Aaron
Mr LEUNG Yau-fong
Mr LI Hon-hung
Ms NG Mei, Carman
Mr TAM Kwok-hung
Mr WONG Kam-kuen, MH
Ms WONG Kwai-wan

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

Ms Guy YIP
Council Secretary (1)1

Mr Anthony CHU
Council Secretary (1)2

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**IV. Stepping up enforcement against illegal shop extensions on
Government land**

24. The Vice-chairman of SSPDC pointed out that ground-level shops in Sham Shui Po District illegally extended their operation on pavements, forcing pedestrians to walk on carriageways, thus causing danger. Some owners of ground-level shops also illegally constructed fixed structures on pavements and sold their goods on such structures. Some owners even rented the illegally

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occupied space to others for a profit. He queried which party should be held responsible if the illegal structures caused accidents. SSPDC had enquired the Department of Justice on this issue but had received no reply. As the Buildings Department had accorded a low priority to tackling illegal shop extensions on Government land involving illegal structures not constituting imminent danger, the problem would take a long time to resolve.

25. Ms WONG Kwai-wan said that SSPDC had held numerous discussions on this subject. She was disappointed that the Government departments had not taken any practical measures to solve the problem.

26. Mr Jasper TSANG noted that recently there had been a joint inter-departmental clearance operation in the Yau Tsim Mong District leading to successful clearance of obstacles on the pavements. In response to Mr TSANG's enquiry, the Chairman of SSPDC said that at the moment there was no plan to carry out a similar joint inter-departmental clearance operation in the District. Mr KWOK Chun-wah agreed that SSPDC could ask the Yau Tsim Mong District Council for details about the joint inter-departmental clearance operation for reference.

27. Mr KWOK Chun-wah said that for historical reasons, there were many legal "wall shops" in the Sham Shui Po District. The Food and Environmental Hygiene Department (FEHD) could display labels on these shops to show that the operation of these shops was legal, so as to avoid any unknowing citizens complaining to District Councils (DCs) or to other relevant Government departments. Mr WONG Kam-kuen shared this view and added that the Administration had provided a list of legal "wall shops" in the Sham Shui Po District.

28. The Convenor pointed out that the issue of illegal shop extensions on pavements involved co-ordination among different Government departments and also depended on the priorities of these departments. He suggested that the relevant DC could set up a task force to follow up cases involving illegal shop extensions on pavements. The task force so set up could also request the relevant Government departments to prepare, based on available information, a timetable for action against cases of illegal extensions for monitoring by DCs and the public.

29. Mr LEUNG Yau-fong said that DCs were not vested with the execution power relating to the matters in the districts. When SSPDC made enquiries with the relevant Government departments about details concerning enforcement actions against cases of illegal extensions, the departments could not provide any comprehensive plan. Despite the numerous problems brought about by "wall shops", Mr LEUNG still supported the existing regulatory framework. As the issue of illegal extensions involved different Government departments, including the Lands Department, the Buildings Department and FEHD, no single government department played a leading role in the co-ordination work. He requested that the Administration should review the existing policy to identify any loopholes and whether there were sufficient manpower in enforcement.

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30. The Convenor and Mr Jasper TSANG pointed out that while the Administration's present policy was very clear that it was against the law for shops to erect unauthorized extensions, the question was how to enforce the law. Mr TSANG held that the Administration must be determined to enforce the law and carry out joint inter-departmental clearance operations. He suggested that the relevant District Officers be invited to discuss jointly with the relevant Government departments about the way to resolve the problem. The Convenor said that it would not be appropriate for the LegCo to follow up the issue of illegal shop extensions in the long run. If DCs had any problem in dealing with individual cases, the LegCo could provide assistance. He instructed the Secretariat to make enquiries with the Home Affairs Department regarding the joint inter-departmental clearance operation in the Yau Tsim Mong District for reference by SSPDC.

31. The Chairman of SSPDC pointed out that in dealing with the issue of illegal shop extensions in the District, SSPDC encountered problems in co-ordinating the work. Even if SSPDC or the District Management Committee had reached a consensus about the solution to the problem, the measures would still have to be implemented by individual government departments. This brought up the issue of a District Officer's co-ordinating role at district level. The Convenor agreed that the co-ordination of inter-departmental efforts by District Officers at district level and how individual government departments supported District Councils and District Management Committees were policy issues which could be referred to the Panel on Home Affairs and the Panel on Constitutional Affairs for follow-up actions. Mr LEUNG Yau-fong pointed out that at present the Chairman of a District Management Committee was the District Officer instead of the Chairman of the District Council. Mr LEUNG supported that the role and structure of District Management Committees should be reviewed.

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32. The Convenor concluded that, in the long term, the responsibility of following up the problem of illegal shop extensions should rest with District Councils. However, District Councils might seek assistance from LegCo to follow up with relevant Government departments if they had problems with individual cases. Matters concerning the relationship between District Councils and District Management Committees and the role and structure of the latter could be referred to the Panel on Home Affairs and the Panel on Constitutional Affairs for follow-up actions.

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