

18th July 2008

Chairman & Members of Legislative Council Panel for Development

Dear Sirs

Enforcing Development Controls on Large sites in Urban Areas with specific reference to the *Mega-tower* in Wan Chai (“The 1994 Scheme”).

As LegCo is aware, our group has, for more than 3 years, continually drawn the attention of the Planning and Lands Branch and the Development Minister to the excessiveness and other major defects in the *Mega-hotel* proposals. The Town Planning Board agreed with many of our opinions and arguments, to the extent of rejection at both s.16 and s.17 stages a new scheme of equal size (“The 2004 Scheme”).

Consequently the developer is now trying to compel government to issue a land exchange based on this obsolete 1994 scheme – after a period of 14 years – and has threatened to sue. We are extremely concerned that the Planning and Lands Branch in particular, and the Development Bureau generally, are kowtowing to the legal threat from this developer, by hiding behind the argument that “statutory procedures” have been followed and the Bureau is obliged to offer a land exchange.

We are of the opinion that these government officials are substantially misrepresenting the true situation. We believe that the statutory procedures have been by-passed by administrative devices and administrative actions by government officials, who are refusing to acknowledge that the “1994 scheme” is obsolete and does not now meet the current planning requirements of the Town Planning Board and the community, as evidenced by the TPB rejections of a similar size scheme (ref. para 1.above). It is also relevant that in 1994 the public, including the Wan Chai District Council, was not consulted.

We are sure you are aware that the Independent Inquiry for the Sai Wan Ho development stated that statutory planning controls are being eroded, and concluded that the planning system is becoming uncertain. We hope therefore that your Panel will support our request that a separate Independent Inquiry should be established to examine the defects of this “1994 scheme”, and identify the manner in which development controls have been by-passed/eroded for the *Mega-tower* hotel, and similarly how government officials can foolishly suggest that a 14 year-old obsolete scheme should be allowed to proceed in modern-day Hong Kong. The Inquiry should be able to recommend and re-establish control and enforcement measures for the future.

Our own enquiries have so far revealed that:-

1. There was an original 1985 planning agreement (developer / TPB) for a 7,070m² hotel site (GFA 106,155m²) and a separate 5,880m² public park. The TPB honoured this concept by re-zoning the necessary land to facilitate this hotel and public park.
2. By 1994 failure by the planners to execute controls had allowed the developer to "move the goalposts" so that the hotel site increased to 10,315m² (GFA 164,091m²), and the public park reduced to 2,030m (and government are still not being transparent as to exactly how much "Open space" will be provided within the "CRA" to replace the original public park in the 1985 planning agreement – which itself substituted the pre-CRA "Open space" zone at this site - and to satisfy the zoning requirement).
3. During the intervening period outrageous double standards and discrimination were applied by the planners, whereby smaller development proposals in the immediate vicinity were rejected on the grounds of adverse traffic impact to Kennedy Road, inappropriate commercial uses in a residential neighbourhood, violation of the character of the area, excessive scale and height, use of open space and public lanes for plot ratio, and disturbing existing vegetation and landscape from excessive redevelopment; whereas in this same period the *Mega-tower* hotel was being processed "behind closed doors" with the developer, and is even more guilty of the planning components used to reject the smaller schemes.
4. Government officials, when challenged on various administrative interferences and decisions have made excuses about "TPB Policies" and then refused the public from access to the TPB deliberations and determinations. This we believe is a tactic to force the public into a Judicial Review, in the full knowledge that ordinary citizens cannot meet the financial burden and time commitment necessary for this process

We strongly request your support for an independent inquiry, and further to insist that any land exchange based on the 1994 scheme be with-held.

Yours sincerely



Sally Ho-Emmerton – for *Kennedy Road Protection Group*