

香港特別行政區政府

The Government of the Hong Kong Special Administrative Region

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17 December 2007

Convener

LegCo Members' Meeting with Heung Yee Kuk Members

Legislative Council Building

8 Jackson Road

Hong Kong

(Attn: Hon LAU Kin-ye)

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Dear Hon LAU,

LegCo Members' Meeting with Heung Yee Kuk Members on 8.11.2007**Planning for Rural Areas and
Review of Land Uses in the New Territories
(Agricultural Land, Green Belt and Recreational Land)**

Thank you for your letter dated 22.11.2007. In response to your views on the captioned, we reply as follows.

Most of the private land in the New Territories is agricultural land. Leases of land of this kind do not provide any development rights for uses other than agriculture. On the statutory Outline Zoning Plans (OZPs), agriculture is always permitted in most land use zones. In general, it is not accurate to claim that land use planning has frozen land use.

To improve the living environment and meet the needs of the residents, the Planning Department (PlanD) will reserve land within the "Village Type Development" zone for the provision of appropriate public facilities and open space according to the Hong

Kong Planning Standards and Guidelines and the request of relevant Government departments. Generally speaking, villagers could continue agricultural activities on their own land before the implementation of the public facilities. Should resumption of private land be required, Government will provide reasonable compensation to the affected owners in accordance with the Lands Resumption Ordinance (LRO).

Unlike the LRO, the existing Town Planning Ordinance does not provide for compensation for owners whose development rights are affected by planning actions. Such a system is in line with the principle of common law and has been operating in Hong Kong for years. The Special Committee on Compensation and Betterment* considered in detail the compensation issue relating to land use planning in 1992 and took the view that imposition of planning restrictions was justified for the sake of public interest. It nevertheless recommended that some amendments should be introduced to the planning mechanism to allow for greater openness in the statutory plan-making process and flexibility in the planning application system, to achieve a reasonable balance between public interest and private property rights. Substantial amendments have since been introduced to the TPO in response to such recommendations and the community's aspirations.

In 1996, the Government published a White Bill on Town Planning to seek public views on the proposals to overhaul the planning system. After years of refinement and further consultations, the Town Planning (Amendment) Ordinance 2004 (the Amendment Ordinance) which was passed by LegCo in July 2004 came into operation in June 2005. The Amendment Ordinance aims at enhancing the transparency of the planning system, streamlining the town planning process and strengthening enforcement control against unauthorized developments in the rural New Territories.

Regarding the concerns of Heung Yee Kuk about land uses in the New Territories, the Amendment Ordinance has provided that any person may apply for amendments of plans. The applicant may also attend the meeting of the Town Planning Board (the Board) and be heard by the Board. At the same time, section 16 of the Amendment Ordinance continues to allow applications to the Board for change of uses within the zonings. As such, the Amendment Ordinance has provided an appropriate statutory framework for land owners in the New Territories and other related persons to submit applications to the Board for changing land uses. To ensure fairness, the Amendment Ordinance has also enhanced the transparency of the planning system by allowing applicants who propose changes to land use and members of the public to have a full picture of all the relevant factors considered by the Board on each individual

* The Special Committee on Compensation and Betterment was set up in July 1991 to consider and make recommendations on the complex issues of compensation and betterment. It comprised members from the legal, surveying, banking and accounting fields.

application.

Under the Amendment Ordinance, the public (including the affected land owners) will have sufficient time to make representations on draft plans published by the Board. All those making representations can be heard by the Board. An applicant for amendment of plan is also required to obtain consent of or notify the current land owner concerned. The application will also be published by the Board for public comments. This will help strike a balance between public interest and private rights in considering planning applications. The Board will make available all draft plans, application documents and public representations/comments for public inspection. The Board is also required to submit a draft plan, incorporating any amendments, together with the representations, comments and further representations to the Chief Executive in Council for approval.

Since the implementation of the Amendment Ordinance for more than two years, the Board has been reviewing the relevant guidelines with a view to improving the administrative procedures within the statutory framework.

Apart from preparing statutory OZPs to indicate broad land use zonings so that development and redevelopment can be put under statutory planning control, the Administration has regularly reviewed the land use planning of rural areas at different levels to guide the development of rural areas, with a view to improving the living environment. According to the Policy Address promulgated recently, the Government will undertake planning and engineering studies on two New Development Areas (NDAs), namely the “Three-in-One” NDA at Kwu Tung North, Fanling North and Ping Che/Ta Kwu Ling as well as the Hung Shui Kiu NDA, and work out implementation strategies. The Government will also take the opportunity to review land use planning of the periphery areas of the NDAs.

Yours sincerely,

(Ivan CHEUNG)
for Secretary for Development