

*P.A.C. Report No. 45 – Chapter I of Part 7*

*Development of a site at Sai Wan Ho*

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61. According to paragraph 6.23 of the Audit Report, the lease conditions of the Site had not specified whether the Government Accommodation should be included in the GFA calculation. Prospective tenderers therefore could have doubts about this point. The Committee also noted that the lease conditions were silent on the site classification and the maximum GFA that could be allowed for the development of the Site. The Committee asked:

- given that the inclusion of the above information in the lease conditions would obviate the need for the Building Authority to exercise a discretion after the land sale, why such information had not been stipulated at the outset; and
- whether the tender price offered for the Site would have been higher if it had been clearly stated in the lease conditions that the Site was a Class C site and the PTT would be excluded from the GFA calculation.

62. The Director of Lands and Mr John Corrigan, Deputy Director of Lands (General), Lands D, responded that:

- the Lands D had not stipulated a maximum GFA clause in the lease conditions because there was no restrictions on the GFA in the OZP concerned;
- when a lease was silent on the maximum GFA, this meant that the landlord, i.e. the Government, was taking the view that the maximum GFA was not a matter for the land authority. It was a matter for the Building Authority under the Buildings Ordinance and the site should be built to a development intensity that could be achieved under the Buildings Ordinance. Moreover, the Building Authority had the discretion to make or change his decision as to whether government accommodation would be accountable under the Buildings Ordinance. In the circumstances, it was not appropriate for the Lands D to stipulate in the lease conditions what should or should not be counted for the GFA; and
- developers in Hong Kong were very experienced and knew clearly the provisions of B(P)R 23(3)(a) and 23(3)(b). They should have submitted their tenders based on their assessment of whether the Building Authority would grant exemption under B(P)R 23(3)(b). The reserve price of the Site assessed by the Lands D was only \$1,850 million, whereas the sale price was \$2,430 million. The difference of \$580 million was a reflection of the Developer's estimation of the amount of additional GFA that he might obtain under B(P)R 23(3)(b).