

**Select Committee to Inquire into Matters Relating to the Post-service Work of
Mr. Leung Chin-man**

Hearings for the Hunghom Peninsula incident

**Papers, books, records and documents which the Select Committee has ordered
Dr. Henry Cheng Kar-shun to produce**

“1. Copies of documents relating to matters listed below, including but not limited to emails, fax messages, correspondence, records or notes of oral communication, minutes and any records of formal/informal meetings: (a) between the developer of the Hunghom Peninsula development and the Government; (b) between the parent company of the developer of the Hunghom Peninsula development and the Government –

(a) cessation of the production and sale of Home Ownership Scheme and Private Sector Participation Scheme flats;”

Relevant documents

- (1) Letter dated 11 May 2002 from the developer, First Star Development Ltd (“FSD”) to the Director of Housing on arrangement for sale of around 700 flats out of a total of 2470 residential units in the Hunghom Peninsula project. (R15)
- (2) Reply letter dated 27 May 2002 from the Director of Housing to FSD stating that that if no nomination is made within 20 months from the date of the consent to sell, the HA will purchase those flats in accordance with the terms of the Conditions of Sale. (R16)
- (3) Letter dated 10 June 2002 from FSD to the Director of Housing stating that, given none of the 4948 flats quota will be allocated to flats in Hunghom Peninsula project, the extra and unexpected costs and losses that FSD would have to bear amount to HK\$167 million per year and requesting the Government to propose solution to this situation. (R17)

- (4) Without Prejudice letter dated 21 June 2002 from Director of Housing to FSD asserting that the Housing Authority would act in accordance with the conditions of sale regarding the purchase of any residential flats for which no purchasers are nominated by the HA. (R18)

“(b) options for the disposal of the Hunghom Peninsula development;”

Relevant documents

- (1) Letter dated 2 July 2002 from FSD to the Government of HKSAR proposing two options namely (a) converting Hunghom Peninsula development into private housing and putting it for sale jointly with FSD in the private property market or (b) outright buy-out by FSD from the Government. (R19)
- (2) Letter dated 3 October 2002 from Mr. CM LEUNG, Permanent Secretary of Housing, Planning and Lands (Housing) to FSD that they are doing their utmost to “bring this matter to a mutually satisfactory solution as quickly as possible”. (R20)

“(c) discussion with the Government and/or the Hong Kong Housing Authority (“HA”) on matters relating to: (i) negotiation on the lease modification (including deliberation on the premium) in respect of the Hunghom Peninsula development before December 2003, and (ii) mediation on the disposal of the Hunghom Peninsula development (including deliberation on the premium) and claim for damages in December 2003;”

Relevant documents to (c)(i):

- (1) Letter dated 11 December 2002 from FSD to the Lands Department concerning lease modification. (R21)
- (2) Letter dated 12 December 2002 from Lands Department to FSD on receipt of above letter. (R22)
- (3) Without Prejudice letter dated 16 December 2002 from Lands Department to FSD on basic terms to offer on proposed lease modification (R23)
- (4) Letter dated 19 December 2002 from Lands Department to FSD in reply to letter of 11 December 2002 from FSD to Lands Department. (R24)
- (5) Without Prejudice letter dated 23 December 2002 from FSD to the Director of

Land on the terms of proposed lease modification. (R25)

- (6) Without Prejudice letter dated 7 February 2003 from the Lands Department to FSD concerning the basic terms of proposed lease modification. (R26)
- (7) Without Prejudice letter dated 20 February 2003 from FSD to Lands Department concerning the proposed lease modification and reserving its right to claim for damages against the Government. (R27)
- (8) Letter dated 13 March 2003 from FSD to the Lands Department on estimated amount of premium with detailed calculation. (R28)
- (9) Letter dated 17 January 2004 from the Lands Department to FSD on proposed lease modification stating the premium of \$864 million. (R29)
- (10) Acceptance letter dated 26 January 2004 signed and sealed by FSD and addressed to the Lands Department. (R30)
- (11) Letter dated 31 January 2004 from Messrs. Cheung Chan Chung to the Lands Department on revised terms of lease modification. (R31)
- (12) Letter of 3 February 2004 from the Lands Department to Messrs. Cheung Chan Chung on further revision on lease modification. (R32)
- (13) Letter of 10 February 2004 from Messrs. Cheung Chan Chung to Lands Department as reminder on negotiation of further lease modification. (R33)
- (14) Letter of 11 February 2004 from Messrs. Cheung Chan Chung to Lands Department on further revision on lease modification. (R34)
- (15) Letter of 12 February 2004 from Messrs. Cheung Chan Chung to Lands Department on further lease modification. (R35)
- (16) Letter of 12 February 2004 from the Lands Department to Messrs. Cheung Chan Chung on revised terms on lease modification. (R36)
- (17) Second letter of 12 February 2004 from Lands Department to Messrs. Cheung Chan Chung on revised terms on lease modification. (R37)

- (18) Formal agreement of all terms of lease modification including the premium of \$864 million signed and sealed by FSD, signed and sealed by HSBC and the Lands Department on behalf of the Government of HKSAR. (R38)
- (19) Letter of 21 January 2004 from the Lands Department to FSD setting out the revised terms of the proposed lease modification, including, inter alia, premium at \$864 million. (R39)

Documents relevant to (c)(ii):

- (1) Letter of 30 October 2003 from the Department of Justice to Messrs. Cheung Chan Chung enclosing consent summons to stay the action while the matter is referred to mediation. (R40)
- (2) Without Prejudice Letter of 5 November 2003 from Messrs. Cheung Chan Chung to Department of Justice on offer of a HK\$700 million to the Government on the modification of terms of the relevant Government Lease. (R41)
- (3) Without Prejudice Letter of 12 November 2003 from Department of Justice to Messrs. Cheung Chan Chung on appointment of mediator and reiterating their stance to resolve dispute through mediation. (R42)
- (4) Letter of 25 November 2003 from the mediator Mr. Leung Hing Fung to all parties in HCA No.2761 of 2003 enclosing a copy of Mediation Agreement to be executed by the parties. (R43)
- (5) Copy of Mediation Agreement dated 8 December 2003 signed by all parties. Under the heading Confidentiality in paragraph 12, paragraph 12.2 is quoted as follows: (R44)

“12.2 Notwithstanding Rule 12.1 and subject to the following provisions, HA and/or LD may disclose the outline of any dispute with First Star and the outcome of the mediation thereof to the Legislative Council (“Legco”) upon its request. Before disclosures are made to Legco, HA/LD shall inform First Star. Disclosures shall not be made to Legco without the written consent of First Star but such consent shall not to be unreasonably withheld. First Star may, if it considers necessary to protect the sensitive nature of certain information relating

to it, request HA/LD to disclose such specified information to the Legco strictly on a confidential basis. If HA/LD considers that there are legitimate grounds to accede to First Star's request, HA/LD shall convey the request to Legco. First Star reserves the right to respond to any statement made to Legco by HA/LD."

- (6) Without Prejudice Letter of 30 December 2003 from the Director of Lands to Messrs. Cheung Chan Chung proposing to amend special condition (36)(k)(i) to reflect certain agreement reached during mediation. (R45)
- (7) Letter of 8 January 2004 from the Director of Lands to Messrs. Cheung Chan Chung informing that "the necessary sanction to allow the modification at a premium of \$864 million has been obtained". (R46)
- (8) Notes of Understanding dated 21 January 2004 by the Mediator marked Confidential referring to the parties in the mediation meeting held on 23 December 2003 at the Hong Kong International Arbitration Centre. (R3(C))

"(d) litigation on the Hunghom Peninsula development initiated by the developer in July 2003 against HA and the Government;"

Documents relevant to (d):

- (1) Letter of 20 May 2003 from Messrs. Cheung Chan & Chung, solicitors for FSD marked Private & Confidential to Chief Executive of the HKSAR and three other parties in the form of a letter before action. (R47)
- (2) Without Prejudice Letter of 12 June 2003 from the Secretary for Housing, Planning and Lands to Messrs. Cheung Chan & Chung expressing disagreement to the contents of the letter before action. (R48)
- (3) Writ of Summons in HCA No.2761 of 2003 dated 25 July 2003 between the developer as Plaintiff and the Hong Kong Housing Authority as First Defendant and the Secretary for Justice as the Second Defendant with a Statement of Claim. (R49)
- (4) Acknowledgment of Service of Writ of Summons in HCA No.2761 of 2003 filed by the Second Defendant filed in the High Court Registry on 5 August 2003. (R50)
- (5) Acknowledgment of Service of Writ of Summons in HCA No.2761 of 2003 filed by the First Defendant filed in the High Court Registry on 7 August 2003. (R51)

- (6) Defence of the Second Defendant filed 1 December 2003. (R52)
- (7) Defence of First Defendant filed 2 December 2003. (R53)
- (8) Amended Statement of Claim dated 15th September 2005. (R54)
- (9) Amended Defence of HA (1st Defendant) dated 14th October 2005. (R55)
- (10) Amended Defence of Secretary for Justice (2nd Defendant) dated 14th October 2005. (R56)

“(e) drawing up of the provisions for inclusion in or deletion from the modified land lease in respect of the Hunghom Peninsula development;”

Documents relevant to (e):

All documents under c(i) above.

(f) the developer’s plan to redevelop Hunghom Peninsula;

Documents relevant to (f):

In February 2004, after NWS Holdings Limited (“NWS”) declined to buy out Wai Kee Holdings Limited’s (“Wai Kee”) 50% interest in FSD, Wai Kee then went on to sell their interest to Sun Hung Kai Properties Limited (“SHKP”). It was in fact SHKP who suggested redeveloping the Hunghom Peninsula development and we accepted their proposal. Once SHKP came into the picture, they took over as Project Manager of the Development, and all further handling of the project was dealt with by SHKP. We therefore do not have any relevant documents. Please ask SHKP.

“(g) mediation with the Government on the disposal of the Kingsford Terrace development and the sale of the residential flats of Kingsford Terrace to HA.”

Documents relevant to (g):

As at present advised, we respectfully decline to produce the relevant documents on the ground that it is outside the scope of the subject-matter of the inquiry.