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地政總署
法律諮詢及田土轉易處
LEGAL ADVISORY AND CONVEYANCING OFFICE
LANDS DEPARTMENT

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本署檔號 Our Ref: LACO 11/316/2002 SF4 Pt 4
來函檔號 Your Ref: PC/LC/37000/03

By fax (2845 3467) & By Post

18 December 2004

M/S Cheng, Chan & Chung
Solicitors & Notaries
Unit 5505, 55th Floor, Hopewell Centre
No. 183 Queen's Road East, Wanchai
Hong Kong

Dear Sirs,

KIL 11067 ('the Lot')
The Hunghom Peninsula
Disclosure as to the Mediation

Thank you for your letter of even date.

It is proposed that disclosure to the Panel will take the form of a written summary plus supporting documents.

It may be that we would like to disclose documents to the Panel and which documents in terms of the HCAs would be privileged. We do not intend to waive that privilege by producing a copy of them to you or the Panel. Further, even if not protected by privilege, in the normal course, some documents which would be discoverable in the HCAs would only come to your notice or knowledge during the discovery process. If documents not protected by privilege are produced during discovery, the parties to the HCAs could make use of the documents in the usual way. However, we are here concerned with the production of documents "pre-discovery" and which documents may be privileged.

We hope that your client agrees that as the documents to be produced to you for supplying to the Panel are not being provided to you as part of the discovery process in the litigation, no use of the documents should be made for the purpose of the HCAs. Of course, if the same documents were to be provided during discovery in the HCAs, you and your client could properly rely upon them in the HCAs.

As the mediation was for the purposes of agreeing the premium for the modification and for resolution of the HCA, the summary of that which transpired during the mediation will no doubt involve matters relevant to the HCA brought by First Star and the HCA in respect of Kingsford Terrace. Preparation of the summary is underway. We plan to

produce the summary and supporting documents to the Panel by the end of the first week of January 2005. Before doing so we will let you have a draft of the summary and a copy of the supporting documents.

In the light of the above I would ask you and your clients to confirm that:

- (a) Government agreeing to provide a copy of the summary, draft(s) thereof and documents to be disclosed, to you;
- (b) agreeing to provide you with a copy of that agreed to be disclosed to LegCo; and
- (c) the provision of a copy of the summary, draft(s) thereof and those documents to you and the summary and the documents subsequently to the Panel

would be without prejudice to the HCAs.

Additionally, I would ask you to confirm that Government agreeing and providing as per (a), (b) and (c) above would not be treated as a waiver of privilege to which the summary and documents concerned would be entitled in the HCAs.

Yours faithfully,



(A.L. Robertson)
Assistant Director/Legal
for Director of Lands