

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

Witness statement of Mr LEUNG Chin-man

I, LEUNG Chin-man, was the Permanent Secretary for Housing/ Director of Housing (“PSH/DoH”) from 1 July 2002 to 2 January 2006. In preparing this witness statement, I set out the questions raised by the Select Committee and provide my answers to the best of my knowledge and belief.

As the matters under inquiry happened more than six years ago, I have prepared my answers to the questions based on the documents and records kept by the Transport and Housing Bureau (“THB”) and Housing Department (“HD”) which are provided for my perusal so as to refresh my memory. The documents quoted below are in the THB series.

Policy on the cessation of the production and sale of the Home Ownership Scheme (“HOS”) and Private Sector Participation Scheme (“PSPS”) flats

Q1 Formulation of the policy on the cessation of the production and sale of HOS and PSPS flats including (a) the responsible parties; (b) your role and participation in formulating the policy; and (c) views from other parties including other policy bureaux, the Hong Kong Housing Authority (“HA”), and the real estate sector

A1 As the then PSH/DoH, I had ad hoc meetings with my staff in HD to discuss the direction of the housing policy including the policy of ceasing the production and sale of Home Ownership Scheme (“HOS”) and Private Sector Participation Scheme (“PSPS”) flats. I attended the meeting of the Policy Committee (“PC”) which was held on 24 October 2002 as well as the meetings of the Executive Council (“ExCo”) on 5 and 12 November 2002 on “A Comprehensive Market-Oriented Housing Policy” (“Housing Policy”), which included the policy on cessation of HOS/PSPS production. The draft papers prepared by my staff in HD were vetted by me for clearance by the then Secretary for Housing, Planning and Lands (“SHPL”) for submission to the PC and the ExCo. However, I did not attend the PC meetings on 12 and 19 September 2002 and the ExCo meeting on 12 November 2002, which discussed the options for the disposal of PSPS flats including the Hunghom Peninsula development. The Housing Authority (“HA”) endorsed the Housing Policy on 28 November 2002. I cannot recall any consultation with the real estate sector.

Discussion on options for the disposal of the Hunghom Peninsula development

Q2 Your role and participation and the factors taken into account in formulating the options for the disposal of the Hunghom Peninsula development during the following two periods : (a) before the announcement of the re-positioned housing policy in November 2002; (b) after the halt of the negotiation with the developer of the Hunghom Peninsula development in end March 2003

- A2** (a) I attended the meeting of the Steering Committee on Land Supply for Housing (“HOUSCOM”) to discuss the options on the disposal of Hunghom Peninsula development on 13 August 2002. My deputy subsequently attended the PC meetings held on 12 September 2002 and 19 September 2002 respectively and the ExCo meeting held on 12 November 2002 to discuss the subject (i.e. the disposal options). I did not attend any of these PC and ExCo meetings. As the then PSH/DoH, I vetted the papers drafted by my staff in HD for clearance by the then SHPL for submission to the PC and the ExCo. The factors that I and colleagues involved in the discussion took into account were detailed in paragraphs 8 to 14 of the paper submitted to the HOUSCOM in August 2002 (~~THB-148~~^{T43(C)}), which were further elaborated in paragraphs 6 to 20 of the paper submitted by the then Housing, Planning and Lands Bureau (“HPLB”) to the joint meeting of the Panel on Housing and Panel on Planning, Lands and Works of the Legislative Council (“LegCo”) on 17 February 2004 (~~THB-6~~^{T27}).
- (b) After the halt of the Lands Department (“LandsD”)’s negotiation with the developer of the Hunghom Peninsula PSPS flats in end March 2003, I attended the Senior Directorate Meetings (“SDM”) to re-consider and discuss all the possible disposal options with the then SHPL and other senior colleagues in the then HPLB. The factors that I and colleagues involved in the discussion took into account were detailed in (i) paragraphs 6 to 20 of the paper submitted by the then HPLB to the joint meeting of the Panel on Housing and Panel on Planning, Lands and Works of the LegCo on 17 February 2004 (~~THB-6~~^{T27}); and (ii) paragraphs 7 and 8 of the paper submitted by HPLB to the joint meeting of the Panel on Housing and Panel on Planning, Lands and Works on 8 March 2004 (~~THB-7~~^{T28}).

Q3 Your role and participation in the discussion relating to the options for the disposal of the Hunghom Peninsula development

A3 See A2 above.

Q4 Your role and participation and the factors taken into account in making the recommendation to the Government on the disposal of the Hunghom Peninsula development through negotiation with the developer to allow it to sell the flats in the open market subject to payment of a lease modification premium

A4 See A2 above.

Negotiation with the developer of the Hunghom Peninsula development in the lease modification process (including deliberation on the premium) before December 2003

Q5 The negotiation with the developer in the lease modification process before December 2003, including your role and involvement in (a) formulation of the Government's negotiation strategies including the Government's lease modification premium figures and the justifications and assessment on the figures; and (b) the negotiation process

A5 I was not involved in the negotiation with the developer of the Hunghom Peninsula development on lease modification from January to March 2003. Mr John Corrigan, the then Deputy Director (Specialist) of the LandsD, however, copied to me his reports in the form of memos on the negotiation to the then SHPL (Attention: Mr Thomas Tso) on 13 January 2003 (THB-16)^{T3(c)} and 25 February 2003 (THB-18) respectively. He wrote to Mr Tso and me on 25 March 2003 recommending the negotiation be halted (THB-20).^{T5(c)}

Q6 Your role and participation in making the decisions to put a halt to the negotiation with the developer in end March 2003 and to re-open the negotiation with the developer in October 2003

A6 Upon Mr Corrigan's recommendation made on 25 March 2003 to halt the negotiation (THB-20)^{T5(c)}, the SDM discussed the way forward on 31 March 2003 and it was decided that LandsD should continue the negotiation with the developer (THB-172)^{T57(c)}. I also attended this SDM. There was then a series of correspondences amongst the senior staff of the then HPLB (THB-173)^{T58(c)} including Mr Corrigan's further clarifications on why

he proposed to halt the negotiation. Subsequently, Mr Corrigan spoke to Mr Stewart Leung about Mr Corrigan's proposal of appointing three independent valuers to determine the premium that the developer should pay for lease modification (Mr Corrigan's e-mail of 27 March 2003 (16:34 hours) as found in part of ~~THB-173~~^{T58(c)} and ~~THB-162~~^{T49(c)}). After the halt of the negotiation in end March 2003, my staff in HD prepared a total of 6 papers (namely ~~THB-26~~^{T10(c)}, ~~THB-174~~^{T59(c)}, ~~THB-28~~^{T12(c)}, ~~THB-30~~^{T14(c)}, ~~THB-176~~^{T61(c)} and ~~THB-124~~^{T34(c)}) for discussions at SDMs. I attended all meetings concerned (see ~~THB-27~~^{T11(c)}, ~~THB-29~~^{T13(c)}, ~~THB-31~~^{T15(c)}, ~~THB-33~~^{T17(c)} and ~~THB-36~~^{T20(c)}) during the period from 14 April 2003 to 16 June 2003. I also attended the HPLB's meeting held on 19 May 2003 (~~THB-32~~^{T16(c)}), and the SDMs held on 9 June 2003 (~~THB-35~~^{T19(c)}), 30 June 2003 (~~THB-38~~^{T22(c)}), 28 July 2003 (~~THB-39~~^{T23(c)}), 15 September 2003 (~~THB-179~~^{T64(c)}), 13 October 2003 (~~THB-180~~^{T65(c)}), 20 October 2003 (~~THB-182~~^{T67(c)}), and 27 October 2003 (~~THB-184~~^{T69(c)}). On 28 July 2003, the then SHPL submitted a minute for the then Chief Executive ("CE") for the CE's consideration (~~THB-41~~^{T24(c)}). The minute was copied to me as the then PSH for information. On 7 October 2003, I and other colleagues in HPLB/HD were informed that the CE directed that a submission on the PSPS be put to the ExCo (~~THB-269~~^{T24(c)}).

After considering the Administration's submission, the ExCo decided to re-open the negotiation with the developer by way of mediation on 28 October 2003. I did not attend the ExCo meeting but I vetted the draft paper for clearance by the then SHPL for submission to the ExCo.

Q7 Your role and involvement in making the recommendation on the re-opening of the negotiation and the reduction of the modification premium to be payable by the developer by 50%

A7 After Mr Corrigan suggested the adoption of the "50%" approach on 27 June 2003 (~~THB-37~~^{T21(c)}), I participated in the discussion at the SDM on 30 June 2003 (~~THB-38~~^{T22(c)}). On 28 July 2003, the then SHPL recommended to the then CE to re-open the negotiation using the "50%" approach (~~THB-41~~^{T24(c)}). On 7 October 2003, I and other colleagues in HPLB/HD were informed that the CE directed that a submission on the PSPS be put to the ExCo (~~THB-269~~^{T24(c)}). My staff in HD then prepared a draft paper which was then vetted by me for clearance by the then SHPL for submission to the ExCo. On 22 October 2003, I wrote a minute to the then Chief Secretary for Administration to seek his permission to waive a submission to the PC before going to the ExCo (~~THB-122~~^{T33(c)}). The ExCo discussed the paper on 28 October 2003, which I did not attend.

Q8 Formal and informal discussions, if any, between you and the developer in respect of the disposal of the Hunghom Peninsula development during the negotiation, after the halt of the negotiation and before the mediation with the developer in December 2003; and the relevant records of discussions including but not limited to emails, fax, messages, correspondence, records or notes of oral communication, minutes and any records of informal meetings

A8 I cannot remember whether any member of the developer came to see me during the negotiation which started in January 2003. After the halt of the negotiation in end March 2003, Mr Stewart Leung came to see me on or before 12 April 2003 (see ~~THB-162~~^{T49(c)}) to talk about his rejection of Mr Corrigall's proposal that the developer should be bound to accept the average of three independent valuers' assessment as the premium. I cannot remember seeing or contacting him again afterwards, until I telephoned him after the ExCo decided on 28 October 2003 to re-open the negotiation with the developer through mediation.

The ExCo decided to re-open negotiation with the developer on the premium for lease modification by way of mediation on 28 October 2003. Subsequent to the said decision of the ExCo, I rang Mr Stewart Leung on the initial arrangement for the mediation. I also pointed out to him that I would not be involved in the actual negotiation of the premium for lease modification as that was a matter for the mediation team ("the Team") led by Mr Corrigall of LandsD. For that reason, I told him that he should not contact or call me during the period of the mediation. In the event, I did not have any contact with Mr Stewart Leung or any other member of the developer during the mediation in December 2003.

Discussion at the Senior Directorate Meetings (“SDMs”) and meetings of the Housing, Planning and Lands Bureau (“HPLB”)

Q9 Your role and participation in the discussion at SDMs and meetings of HPLB on matters relating to (a) the disposal options for the Hunghom Peninsula development, and (b) negotiation and mediation with the developer of the Hunghom Peninsula development in the lease modification process (including deliberation on the premium), and the developer’s claim for damages in December 2003

- A9 (a) After the halt of the negotiation in end March 2003, the SDMs began to re-consider all the possible disposal options for Hunghom Peninsula development. This is the background against which my staff in HD prepared from April to June 2003 a total of six papers (i.e. ^{T10(C)} THB-26, ^{T59(CC)} THB-174, ^{T12(C)} THB-28, ^{T14(CC)} THB-30, ^{T61(CC)} THB-176 and ^{T34(C)} THB-124) on the disposal options for discussion at the SDMs. As the then PSH/DoH, I had supervisory accountability for the preparation of these papers. I attended all the SDMs concerned (See A6 above). On 28 July 2003, the then SHPL minuted to the then CE recommending the re-opening of negotiation with the developer (^{T34(CC)} THB-41).
- (b) See A5 above regarding the negotiation that took place from January to March 2003. As regards the mediation in December 2003, it was the ExCo which decided to re-open negotiation with the developer by way of mediation at its meeting on 28 October 2003. Pursuant to the said decision of the ExCo, I acted as the co-ordinator of the exercise. I attended the relevant SDMs/HPLB meetings.

Q10 Your role and participation including the factors considered in making the decision to negotiate with the developer through mediation on the disposal of the Hunghom Peninsula development in December 2003

- A10 I did not make the decision to negotiate with the developer through mediation on the disposal of the Hunghom Peninsula development flats. That decision was made by the ExCo. I vetted the draft paper prepared by my staff of HD for the clearance by the then SHPL for submission to the ExCo though I did not attend the ExCo meeting. The factors considered by me and other colleagues concerned were detailed in (i) paragraphs 6 to 20 of the paper submitted by the then HPLB to the joint meeting of the Panel on Housing and Panel on Planning, Lands and Works of the LegCo on

17 February 2004 (~~THB-6~~^{T27}); and (ii) paragraphs 7 and 8 of the paper submitted by HPLB to the joint meeting of the Panel on Housing and Panel on Planning, Lands and Works on 8 March 2004 (~~THB-7~~^{T38}).

Litigation on the Hunghom Peninsula development initiated by the developer in July 2003 against the Hong Kong Housing Authority (“HA”) and the Government

Q11 The impact, if any, of the litigation initiated by the developer of the Hunghom Peninsula development in July 2003 on the disposal of the Hunghom Peninsula development, including the decision to re-open the negotiation with the developer and to reduce the modification premium

A11 After the breakdown of the negotiation in end March 2003, Mr Stewart Leung went to see the then SHPL on 26 March 2003 and threatened that the developer would as a last resort consider taking legal action against the Government. About two months later (i.e. on 20 May 2003), the developer asked their lawyer to notify the Government and HA of their intention to claim damages. The developer actually initiated litigation against the HA and the Government another two months later (i.e. on 25 July 2003). These tactics adopted by the developer (i.e. threatening and initiating litigation) to strengthen its bargaining position was just to be expected. In this connection, we noted that the HA actually had 20 months to nominate purchasers for the completed PSPS flats, counting from the date the LandsD issued the Consent to Sell to the developer (i.e. from 20 November 2002). Nonetheless, the litigation was one of the factors the Government took into account in considering whether to re-open negotiation with the developer through mediation.

Q12 Formal and informal discussions, if any, between you and the developer in respect of the litigation; and the relevant records of discussions including but not limited to emails, fax, messages, correspondence, records or notes of oral communication, minutes and any records of informal meetings

A12 As far as I can recall, I spoke to Mr Stewart Leung on 28 or 29 October 2003 on the telephone in which he said the developer would agree to extend the time for both the HA and the Government to file the Defence in respect of the pending proceedings (~~THB-165~~). T137

Mediation with the developer on the disposal of the Hunghom Peninsula development (including deliberation on the premium) and its claim for damages in December 2003

Q13 Your role and participation, if any, in formulating the Government's mediation strategies, including the modification premium

A13 Pursuant to the ExCo's decision to re-open negotiation with the developer by way of mediation, I co-ordinated the exercise, seeking direction from the then SHPL where necessary (see my email dated 31 October 2003 to Mr Corrigan at ~~THB-245~~^{T114(cc)} and Mr Corrigan's email of 25 November 2003 to Mr Gregory Payne, which was copied to me and others, mentioning his conversation with me at ~~THB-246~~^{T115(cc)}). See also A8 above.

Q14 Your role and participation, if any, in the mediation with the developer including (a) the working out of the premium figures proposed by the Government to the developer; (b) discussion with the developer on the premium figures; (c) the making of the decision to reach an agreement with the developer at the premium of \$864 million; and (d) the making of the decision to conclude the mediation with the premium of \$864 million without a settlement of the claim damages from the developer

A14 In the mediation with the developer, I was not involved in working out the premium figures proposed by the Government to the developer. Nor did I discuss with the developer on the premium figures or its damages claim.

On 27 December 2003, I suggested to the then SHPL that he should accept the Team's recommendation to conclude the mediation with the premium of \$864 million without a settlement of the damages claims from the developer (~~THB-47~~). T29(cc)

Q15 Your role and participation, if any, in the drawing up of provisions in the modified land lease

A15 I was not involved in the drawing up of the provisions in the modified land lease.

Q16 Formal and informal discussions, if any, between you and the developer in respect of (a) the mediation for the disposal of the Hunghom Peninsula development; and (b) the drawing up of provisions in the modified land lease; and the relevant records of discussions including but not limited to emails, fax, messages, correspondence, records or notes of oral communication, minutes and any records of informal meetings

A16 See A8 above.

The developer's plan to redevelop the Hunghom Peninsula

Q17 The time when you were first aware of the developer's plan to redevelop the Hunghom Peninsula development

A17 I first became aware of the developer's plan to redevelop the Hunghom Peninsula development in 2004 but I cannot remember exactly when.

Q18 Your role and participation in the discussion within the Government on matters relating to the developer's plan to redevelop the Hunghom Peninsula

A18 I was not involved in the discussion within the Government on matters relating to the developer's plan to redevelop the Hunghom Peninsula development though the subject was raised at some of the HPLB meetings/SDMs which I also attended.

Q19 Formal and informal discussions, if any, between you and the developer in respect of the redevelopment of Hunghom Peninsula; and the relevant records of discussions including but not limited to emails, fax, messages, correspondence, records or notes of oral communication, minutes and any records of informal meetings

A19 I had no discussion with the developer on this matter at all.

Mediation with the developer on the disposal of the Kingsford Terrace development and HA's decision to purchase all the residential flats of Kingsford Terrace from the developer

Q20 Your role and participation, if any, in the mediation with the developer on the disposal of the Kingsford Terrace development

A20 A team led by Mr Corrigan reported to the Monitoring Group on Disposal of Kingsford Terrace ("MG") set up by the Subsidized Housing Committee ("SHC") of the HA to oversee and monitor progress of the mediation and to give their views to the then SHPL on any proposed settlement for his decision. I was not a member of the MG or the team led by Mr Corrigan though the team copied to me their reports to the MG. I attended the meeting of the SHC (of which I was a member) which agreed with the MG to purchase all the domestic units of the Kingsford Terrace at the guaranteed price because the Government could not reach an agreement with the developer on the premium for lease modification.

Q21 Your role and participation, if any, in HA's discussion and decision to purchase all the residential flats of Kingsford Terrace from the developer

A21 See A20 above.

Q22 Formal and informal discussions, if any, between you and the developer of Kingsford Terrace in respect of the disposal of Kingsford Terrace; and the relevant records of discussions including but not limited to emails; fax, messages, correspondence, records or notes of oral communication, minutes and any records of informal meetings

A22 According to the record (an email dated 10 June 2004 (12:34 hours) from me to the then SHPL, which was copied to others) kept by the HD, Mr Stewart Leung rang me, being the then PSH/DoH, to say that the developer would serve notice to the HA on the purchase of the domestic units of the Kingsford Terrace by the HA.

LEUNG Chin-man

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