

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): As the Honourable Member has said, this measure has been implemented for less than two months and time is needed to allow adjustment. So, we will discuss the issue with the industry next month in order to review the impact of the relaxed measure on them. We will conduct a review in March.

PRESIDENT (in Cantonese): Ms Miriam LAU, last supplementary question.

MS MIRIAM LAU (in Cantonese): *Thank you, Madam President. Regarding the "four-up-four-down" measure, the industry generally considers that greater flexibility can be achieved after relaxation. But as to whether they will get freight business, it depends on whether orders are placed by cargo owners. According to cargo owners, it is not that they do not want the container trucks to travel more trips, but they are subject to the constraints imposed by the mainland departments because the office hours for accepting orders in the Mainland may not tally with their round-the-clock operation. In this regard, will the Government hold discussions with Guangdong Province and cargo owners again so that the operation can be made smoother and the trucks can really get freight business and enjoy the flexibility?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I thank Ms Miriam LAU for her supplementary question. The answer is yes.

PRESIDENT (in Cantonese): Fifth question.

Application for Lease Modification of Hunghom Peninsula

5. **MR RONNY TONG** (in Cantonese): *Madam President, in its reply to me on 31 December last year, the Administration said that a lease modification to allow for redevelopment was in principle acceptable on the basis that if the scheme proposed accorded with the planning intention. However, if the developers of Hunghom Peninsula applied for a modification to allow for redevelopment, the Administration might consider rejecting the application. In this connection, will the Government inform this Council of:*

- (a) *the time when the Government was legally advised that it had the right to reject the application by the developers of Hunghom Peninsula for a lease modification to allow for redevelopment; if the advice was received before 5 July of last year, why did the Administration still write on that day to remind the developer that if any redevelopment of the lot did not accord with the Master Layout Plans and the Approved Landscaping Proposals, an application for lease modification had to be made to the District Lands Officer, Kowloon West; if the advice was received after 5th July, why had the Administration not sought legal advice earlier;*
- (b) *the time at which it was confirmed that the Administration had the right to reject the application from the developers of Hunghom Peninsula for a lease modification to allow for redevelopment; why did the Administration not inform the developer right away; and*
- (c) *the time when the Administration decided not to accept the developer's application for lease modification and the grounds for the decision?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):
Madam President, all the leases under the Private Sector Participation Scheme (the Scheme) contain standard conditions to ensure that in case buildings constructed under the Scheme are demolished or redeveloped if needed in future, they are carried out in accordance with the lease conditions. The lease conditions of Hunghom Peninsula concerning demolition or redevelopment are no exception.

According to the lease of Hunghom Peninsula:

- (1) Special Condition (11)(a) provides that the lot shall not be developed or redeveloped except in accordance with the Lease Conditions, the Master Layout Plans and the Approved Landscaping Proposals, and no building which is not shown on the Master Layout Plans and the Approved Landscaping Proposals shall be constructed.

- (2) General Condition (7)(a) provides that the Purchaser shall maintain all buildings in accordance with the approved building plan without variation or modification thereto. General Condition (7)(b) stipulates that in the event of the demolition of any building then standing on the lot, the Purchaser shall replace the same either by:
- (i) building or buildings of the same type and of no less gross floor area; or
 - (ii) building or buildings of such type and value as shall be approved by the Director of Lands.

In the event of demolition, according to General Condition (7)(b), the Purchaser shall within the stipulated timeframe apply to the Director of Lands for consent to carry out redevelopment, and shall commence redevelopment work within the stipulated timeframe and complete the said redevelopment to the satisfaction of and within such time limit as laid down by the Director of Lands.

The Director of Lands has the authority to examine and approve applications for lease modification. Applications vary from case to case. Each application will have to be considered having regard to its details and the prevailing land policy. Hence, it is not possible to generalize on the outcome. As the Government indicated in the reply of 31 December 2004 to Mr Ronny TONG: "A lease modification to allow for redevelopment was, in principle, acceptable on the basis that if the scheme proposed accorded with the planning intention, it would have been entirely within land administration policy to have processed it. Subsequently, the Administration took the view that consideration should be given, in the event of an application from the developer for a modification to allow for redevelopment of Hunghom Peninsula, to not agreeing to such a modification."

Madam President, my reply to the three-part question is as follows:

- (a) The Director of Lands has the authority to examine and approve applications for lease modification. The Legal Advisory and

Conveyancing Office provides legal advice in respect of lease conditions. The need to seek legal advice from outside the Lands Department has not arisen. In the light of some press reports that the developers of Hunghom Peninsula had yet to take a final view on its redevelopment proposals, the Legal Advisory and Conveyancing Office sent a letter to the developers on 5 July 2004, mentioning that "should the developers wish to proceed with any redevelopment which does not accord with the Master Layout Plans or the Approved Landscaping Proposals, an application for lease modification should be made to the District Lands Officer, Kowloon West". It would only be prudent for the Government to do so. The letter does not constitute any agreement or otherwise to such an application on the part of the Government.

- (b) The Director of Lands has the authority to examine and approve applications for lease modification and to decide whether or not to agree to a lease modification. Therefore, there is no need to seek legal advice on this. Also, it does not bring into question a need to inform the developers.
- (c) For the sake of clarity, the Government has so far not received any application for lease modification from the developers of Hunghom Peninsula for carrying out redevelopment. Therefore, there is no question of the Government agreeing or not agreeing to a lease modification from the developers concerned.

MR RONNY TONG (in Cantonese): *Madam President, it is obvious that the Secretary understands the crux of my main question but he is evading it. Perhaps I should remind him of the latest development. When the Government and developers of Hunghom Peninsula were negotiating on the sale of Hunghom Peninsula, the local press reported extensively on the developers' intention to demolish Hunghom Peninsula on 6 February 2004, and by 11 February, the relevant news was even published. When the general public were debating the issue of demolition, the developers requested permission from the Government to change the use of the site for ordinary private development purpose. Since the developers had informed the Government clearly of its intention of demolishing Hunghom Peninsula, why did the Government not affirm the developers and the*

general public that the Government might not necessarily approve the demolition and why did it write to the developers on 5 July with some contradictory messages? This is my supplementary.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, since it was not mentioned in the main question, perhaps I should clarify the developments in connection with the issue and itemize what we have done on each specific day. On 21 January 2004 (before the incident took place), that is, before the press reported that the developers had made the request, the Lands Department requested the developers to confirm and sign a letter relating to the amount of the regrant premium and conditions of lease modification which allowed Hung Hom Peninsula to be put on the market for public sale, but it did not include the redevelopment agreement. For that reason, the issue of demolition for redevelopment had not been brought up at that time.

On 26 January, the developers signed the letter, agreed to the modification and paid us the deposit of the required amount. The relevant agreement was signed and executed on 26 January, for that reason, no change could be made in that respect, and the rest was subsequent development.

By February, the developers were pondering whether they could use another means, but in fact, they had signed the agreement with the Government that no modification should be made, and the authorities had told the developers about that clearly. For that reason, besides making their ideas known in the press, they did not make any formal application.

By July 2004, we learnt from the press that the developers intended to do something. Hence, just as I explained in the main reply earlier, the authorities considered that it was the appropriate time to remind the developers that both sides had signed an agreement and it was binding. By December last year, Members should remember that the developers told the public that they would like to carry out demolition for redevelopment, but in fact they had not made any application to us. For that reason, we reminded them once again considering the announcement they had made, and that was the whole course of developments. Consequently, the developers returned the signed document to us to confirm their acceptance.

MR RONNY TONG (in Cantonese): *Madam President, the Secretary has not answered my supplementary. I did not ask him about the whole course of developments. The thrust of my question was, in February last year, the Government knew clearly that the developers intended to demolish Hunghom Peninsula, but it was not until December last year that the Government stated that it might not necessarily approve the demolition application. May I ask why the Government did not spell out its view clearly to members of the public and the developers during that 10 months' time? This is my supplementary, and I have been pursuing this point all along.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I do not have much to add. In February last year, the developers told the press of their intention, but they had not filed a formal application to us.

MR CHAN KAM-LAM (in Cantonese): *Madam President, the Secretary explained in the main reply that it was needless to seek outside legal advice on the issue. May I ask the Secretary whether the issue to which the Secretary referred was about the redevelopment, or he was referring to the fact that no outside legal advice would be needed on the handling of the entire Hunghom Peninsula issue? At that time, the press reported that the Government had sought the legal opinion of a counsel of this Council on the Hunghom Peninsula issue. If it had sought such opinion, had the Government ever considered that it would cause any conflict of interest?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, Members, please take a look at part (a) of the main question, it was a question pinpointing at "the time when the Government was legally advised that it had the right to reject the application by the developers of Hunghom Peninsula for a lease modification to allow for redevelopment", it was solely about the redevelopment, and I have given my corresponding reply on this point earlier. Mr CHAN Kam-lam's supplementary was about how the Government dealt with the Hunghom Peninsula incident before the redevelopment idea was brought up, with regard to this point, we had sought legal advice on that.

PRESIDENT (in Cantonese): Mr Albert CHENG.

(Mr CHAN Kam-lam raised his hand to indicate a wish to speak)

PRESIDENT (in Cantonese): I am sorry, Mr CHENG. Mr CHAN, has your supplementary not been answered?

MR CHAN KAM-LAM (in Cantonese): *Madam President, yes. The Secretary has not answered the thrust of my supplementary, that is, why has he not considered the issue of employing the counsel, who is also a Member of this Council, would cause a conflict of interest with this counsel's capacity as a Legislative Council Member?*

PRESIDENT (in Cantonese): I am sorry, Mr CHAN kam-lam, I consider that the Secretary has given his explanation and I accept his explanation. This supplementary is about the Government's right to reject the redevelopment application, but the thing mentioned in your supplementary took place well before that, therefore it cannot be considered part of your supplementary. You may raise another supplementary later.

MR ALBERT CHENG (in Cantonese): *Madam President, the way in which the Government has dealt with the Hunghom Peninsula issue gave the public an impression that the Government was selling its assets dirt-cheap and it might involve transfer of benefits. Subsequently, the Government gave the developers the green light but warded off all questions in the Legislative Council. Despite the developers having given up the plan of demolishing Hunghom Peninsula under public pressure, members of the public still have the right to know the truth and the role of the Government in this incident. Nevertheless, in the past few months, despite that I have been asking the Government to provide relevant papers of Hunghom Peninsula and the Secretary also pledged to co-operate with us in the meetings of the relevant panel, to date, I am unable to obtain 12 relevant papers. I wish to follow up Mr Ronny TONG's question. When will the Government provide the papers requested by us? Up to today, I am still short of 12 papers. If the Secretary wishes to know what papers I am referring to, I can show him the list as I have it at hand.*

PRESIDENT (in Cantonese): Mr Albert CHENG, please sit down first. The main question raised by Mr Ronny TONG today is about the developers' application for a lease modification to allow for redevelopment, I do not know whether the papers you ask for are relevant to this. For that reason, I will instruct the Secretary that he only needs to reply according to the scope of the main question. Secretary, please.

MR ALBERT CHENG (in Cantonese): *Madam President, they bear relevance, the papers are relevant.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, in fact we have furnished Members with 90% of the papers requested by them, with regard to the remaining ones, we have to exercise prudence to examine whether they are internal correspondence or documents or minutes of the Executive Council. Those papers are not necessarily relevant to today's question, as all the papers relevant to today's question have been provided to Mr Ronny TONG. Precisely because we have provided Members with these papers that Members may raise today's oral question.

MR JAMES TO (in Cantonese): *Madam President, I wish to follow up Mr Ronny TONG's question. The developers convened a press conference subsequently and said they would demolish Hunghom Peninsula, but the Secretary explained in part (c) of the main reply that the Government had not received any application from the developers. Nevertheless, when the developers indicated their intention to carry out the demolition, according to part (b) of the Secretary's main reply, although the Secretary said there was no need to seek legal advice, had the Government received internal legal advice that under certain circumstance the Government has the right to reject or the Government may reject according to the lease conditions? If legal advice had been sought at that time, why did the Government give the public the impression that its stance was weak after the developers had held the press conference, and the Government even failed to tell the public that it had the right to reject the application and could only reject the application after the developers had made the application? Given the Secretary has such authority to reject certain*

application under specific circumstances, why has the Secretary not stated that he has such authority? May I ask the Secretary whether he knew at that moment that he might reject the application under specific circumstances? If not, why must the Secretary seek legal advice as to under what specific circumstances an application could be rejected at such a very late stage?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I have explained very clearly in my main reply that the lease conditions exist all the time and they are standard conditions, and all the leases under the Scheme carry the same standard conditions. Since everybody knows the conditions, thus it is unnecessary for the authorities to seek additional legal advice to further clarify the conditions. The problem was that the situation had not reached such a stage that we had to make a decision. I have explained earlier that the developers had not filed a formal application, thus we did not have to make a decision, that is, I considered that we did not have to state what we should do under what circumstance. I have explained in my main reply that each application will have to be considered having regard to its details and the prevailing situation. Since applications varied from case to case, it was not possible to generalize on the outcome and state that certain application should be dealt with in a specific way and others should not. In this case, according to the circumstances at that time, the need did not arise as the developers had not made an application. Members should bear in mind that the developers unilaterally announced their intention to deal with the project in that way in December, but they eventually overrode their own proclamation. For that reason, since the developers had not filed an application, we therefore needed not make such a decision.

PRESIDENT (in Cantonese): We have spent more than 19 minutes on this question

MR JAMES TO (in Cantonese): *Madam President*

PRESIDENT (in Cantonese): Mr James TO, has your supplementary not been answered?

MR JAMES TO (in Cantonese): *Madam President, I do not know if Secretary Michael SUEN failed to understand my supplementary or whatsoever, for the question has nothing to do with seeking legal advice on the relevant conditions. The legal advice the authorities needed should be on the circumstances under which an approval or objection should be made, in order to deal with the possible announcement to be made by the developers relating to the fact that they might make an application, and to give an explanation to members of the public and Members during the question session. Has the Government sought specific legal advice on what circumstances an objection could be made?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I have nothing to add.

PRESIDENT (in Cantonese): We have spent more than 19 minutes on this question. Last supplementary.

MS MARGARET NG (in Cantonese): *Madam President, just now in the Secretary's reply to Mr Ronny TONG's supplementary, he explained that it had been stated on 21 January that there would be no modification, thus it was unnecessary to bring it up. However, on 6 February last year, the press had widely reported that the developers would demolish Hunghom Peninsula and the developers had written to the Government on 11 February to state their intention. After this series of incidents, why did it take the Government so long to make the clarification on 5 July? Something took place after January, why did the Government not make the clarification? How can the Secretary justify such action?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, Ms Margaret NG missed the incident took place on 26 January. I have explained earlier that the developers signed the relevant

documents and returned them to us and paid the deposit. For that reason, lease modification was completed. Although they expressed a wish to further modify other provisions, as we had signed an agreement that the lease modification had been completed, we therefore wrote to them and stated that further modification would be out of the question, because we had already agreed upon what we have to do on 26 January. In view of this, it did not bring into question a need to make the clarification.

MS MARGARET NG (in Cantonese): *Madam President, the Secretary has not answered my supplementary. My question is: After 6 February, the press had widely reported on the incident and the developers had written to the Government on 11 February, for that reason, the incident that took place in a month earlier could not mean an end to the entire issue. Then, when the February incident took place, why did the Government not make the clarification right away and why did it wait until July? This is my question.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Yes, I consider that I have to further explicate the matter and explain it once again. I do not have the letter at hand, but with regard to the enquiry letter of the developers, we replied that it would be out of the question, thus the matter came to a close, and nothing happened afterwards. Then in July, we learnt from the press of the matter, thus we wrote to remind the developers once again. For that reason, they were two separate incidents and there was no connection between them.

PRESIDENT (in Cantonese): Sixth question.

Public Hospital Services and Fees

6. **DR YEUNG SUM** (in Cantonese): *Madam President, regarding public hospital services and fees, will the Government inform this Council:*
