

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

**Information provided by the Administration
in response to the Appendix to the Clerk to Select Committee's letter
of 8 June 2009**

*Document No.
(Only English
available unless
otherwise specified)*

SC(2) Paper No. T169 (Administration's reference : THB 273)

The Select Committee notes the Administration's reply to item 1(e) that there is no file record suggesting that Mr LEUNG Chin-man had made any declaration of interest in respect of the disposal of the Hunghom Peninsula Private Sector Participation Scheme development as Permanent Secretary for Housing, Planning and Lands (Housing)/Director of Housing or a member of the Housing Authority or its committees during the period from November 2002 to December 2004. Please confirm :

- (a) whether Mr LEUNG had made any declaration of interest regarding his personal relationship with Mr CHUNG Kwok-cheong during the said period; and
- (b) whether Mr LEUNG had made any declaration of interest during the said period regarding his relationship with Cheung, Chan & Chung, Solicitors and Notaries by virtue of his personal relationship with Mr CHUNG Kwok-cheong, a senior consultant of the firm.

If there are such declarations in (a) and (b) above, please provide the dates and details.

Transport and Housing Bureau ("THB")'s response : There is no file record to suggest that Mr LEUNG Chin-man ("Mr LEUNG") had made any declaration of interest as stated in (a) and (b) above.

- 2. The Select Committee notes from the evidence given by Mr Marco WU and Mr Vincent TONG at the hearings on 26 May and 2 June 2009 respectively that the normal nomination procedure of members to the Housing Authority

("HA") and its committees involved the issuance of a memorandum inviting nominations from senior directorates at the beginning of each year. A list on proposed membership would be prepared for discussion by the Directors, Deputy Secretaries/Deputy Directors and Permanent Secretary, and the finalized list would be endorsed by the Secretary for Housing, Planning and Lands before its submission to HA for approval. Mr LEUNG Chin-man also gave evidence in previous hearings of the Select Committee that he had nominated Mr CHUNG Kwok-cheong as a member of the Commercial Properties Committee of HA in 2003. While members note from the Administration's replies to items 2(a) and 2(b) as set out in SC(2) Paper No. T169 that the nomination procedure as described by Mr WU and Mr TONG was applicable to the nomination of Mr CHUNG Kwok-cheong in 2003, there is no file record showing the person/party who proposed the nomination of Mr CHUNG. The Administration is requested to :

- (a) provide documents relating to the invitation of nominations for membership of HA's committees in 2002-2003, 2003-2004 and 2004-2005 and advise whether there were any changes in the nomination mechanism during these three years, and if so, details of such changes;

THB's response : The documents relating to the invitation of nominations for membership of HA's committees in 2002-03 and 2004-05 are (i) a confidential memo from the Director of Housing to the Secretary for Home Affairs and the Director of Social Welfare of 17 January 2002 at ~~THB-309~~^{T139(c)}, (ii) a confidential memo from the Committees' Secretary to a number of officials in the Housing Department ("HD") of 17 January 2002 at ~~THB-310~~^{T140(c)} and (iii) a confidential memo from the Deputy Director/Corporate Services of HD to a number of senior officials in HD of 27 November 2003 at ~~THB-311~~^{T141(c)}. Copy of the relevant document for the year 2003-04 has already been provided at ~~THB-292~~^{T187}. Broadly speaking, the exercise on membership appointment commenced with nominations received from various sources

~~THB-309~~ T139(c)

~~THB-310~~ T140(c)

~~THB-311~~ T141(c)

~~THB-292~~ T187

including the Home Affairs Bureau and senior directorates of the Housing Department. Discussions were held among senior directorates on the nominations made as necessary. It was not unusual for changes to be made during the process and that the initial proposals were not the same as the final appointment. A submission on the proposed membership would be submitted to the Chairman of HA/Bureau Secretary responsible for housing matter for agreement. A presumption paper would then be issued to HA members for their approval of the proposed membership to committees. In the three years in question, we could not find any record to suggest a significant deviation from the said procedure.

- (b) in consultation with the responsible officers, confirm whether the nomination process as described in the Administration's reply has been followed for the nomination and appointment of Mr CHUNG in 2003;

THB's response : Since the Select Committee has subsequently requested us on 24 June 2009 to provide more specific details on the subject, please refer to our separate response dated 15 July 2009. (see THB-306). T192

T192
~~THB-306~~

- (c) give an account of the dates and details relating to the nomination of Mr CHUNG in 2003, together with copies of the relevant documents;

THB's response : From the records available, Mr CHUNG Kwok-cheong's ("Mr CHUNG") name first appeared in a submission dated 25 March 2003 to the then Secretary for Housing, Planning and Lands ("SHPL") on Membership of Housing Authority's Committees 2003-04. His name was among the list of additional names in the same and other committees which first appeared in the submission dated 25 March 2003. Upon agreement obtained from the then SHPL, a presumption paper was issued on 1 April 2003 to HA members for their approval of the committees membership. Copies of the relevant documents have already been provided at ^{T137(c)} ~~THB-303~~ and ^{T179} ~~THB-283~~.

T137(c)
~~THB-303~~
~~THB-283~~
T179

- (d) advise whether the non-declaration by Mr LEUNG Chin-man on his personal relationship with Mr CHUNG when he nominated Mr CHUNG would constitute a breach of the guidelines on : (i) the nomination of members to HA and its committees, (ii) the declaration of interest by directorate civil servants, (iii) the declaration of interest by staff of Housing Department, and (iv) the declaration of interest by HA members; and

The Administration's response : Insofar as the guidelines on (i) the nomination of members to HA and its committees, (ii) the declaration of interest by directorate civil servants, (iii) the declaration of interest by staff of Housing Department, and (iv) the declaration of interest by HA members are concerned, there is no specific declaration requirement for the nomination of personal friends as members of HA and its committees, or generally, as member of an advisory and statutory body of the Government.

Notwithstanding the above, whether personal relationship was declarable would depend on whether such relationship had a potential or actual conflict of interest with one's official duties. In the case of Mr LEUNG Chin-man and Mr CHUNG, a conflict of interest would arise if Mr LEUNG's loyalty to the Government conflicts with his loyalty to Mr CHUNG who is his personal friend. One could only come to a firm view as to whether Mr LEUNG had breached Government or official guidelines after consideration of all facts in detail.

- (e) if there had been a breach of any of the guidelines mentioned (d) above, advise the relevant sections of the guidelines and the applicable sanctions, if any.

The Administration's response : In case of breach of Government or official guidelines, the applicable sanctions could range from warning to dismissal, depending on a number of factors such as the circumstances of the case; the nature and gravity of the misconduct; the disciplinary and service record of the officer concerned; the customary level of punishment and any mitigation factors, etc.

Note:

Document Nos. which are shaded and bold are graded as "Confidential".

Document Nos. which are underlined are those provided in previous submissions.

Transport and Housing Bureau
July 2009