

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

**Witness Statement of Mr Michael SUEN Ming-yeung**

I, Michael SUEN Ming-yeung, was the Secretary for Housing, Planning and Lands (“SHPL”) from 1 July 2002 to 30 June 2007. I was also the Chairman of the Hong Kong Housing Authority (“HA”) from 1 April 2003 to 30 June 2007. In preparing this witness statement, I set out the questions raised by the Select Committee and then provide my answers to the best of my knowledge.

As the matter being inquired into took place over five years ago, this statement is prepared from the perspective of my former capacities as the then SHPL and Chairman of the HA. I have sought assistance from the Transport and Housing Bureau (“THB”)/ Housing Department (“HD”) in perusing the relevant files and records and providing the information concerned. If there are documents relevant to this statement which were provided earlier by the Administration, I would quote their reference numbers as assigned by the Administration without enclosing an additional copy with this statement.

**Re-positioning of the housing policy and the introduction of a package of policy measures in November 2002 to stabilise the property market**

**Q1. Background leading to the re-positioning of the housing policy, including the introduction of a package of policy measures in November 2002**

A1. The background leading to the re-positioning of the housing policy is as explained in my statement on Housing Policy delivered to the Legislative Council (“LegCo”) at its sitting on 13 November 2002 (Please see paragraphs 2 to 6 of ~~THB-2~~<sup>THB-3</sup>). At that time, the Government was concerned with the stagnant economy, overproduction of residential properties in the private and public sectors, lackluster local consumption and mounting number of negative equity cases. Since 2000, the HA had worked closely with the Administration to stabilize the property market by reducing the scale of the sales of subsidized housing flats, converting over 28 000 flats (as at November 2002) into public rental housing flats including three Private Sector Participation Scheme (“PSPS”) developments and implementing two moratoria on the sale of subsidized flats from July to December 2000 and from September 2001 to June 2002. The Government believed that there was a pressing need to announce a clear, comprehensive, coherent and consistent housing policy to stabilize and to re-establish public confidence in the property market. The re-positioned

housing policy was developed against this backdrop as a continuation from the policy directions set out in the two statements made by the then Chief Secretary for Administration (“CS”) on 3 September 2001 and 5 June 2002, and also the Report of the Review of the Institutional Framework for Public Housing (“RIFPH”) released on 22 June 2002. The two statements of the then CS and the executive summary as well as a relevant chapter of the RIFPH report have been provided in the enclosures to ~~HHB-142~~.

T3&CC)

**Q2. Objectives and details of the re-positioned housing policy, including the package of policy measures introduced**

A2. Against the background, amongst other things, as explained in A1 above, the Government wanted to send a clear message to the market that it was determined to withdraw from its role as property developer and to minimize its intervention in the market. The Government also stated that it would dispose of the surplus Home Ownership Scheme (“HOS”) and PSPS flats by market friendly means (see paragraph 7 of ~~HHB-6~~). The full set of objectives and details of the re-positioned housing policy are as explained in my statement on Housing Policy delivered to the LegCo at its sitting on 13 November 2002 (Please see paragraphs 12 to 28 of ~~HHB-2~~).

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**Q3. Consultation with parties on the formulation of the re-positioned housing policy and the package of policy measures**

A3. As explained in A1 above, the formulation of the re-positioned housing policy was developed as a continuation of policy directions developed before. The Government had capitalized on these earlier findings in formulating the re-positioned housing policy including the package of policy measures, and taken into account the views and opinions collected from the consultation conducted with stakeholders, academics, political parties, the HA, the Housing Society, representatives from various housing concern groups and resident groups.

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

**Q4. 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**

- A4. (a) As with all major policies, formulation of the policy on the cessation of the production and sale of flats under the HOS and PSPS was made as a collective decision of the Administration after thorough and meticulous deliberation processes, during which all options would be exhaustively articulated before consensus being crystallized. The Housing Branch of the then Housing, Planning and Lands Bureau (“HPLB”) was responsible for the policy which was included in the re-positioned housing policy endorsed by the then Executive Council (“ExCo”).
- (b) and (c) As explained in A1 above, policies were modified and action taken to scale down the production and sale of HOS and PSPS flats in significant ways since 2000. The Statement made by the then CS on 5 June 2002 (THB-142) made clear the Government’s intention to keep production and sale of HOS and PSPS flats at very low levels. In formulating the cessation policy, we were acutely aware of the need for the Government to withdraw from its role as property developer and to minimize intervention in the market. The proposed policy on the cessation of the production and sale of HOS and PSPS flats was set out in a draft Policy Committee (“PC”) paper prepared by the then HPLB. The draft paper was circulated among relevant bureaux and departments for comments. As the then SHPL, I cleared the paper before submission to the PC for discussion on 24 October 2002 and I attended the PC meeting on that day. After PC’s endorsement, a draft ExCo memorandum was prepared and circulated to various bureaux and departments for comments. Upon my clearance, it was submitted for consideration by the ExCo on 12 November 2002 and I attended the ExCo meeting on that day. The policy was endorsed by the ExCo.

#### **Discussion on options for the disposal of the Hunghom Peninsula development**

- Q5. Details of the options considered for the disposal of the Hunghom Peninsula development, including the merits, demerits and financial implications of the options, 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**
- A5. (a) On 5 June 2002, the then CS announced in his statement on housing policy which included a sales programme of HOS/PSPS flats from July 2002 and June 2003. The Hunghom Peninsula development, the construction of

which would be complete soon, was not included in the list. Since under the Conditions of Sale the HA is obliged to nominate eligible home purchasers to purchase the PSPS flats within a period of 20 months from the date of the Consent to Sell, failing which, it would have to purchase all the domestic units at the guaranteed purchase price (please see Special Condition 25 at page 37 of ~~THB-1~~<sup>T32</sup>), a decision on the disposal of the development was required. The options considered before November 2002 for disposal of PSPS flats in general were elaborated in the paper for the Steering Committee on Land Supply for Housing ("HOUSCOM") at its meeting on 13 August 2002 (please see paper at ~~THB-148~~<sup>T43CC</sup> and relevant extracts of minutes at ~~THB-149~~<sup>T44CC</sup>).

We were, at the time, fully alive to the urgent need for the Administration to provide a timely and effective response to the continual falling property prices and rentals, which had created large numbers of home owners in negative equity. This had to be delicately balanced against the future of the PSPS policy which had, over the years, helped many citizens with small means to realize their home-ownership aspirations. The measures worked out in 2001 and 2002 to resolve this dilemma did not produce the desired results. We came to accept that it was in the best overall public interest to bring about the immediate demise of the PSPS policy. We were aware that we would be faced with considerable problems in dealing with the overhung PSPS flats and that none of the options considered, including the preferred option, was risk free.

- (b) After the negotiation with the developer of the Hunghom Peninsula development came to a standstill at the end of March 2003, the time remaining for the HA to nominate purchasers, or alternatively to purchase all the flats in July 2004, had become less. In considering ways to break the impasse in negotiations, the Administration revisited the options in greater detail at different stages. One or two additional options were also raised during this period. Legal advice was sought on some of these options, where necessary. The findings confirmed again that all the options, other than the original one to negotiate with the developer, were either impractical or open to legal challenge. In July 2003, the developer initiated legal action against the HA and the Government alleging breaches of terms of Conditions of Sale and claiming damages on top of the guaranteed purchase price. At a time when the HA was facing dire financial situation and was dealing with the court case on public housing rent reduction (which would have significant financial implications if the HA lost the case) and the aftermath of the SARS epidemic, there was a

need for the Administration to settle the developer's claim expeditiously and to protect the HA from the further possible huge cash drain, having regard to the policy and legal considerations and the need to maintain public confidence in the Government's unwavering determination to withdraw from the property market. The options considered and their merits and demerits were set out in the papers for discussion at the Joint meetings of the LegCo Panel on Housing and Panel on Planning, Lands and Works on 17 February and 8 March 2004 (please see ~~FHB-6~~ and ~~7~~).  
T27 T28

**Q6. The parties involved in (a) the formulation of the disposal options; and (b) the discussion of the disposal options. The respective roles of these parties and their involvement, including your role and participation in the process and Mr LEUNG Chin-man's role and participation in the process**

A6. The disposal options deliberated by HOUSCOM on 13 August 2002 (~~FHB-148~~)<sup>T43CC</sup> were formulated by the Housing Branch of the then HPLB. The Planning and Lands Branch of HPLB, Financial Services and the Treasury Bureau, Lands Department ("LandsD") were involved in the subsequent preparation of draft papers on the same topic for both the PC and then the ExCo.

The PC approved the PC paper on 19 September 2002, and the subsequent ExCo paper was approved by the ExCo on 12 November 2002.

Later when the negotiation with the developer came to an impasse at the end of March 2003, all the options previously considered and one or two options not considered before were revisited in various subsequent Senior Directorate Meetings ("SDMs") of the then HPLB.

I chaired the above-mentioned HOUSCOM meeting which was held on 13 August 2002 and all the relevant SDMs of the then HPLB. As the Permanent Secretary for Housing, Planning and Lands (Housing) ("PSH"), Mr LEUNG Chin-man attended the HOUSCOM meeting and the relevant SDMs of the then HPLB but not the said PC or ExCo meetings.

**Q7. The parties involved and the factors taken into account in making the decision to dispose 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, in particular Mr LEUNG Chin-man's role and participation in the matter**

- A7. After repeated considerations at various stages, to dispose of the Hunghom Peninsula development through negotiation with the developer and allow it to sell the flats in the open market subject to payment of a lease modification premium had been the only viable option. Regarding the parties involved in making this decision, please see my response to A6 above.

As for the factors taken into account, they were set out in the paper dated February 2004 and prepared by the then HPLB for discussion at the Joint meeting of the LegCo Panel on Housing and Panel on Planning, Lands and Works on 17 February 2004 (please see ~~THB-6~~  
T27).

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

- Q8. The negotiation with the developer in the lease modification process before December 2003, including (a) the parties in the Government's negotiation team and their respective roles and involvement; (b) your role and involvement in the negotiation; (c) the Government's negotiation strategies and the parties for formulating the strategies; and (d) details of the lease modification premium figures proposed by the Government and the developer including justifications for and assessment on the figures**
- A8. Pursuant to the ExCo's decision on 12 November 2002, negotiation with the developer commenced until it was halted at the end of March 2003 since both sides were unable to reach any agreement. Before the mediation with the developer in December 2003, there was no further negotiation with the developer after March 2003. The following responses are provided based on the developments between November 2002 and March 2003.
- (a) LandsD carried out negotiation with the developer on the proposed lease modification terms including the premium amount to be paid for the lease modification.
  - (b) I was not involved in the negotiation with the developer. I was informed of its progress as and when reports were submitted to me.
  - (c) As explained in A8(a) above, the negotiation was conducted by LandsD with a view to agreeing terms of the proposed lease modification and the premium concerned. As the only course of action was to negotiate,

given its extensive experience in negotiating lease modification premium on behalf of the Government, LandsD was well placed to conduct the negotiation all on its own.

(d) I was aware of the lease modification premium figures, mainly through figures provided in the relevant reports submitted by LandsD which conducted the negotiation. When the negotiation broke off at the end of March 2003, the figures last proposed by the Government and the counter offer made by the developer were set out in the memorandum for the SDM on 14 April 2003 (please see ~~THB-173~~<sup>T59(C)</sup> and ~~THB-174~~<sup>T59(C)</sup>). I deferred to the professional advice from the LandsD in proposing the lease modification premium figures.

**Q9. The parties involved, including 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; and the factors taken into account in making the above two decisions**

A9. As there was a very substantial difference between the figures assessed by the LandsD and the developer at the end of March 2003, it was apparent that there was little point in continuing to negotiate because it could not yield any results. The negotiation came to a de facto halt following LandsD's recommendation made in a memo dated 25 March 2003 (please see ~~THB-20~~<sup>T5(C)</sup>). This state of affairs was noted and accepted by myself and other members of the SDM. At subsequent SDMs, action was commenced to revisit all previous options and to explore one or two new options with a view to identifying the way forward. The following documents which are SDM papers and minutes between March 2003 and October 2003 give details of such options: ~~THB-26~~<sup>T10(C)</sup>, ~~THB-172~~<sup>T57(C)</sup>, ~~THB-173~~<sup>T58(C)</sup>, ~~THB-174~~<sup>T59(C)</sup>, ~~THB-27~~<sup>T11(C)</sup>, ~~THB-28~~<sup>T12(C)</sup>, ~~THB-175~~<sup>T60(C)</sup>, ~~THB-29~~<sup>T13(C)</sup>, ~~THB-30~~<sup>T14(C)</sup>, ~~THB-31~~<sup>T15(C)</sup>, ~~THB-32~~<sup>T16(C)</sup>, ~~THB-176~~<sup>T61(C)</sup>, ~~THB-33~~<sup>T17(C)</sup>, ~~THB-34~~<sup>T18(C)</sup>, ~~THB-35~~<sup>T19(C)</sup>, ~~THB-124~~<sup>T34(C)</sup>, ~~THB-36~~<sup>T20(C)</sup>, ~~THB-37~~<sup>T21(C)</sup>, ~~THB-38~~<sup>T22(C)</sup>, ~~THB-177~~<sup>T62(C)</sup>, ~~THB-39~~<sup>T23(C)</sup>, ~~THB-178~~<sup>T63(C)</sup>, ~~THB-179~~<sup>T64(C)</sup>, ~~THB-180~~<sup>T65(C)</sup>, ~~THB-181~~<sup>T66(C)</sup>, ~~THB-182~~<sup>T67(C)</sup>, ~~THB-183~~<sup>T68(C)</sup> and ~~THB-184~~<sup>T69(C)</sup>.

In working out a way forward, we took stock of the situation by recapitulating a few basic facts and the prevailing policies as they applied to the subject case –

(a) the Hunghom Peninsula was a PSPS project;

(b) under the Conditions of Sale, the HA shall nominate home buyers within 20 months of the date of the Consent to Sell;

- (c) in spite of (b), a policy decision was taken to terminate the PSPS by seeking the agreement of the HA;
- (d) negotiation with the developer with a view to agreeing a premium for lease modification for disposal in the open market as flats free of PSPS encumbrances had failed;
- (e) a solution had to be worked out before the end of the 20-month period mentioned at (b) above, otherwise the HA would have to buy all the flats at the guaranteed purchase price stipulated in the Conditions of Sale; and
- (f) in the event of going down the route as per (e) above, some use to which such flats would be put had to be worked out.

In a nutshell, according to policy consideration the Government had requested and the HA had terminated the sale of subsidized flats under PSPS thereby obliging the Government to consider how best to comply with the terms of the Conditions of Sale applicable to HA and the Government in the best public interest. And this was the challenge that we then had to face.

It was against the above background that on 28 April 2003, SDM considered ~~T12(C) THB-28~~ with some options previously considered. On 16 June 2003, SDM further considered ~~THB-124~~<sup>T24(C)</sup> which contained options considered before and proposed a new strategy, recommendations and way forward in paragraphs 9 to 15 thereof.

A minute was then submitted by me to the then Chief Executive (“CE”) on 28 July 2003 seeking endorsement to re-open negotiation with the developer (please see ~~THB-41~~).  
T24(C)

The matter was then put to the ExCo for discussion on 28 October 2003, and the ExCo agreed to the Administration re-opening negotiation and trying to come to a settlement with the developer by way of mediation with a view to allowing it to put the flats for sale in the private residential property market.

**Q10. Discussion between the Government and the developer, if any, in respect of the disposal of the Hunghom Peninsula development after the halt of the negotiation in end March 2003 and before commencement of the mediation with the developer in December 2003**



A10. As far as I am aware, after the halt of the negotiations at the end of March 2003, the HA/Government and the developer did not have any discussion except that (i) Mr John CORRIGALL, the then Deputy Director (Specialist) of LandsD was in touch with Mr Stewart LEUNG on about 11 April 2003 on the suggestion to appoint three independent surveyors in the hope to resolve the deadlock (which was being rejected by Mr Stewart LEUNG); and (ii) Mr Stewart LEUNG had shortly thereafter approached Mr LEUNG Chin-man saying the developer rejected the idea of appointment of three independent surveyors (please see ~~THB-162~~<sup>T49(CC)</sup>). Besides, the respective legal representatives of the HA, the Government and the developer had contacted each other on the logistical arrangement on the handling of the legal and mediation proceedings.

**Q11. Recommendation to re-open the negotiation with the developer and to reduce the modification premium payable by the developer by 50%, including (a) the responsible parties for making the suggestion of reducing the modification premium by 50%, and (b) the parties involved and the factors taken into account in making the recommendation to reduce the modification premium by 50%**

A11. (a) The suggestion of reducing the modification premium by 50% was made on the advice of the LandsD, based on the fact that it is the Government seeking to change the contract instead of the developer. The LandsD had in the past settled lease modification cases at 50% premium and considered that 50% premium should form a reasonable basis for settlement in the present case (please see ~~THB-37~~<sup>T21(CC)</sup>, ~~THB-38~~<sup>T22(CC)</sup> and ~~THB-164~~<sup>T51(CC)</sup>).

(b) I made the recommendation to the CE via a minute dated 28 July 2003 (please see ~~THB-41~~<sup>T24(CC)</sup>). Paragraph 7 of the minute explained the factors taken into account in making the recommendation to reduce the modification premium by 50%.

**Q12. Mr LEUNG Chin-man's role and participation in respect of items 8 to 11 above and the communication between you and Mr LEUNG during the process**

A12. Mr LEUNG as the then PSH, underpinned my work as the head of the Housing Branch of the then HPLB. I was the chairman of the SDMs of the then HPLB in which Mr LEUNG was a member. I met Mr LEUNG from time to time on various matters concerning the housing portfolio.

On about 12 April 2003, I understand Mr Stewart LEUNG had approached Mr LEUNG Chin-man saying the developer rejected the idea of appointment of three independent surveyors as proposed by the Lands Department. In late October 2003, I understand Mr LEUNG Chin-man had liaised with the developer with a view to setting up the mediation but he was not a member of the Government's mediation team.

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

**Q13. Discussion at SDMs and meetings of HPLB matters relating to (a) the disposal options for the Hunghom Peninsula development; (b) the negotiation with the developer in the lease modification process (including deliberation on the premium); and (c) the mediation on the disposal of the Hunghom Peninsula development (including deliberation on the premium) and the developer's claim for damages in December 2003**

A13. Relevant extracts of notes of meetings, papers, information attached for reference in the discussions at SDMs and other meetings of HPLB have been provided at ~~THB 26~~<sup>T10(CC)</sup> to ~~THB 39~~<sup>T23(CC)</sup> and ~~THB 167~~<sup>T52(CC)</sup> to ~~THB 228~~<sup>T113(CC)</sup>. It should be apparent that such meetings were formed for deliberating policy issues. They were not intended to discuss implementation details which were within the purview of the relevant offices involved. Matters of note were reported mainly for information and for the record. Matters related to premium assessment called for professional evaluation. Invariably members of SDM deferred to the experts.

**Q14. The parties involved and the factors considered, including your role and participation, in making the decision to negotiate with the developer through mediation for the disposal of the Hunghom Peninsula development in December 2003**

A14. The Housing Branch of the then HPLB was responsible for recommending to re-open negotiation with the developer through mediation for the disposal of the Hunghom Peninsula development. The recommendation was endorsed by ExCo.

I was the head of HPLB and I cleared the relevant ExCo memorandum before it was submitted to the ExCo for discussion on 28 October 2003. I also attended that ExCo meeting as an ExCo member.

**Litigation on the Hunghom Peninsula development initiated by the developer in July 2003 against HA and the Government**

**Q15. 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**

A15. The Administration recognized that the issue could not be left unresolved for too long in view of the fact that the Hunghom Peninsula development had been completed and left vacant. The matter would have to come to a satisfactory conclusion within a reasonable time span, irrespective of any litigation by the developer. Since the negotiations between the Administration and the developer broke off in March 2003, the Administration had been trying to identify ways to overcome the impasse, but all the options considered were fraught with various problems. During this period, the developer served on the Administration a letter before action dated 20 May 2003 (please see ~~THB 250~~ T156 250) and formally initiated legal action against the HA and the Government in July 2003 (please see enclosure of ~~THB 40~~ T38 40) alleging breaches of terms of the Conditions of Sale and claiming damages. The litigation did help to concentrate minds to search for a satisfactory resolution of the matter.

**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**

**Q16. The Government's mediation strategies, including detail of the lease modification and modification premium proposed by the Government, and the parties involved in formulating the strategies**

A16. With ExCo's endorsement on 28 October 2003, the Government reopened negotiation with the developer through mediation with a view to allowing it to sell the flats in the private residential property market after paying a premium for lease modification. The mediation team would decide on the settlement amount (with the assistance of the mediator), if it fell at or above the bottom line endorsed by the ExCo. In the event that the team intended to settle at an amount falling below the bottom line, it should refer the matter to me for a decision according to the ExCo's endorsement. I was not involved in the mediation process other than taking note of the progress of the mediation reported by the relevant departments.

**Q17. Detail of the mediation team, including (a) composition of the team; (b) the parties involved in making the decision on the membership of the team; and (c) the reporting line of the mediation team**

A17. (a) The composition of the mediation team involved representatives from the HA/HD, LandsD and the Department of Justice. The team was led by Mr John CORRIGALL, the then Deputy Director (General) of LandsD.

(b) The team comprised representatives from the relevant departments. I deferred to the departments concerned to determine the precise membership of the team.

(c) The mediation team would decide on the settlement amount (with the assistance of the mediator), if it fell at or above the bottom line endorsed by the ExCo. In the event that the team intended to settle at an amount falling below the bottom line, it should refer the matter to me for a decision according to the ExCo's endorsement.

**Q18. The party who proposed the premium of \$864 million, and the factors taken into account in making the decision to reach an agreement with the developer at this premium figure**

A18. Although I was not involved in the mediation process, I was aware that the modification premium of \$864 million was proposed by the developer during mediation. The factors taken into account in making the decision to reach an agreement with the developer at this premium figure were set out in the paper for discussion at the Joint meeting of the LegCo Panel on Housing and Panel on Planning, Lands and Works on 8 March 2004 (please see ~~THB-7~~  
T2d).

**Q19. Reasons for concluding the negotiation on the lease modification without a settlement of the claim for damages from the developer**

A19. The reasons for concluding the negotiations on the lease modification without a settlement of the claim for damages were explained in the paper for discussion at the Joint meeting of the LegCo Panel on Housing and Panel on Planning, Lands and Works on 8 March 2004 (please see ~~THB-7~~  
T2d).

**Q20. Mr LEUNG Chin-man's role and participation in respect of items 16 to 18 above, and the communication between you and Mr LEUNG during the process**

A20. Mr LEUNG Chin-man had spoken with Mr Stewart LEUNG inviting the developer to resolve the matter by mediation (please see ~~THB-165~~<sup>T137</sup>). He also sought my agreement to the scope of authority. He did not participate in the actual mediation process, but he considered the report of Mr CORRIGALL and appended his comment with recommendation for my approval to conclude the mediation at the lease modification premium of \$864 million proposed by the developer (please see ~~THB-47~~<sup>T29(c)</sup>).

**The developer's plan to redevelop the Hunghom Peninsula**

**Q21. The time when the Government was first made aware of the developer's plan to redevelop the Hunghom Peninsula and the follow-up actions taken**

A21. By the letters dated 31 January 2004 and 11 February 2004 (vide ~~THB-64~~<sup>T55</sup> and ~~THB-68~~<sup>T59</sup>), the developer's solicitors sought further modifications of the Conditions of Sale above and beyond those required to allow the developer to sell the residential units of the Hunghom Peninsula in the private market. Although the letters did not disclose the reason for seeking those further modifications, LandsD considered that the proposal was to facilitate redevelopment and rejected it vide its letter to the developer's solicitors dated 12 February 2004 (vide ~~THB-71~~<sup>T62</sup>). The then Director of Lands reported such development at the SDM on 16 February 2004 and the meeting concurred that the existing development was bound by the prescribed Master Layout Plan ("MLP") and Gross Floor Area ("GFA"), and any deviation would require lease modification and possibly the payment of a further premium (please see ~~THB-192~~<sup>T77(c)</sup>).

**Q22. Discussion at the meetings of HPLB and SDMs on matters relating to the developer's plan to redevelop the Hunghom Peninsula**

A22. Matters relating to the developer's plan to redevelop Hunghom Peninsula were discussed at SDMs (which include HPLB meetings) from time to time. Relevant extracts of notes of meetings/brief have been provided as ~~THB-200~~<sup>T85(c)</sup> to ~~211~~<sup>T96(c)</sup>.

**Q23. Discussion, if any, between the Government and the developer on the latter's redevelopment plan, including (a) the parties involved in the discussion; (b) details of issues discussed including the need for the developer to pay a modification premium for the redevelopment; and (c) your role and involvement, if any, in the discussion**

A23. I was not involved in any discussion between the Government and the developer on the latter's redevelopment plan.

I learnt from the SDM on 16 February 2004 (please see <sup>T(77(c))</sup>~~FHB-192~~) that a request was received by LandsD from the developer for removing the restrictions on MLP and GFA, possibly to pave way for redevelopment. I was also aware of the reply given by LandsD to the developer's solicitors on 12 February 2004 (please see <sup>T(63)</sup>~~FHB-71~~) to reject the request. From the SDM on 23 August 2004 (please see ~~FHB-202~~), I learnt that:

- <sup>T(87(c))</sup>
- (i) LandsD had written, in light of the news media coverage on the case, to remind the developer that any redevelopment which did not accord with the existing MLP and approved landscaping proposals or which was otherwise constrained by the existing lease conditions would require a lease modification; and
  - (ii) moreover, any redevelopment would also need to comply with the existing town planning use.

**Q24. Pursuant to the announcement by the developer on 10 December 2004 for scrapping the redevelopment plan for the Hunghom Peninsula, the follow-up actions taken by the Government on the building plans of the Hunghom Peninsula to allow the developer to undertake alteration and addition works, including discussion on the premium payable by the developer for the alteration of the building plans**

A24. I understand from a number of SDMs (including HPLB meetings) that both the Buildings Department and LandsD were involved to ensure that the developer would comply with all statutory requirements and lease conditions when undertaking alteration and addition works (please see ~~FHB-217~~ to ~~FHB-228~~).

<sup>T(102(c))</sup> <sup>T(113(c))</sup>

**Q25. Mr LEUNG Chin-man's role and participation in respect of items 22 to 24 above, and the communication between you and Mr LEUNG during the process**

A25. The proposed redevelopment, alteration and addition works of Hunghom Peninsula were outside the purview of the Housing Branch of the then HPLB. I did not expect and was not aware of Mr LEUNG Chin-man's involvement in these regards except for the fact that he was informed of the progress during SDMs as a member of the SDM.

**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**

**Q26. The Government's mediation strategies, including (a) the parties involved in the formulation of the strategies; (b) modification premiums proposed by the Government and the developer; and (c) the financial position of HA at the time of the mediation**

A26. With ExCo's endorsement, the Government commenced negotiation through mediation with the developer of the Kingsford Terrace development with a view to allowing it to sell the flats in the private residential property market after paying a premium for lease modification. I was not involved in the mediation process other than taking note of the progress of the mediation in SDMs. As the then Chairman of the HA, I was aware of the financial position of the HA at the time of mediation in 2004. Generally speaking, the financial outlook of the HA as at early 2004 improved significantly compared to early 2003 – the projected cash balance for 2005/06 was at a deficit of \$5,491 million in early 2003 and the revised projection returned to a surplus of \$14,985 million in early 2004 – following inclusion of the expected cash inflow arising from the divestment exercise. ~~T32~~ ~~T33~~ are relevant.

**Q27. Factors taken into account by HA in making the decision to purchase all the residential flats of Kingsford Terrace from the developer**

A27. The factors taken into account in making the decision to purchase all the residential flats of Kingsford Terrace were explained to the Joint meeting of the LegCo Panel on Housing and Panel on Planning, Lands and Works at its meeting on 8 March 2004 (please see ~~T30~~ ~~T30~~) and the meeting of the LegCo Panel on Housing on 5 July 2004 (please see ~~T31~~ ~~T31~~).

**Q28. The reasons for the difference in making the decision to buy back the Kingsford Terrace PSPS flats in May 2004 but not the Hunghom Peninsula PSPS flats in late 2003**

A28. The overall policy considerations as well as the legal constraints applicable to the Hunghom Peninsula project equally applied to the Kingsford Terrace project. However, the Government could not come to terms with the developer on lease modification premium in the case of Kingsford Terrace. Please refer to ~~T30~~ ~~T30~~ and ~~T31~~ ~~T31~~ for more details.

**Q29. Mr LEUNG Chin-man's role and participation in respect of items 26 to 27 above, and the communication between you and Mr LEUNG during the process**

A29. As said, I was not involved in the mediation other than taking note of the progress of the mediation at SDMs and through reports from the mediation team. I understood that although Mr LEUNG Chin-man was the head of Housing Branch of HPLB, he was not part of the mediation team which was led by LandsD. We were both briefed of the progress from time to time in SDMs and through reports of the mediation team.

**Michael SUEN Ming-yeung**  
**26 June 2009**