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CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU
GOVERNMENT SECRETARIAT

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HONG KONG

13 April 2012

Ms Elyssa Wong
Clerks to Bills Committee on
Personal Data (Privacy) (Amendment) Bill 2011
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Hong Kong

Dear Ms Wong,

**Personal Data (Privacy) (Amendment) Bill 2011
Submission from a member of the public**

I refer to your letter of 23 March 2012 requesting us to provide a written response to the submission from a member of the public.

The proposed new section 51A aims to exempt personal data held by a court, a magistrate or a judicial officer in the course of performing judicial functions from the provisions of the data protection principles and Parts IV and V and sections 36 and 38(b) of the Personal Data (Privacy) Ordinance. This is to ensure that the courts of the Hong Kong Special Administrative Region would exercise judicial power independently and free from any interference as guaranteed by Article 85 of the Basic Law. Members of the Judiciary should be immune from legal action in the performance of their judicial functions.

The proposed exemption was one of the proposals on which we invited public views during the two rounds of public consultation in 2009 and 2010. Of the submissions received which expressed views on this proposal, the majority supported its implementation.

As regards the specific complaint raised by the member of the public, we note that, according to his letter, the Lands Tribunal has ordered the

applicant to correct the concerned name and the complainant has requested assistance from the Privacy Commissioner for Personal Data, whom we trust will deal with the request appropriately.

Yours sincerely,



(Philomena Leung)

for Secretary for Constitutional and Mainland Affairs

c.c. Legal Adviser to Bills Committee 2901 1297