

立法會
Legislative Council

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Tel : 3919 3300

Date : 8 May 2012

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 16 May 2012

Motion under Article 73(9) of the Basic Law

I forward for Members' consideration a motion under Article 73(9) of the Basic Law which is jointly initiated by 23 Members and will be moved by Hon Cyd HO at the Council meeting of 16 May 2012. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. Members will be informed of the procedure to be followed for debating this motion in a separate circular.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

Motion under Article 73(9) of the Basic Law
moved by Hon Albert HO , Hon LEE Cheuk-yan, Hon Fred LI,
Hon James TO, Hon CHEUNG Man-kwong, Hon LEUNG Yiu-chung,
Hon Emily LAU, Hon Andrew CHENG, Hon Frederick FUNG,
Hon Audrey EU, Hon LEE Wing-tat, Dr Hon Joseph LEE,
Hon Ronny TONG, Hon KAM Nai-wai, Hon Cyd HO,
Hon CHEUNG Kwok-che, Hon WONG Sing-chi, Hon Paul TSE,
Hon Alan LEONG, Hon LEUNG Kwok-hung, Hon Tanya CHAN,
Hon Albert CHAN and Hon WONG Yuk-man
at the Council meeting of 16 May 2012

Wording of the Motion

That, since a motion initiated jointly by not less than one-fourth of all the Members of the Legislative Council charges the Chief Executive Mr Donald TSANG with serious dereliction of duty (details as particularized in the Schedule to this motion) and he refused to resign, this Council, in accordance with Article 73(9) of the Basic Law, gives a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee to investigate the alleged dereliction of duty and report to this Council.

Schedule

Details of dereliction of duty of the Chief Executive Mr Donald TSANG are set out below:

Mr Donald TSANG, as the Chief Executive of the Hong Kong Special Administrative Region, accepted advantages or extravagant entertainment offered by other persons without making any declaration, failing to fulfill the duties under Article 47 of the Basic Law that the Chief Executive must be a person of integrity and dedicated to his or her duties

- (1) Mr Donald TSANG accepted advantages or extravagant entertainment offered by other persons
 - (a) Mr Donald TSANG rented a 630m² odd apartment in East Pacific Garden, Shenzhen at a rate of RMB 800,000 yuan per annum. The owner of the apartment provided the renovation, and the renovation costs are reportedly about RMB 3,000,000 yuan; and
 - (b) Mr Donald TSANG and his wife accepted extravagant entertainment offered by other persons on several occasions, including:

- (i) on their trips to Macao in April 2011 and February 2012, stayed on board the private yacht of other person and returned from Macao to Hong Kong on it, paying only about HK\$500 on each occasion (amount corresponding to two tickets of one-way Macao-to-Hong Kong commercial ferry ride); and
 - (ii) in February 2012, travelled to Phuket, Thailand and back to Hong Kong in a private jet of other person and stayed on board the private yacht of other person in Phuket, paying only about HK\$5,900 (amount corresponding to two round-trip economy class flight tickets between Hong Kong and Phuket).
- (2) Mr Donald TSANG did not make any declaration during meetings of the Executive Council at which items relating to businesses operated by the persons who offered the aforesaid advantages or entertainment were discussed

According to the reply by the Secretary for Constitutional and Mainland Affairs to Members' questions at the Legislative Council meeting of 29 February 2012, Mr Donald TSANG did not make any declaration of his acceptance of advantages referred to in item (1)(a) or his acceptance of entertainment referred to in item (1)(b) during meetings of the Executive Council. Mr TSANG did not make any declaration when the Executive Council deliberated on the issues of the licence of the Digital Broadcasting Corporation Hong Kong Limited ("DBC"), and the owner of the apartment referred to in item (1)(a) is a shareholder of DBC.

- (3) Mr Donald TSANG failed to formulate credible rules governing the Chief Executive's acceptance of advantages or entertainment

It has been reported that Mr Donald TSANG himself formulated internal rules governing the Chief Executive's acceptance of advantages or entertainment; however, the Chief Executive's Office does not have any formal record of the above rules, and the standard claimed is much lower than that for civil servants.