

財經事務及庫務局

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23 February 2015

Ms Sharon Chung
Clerk to Public Works Subcommittee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Chung,

**Two motions carried at the Public Works Subcommittee meeting
concerning the Capital Works Reserve Fund block allocations
on 10 February 2015**

At the Public Works Subcommittee (PWSC) meeting on 10 February 2015, Members recommended the funding proposal of the Capital Works Reserve Fund block allocations (PWSC(2014-15)52) be submitted to the Finance Committee (FC) for approval. This item has been scheduled for the FC meeting on 27 February 2015.

Two motions moved under paragraph 32A of the PWSC Procedure were carried at the PWSC meeting, proposing the Government to consider enhancing the compensation packages to parties affected by the implementation of new development area and marine works. Government's responses to the two motions are set out in Annexes 1 and 2 respectively for Members' reference.

Yours sincerely,

A handwritten signature in purple ink, appearing to be 'J. Choi'.

(Jasmine Choi)
for Secretary for Financial Services
and the Treasury

**Public Works Subcommittee of the Legislative Council
Motion 001 carried at the meeting on 10 February 2015**

The following motion was moved by Hon Gary FAN and carried at the Public Works Subcommittee (PWSC) meeting of the Legislative Council on 10 February 2015.

“The Government is suggested to study ways to improve the compensation model for land resumption in new development areas so that non-indigenous residents who have lived in the area for many years can also receive the same compensation as land owners do, in order to prevent a recurrence of the situation where Choi Yuen Tsuen villagers could not receive support from the Government even though they faced difficulties in planning to build a new village after receiving the one-off compensation.”

The Government’s response on the above motion is set out below.

Land Compensation

2. The Government may, from time to time, resume private land in accordance with relevant ordinance(s) for implementation of public works in the New Territories. The affected land owners may submit a claim to the Government according to the respective ordinance(s) (i.e. statutory compensation), and the Government may also consider making an offer of ex-gratia land compensation to the affected land owner.

Ex-gratia Land Compensation

3. Throughout the years, it has been the Government’s policy to offer an ex-gratia land compensation to simplify the compensation process when resuming land in the New Territories. Under the regime, the Government will make an offer of ex-gratia cash compensation to the registered land owner of the land proposed for resumption. The said offer will be a sum of money representing the full and final settlement to compensate for the resumption of land, and is in lieu of the complicated procedures involved in claiming statutory compensation. The Government will arrange to release the compensation to the land owner as soon as practicable once the offer is accepted. The land owner’s status as an indigenous villager or otherwise is irrelevant in determining the amount of ex-gratia land compensation.

Statutory Compensation

4. If the land owners do not accept the ex-gratia land compensation offer, they may make a statutory claim in accordance with relevant ordinance(s). Under the statutory compensation regime, if no agreement is reached between the land owner and the Government in respect of the claim, the land owner may refer the claim to the

Lands Tribunal for a final determination. The land owner's status as an indigenous villager or otherwise is irrelevant in determining the amount of statutory compensation.

Ex-gratia Allowances (EGAs)

5. For land resumption and clearance, the Government will release applicable EGAs to eligible clearerees in respect of the nature of their land occupation to help minimise hardship arising from land resumption and clearance. For licensed and surveyed domestic squatters who do not hold any title, the most common form of EGAs offered is the EGA for permitted occupiers. The most common EGAs in respect of agricultural land are those released for the removal of crops, fish ponds, graves, kam taps, and miscellaneous permanent improvements to farms (e.g. fences, gates, irrigation channels, etc.). Genuine farmers who are eligible for public housing but opt to continue farming elsewhere and give up their priority to public housing will be offered rehabilitation allowance. Eligible commercial and industrial operators may also receive EGAs. The clearerees' status as indigenous villagers or otherwise is irrelevant in determining the amount of EGAs. The above-mentioned EGAs, including the eligibility criteria and the basis of assessment, were implemented with the approval of the Finance Committee (FC).

6. The Government will, under special circumstances or for specific public works projects, make recommendations to the FC for establishing "special EGAs" for eligible occupiers of structures depending on need and justification. One example is the special EGA for eligible occupiers of structures affected by the Liantang / Heung Yuen Wai Border Control Point and associated works, which was implemented with the approval of the FC. In formulating the special EGAs, the particular circumstances of the affected clearerees are taken into account, such as whether the structures they occupy are covered by squatter survey records, and their length of residence. Again, the affected clearerees' status as indigenous villagers or otherwise is irrelevant in determining their eligibility for the special EGA as well as the amount received.

Response to the Motion Carried by the PWSC

7. As mentioned above, the cash compensation offered by the Government for the resumption of land is made on the premise of registered land ownership irrespective of whether the land owner is an indigenous villager. The EGAs are offered to clearerees affected by the Government's land resumption and clearances, and again whether the occupier is an indigenous villager or not is irrelevant. A cleareree's status as an indigenous villager is neither an application criterion, nor will such status affect the amount of EGAs or special EGAs received.

8. In gist, land compensation and EGAs serve different purposes. For example, if an affected cleareree is at the same time a land owner and an eligible occupier, he may receive land compensation and EGAs. In contrast, a resident without land title will not be offered land compensation released to land owners regardless of whether he is

an indigenous villager. It follows that a land owner will not be offered EGAs released to eligible occupiers if he is not an eligible occupier. There are in-principle difficulties in offering land compensation applicable to land owners to occupiers who do not possess land title.

9. As regards implementation of New Development Areas, we understand that residents have concerns and requests over clearance, compensation and rehousing arrangements. The Government will continue to communicate with the various affected clearerees (including residents regardless of whether they are indigenous villagers or otherwise, farmers, business and industrial operators, etc.) and carefully listen to their requests. We will also proactively explore and consider how to provide suitable compensation, EGA and rehousing for affected clearerees to offer appropriate assistance and care premised on reasonableness, and in accordance with public interest and appropriate use of public money.

Development Bureau
February 2015

**Public Works Subcommittee of the Legislative Council
Motion 002 carried at the meeting on 10 February 2015**

The following motion was moved by Hon Gary FAN and was carried at the Public Works Subcommittee meeting of the Legislative Council on 10 February 2015.

“The Government is suggested to consider relaxing the existing requirement that fishermen affected by marine works in Hong Kong waters resulting in a temporary permanent loss of fishing grounds can receive only about 40% of the rates of the ex-gratia allowance (EGA) for those fishermen who are affected by marine works resulting in a permanent loss of fishing grounds”

The Government’s response on the above motion is set out below.

2. Fishermen have no legal rights over the waters where they habitually fish. As such, they are not entitled to statutory compensation when they lose their habitual fishing grounds permanently or temporarily due to marine works projects. However, recognising that fishermen so affected may suffer a reduction of income and may incur extra expenses in relocating their activities to fishing grounds elsewhere, the Government has been providing ex-gratia allowance (EGA) to them to alleviate their difficulties. If the concerned fishermen meet certain eligibility criteria determined by the Government, they may be granted EGA according to the apportionment criteria.

3. Considering that projects resulting in the permanent loss of fishing grounds (primarily due to reclamation operations) might cause more significant impact on the fishing industry when compared to projects resulting in a temporary loss of fishing grounds (primarily due to sand dredging or mud disposal operations), the Government considers it appropriate that the EGA payable to fishermen who face a permanent or temporary loss of fishing grounds should be different and maintain a certain ratio relative to each other.

4. In 2012, the Government has reviewed the basis for calculating the EGA for fishermen. Taking into account the impact on the fishing industry arising from the new projects commencing at Western waters in Hong Kong, the Government has substantially increased the basis for calculating EGA for fishermen. The multiplier of the EGA formula is increased from seven years to 11 years’ notional value of fish catch in the affected area in respect of marine works resulting in a permanent loss of fishing grounds, and from three years to five years’ notional value of fish catch in the affected area in respect of marine works resulting in a temporary loss of fishing grounds. The EGA payable in the latter case remains at around 40% of that payable in the former case.

5. The above formula for calculating EGA payable to fishermen has been approved by the Finance Committee of the Legislative Council (paper no. FCR(2012-13)17). The Government will keep in view changes in the operating environment in Hong Kong waters faced by fishermen, and review the basis for calculating EGA as and when necessary.

Food and Health Bureau
February 2015