

香港特別行政區政府
衛生署
醫護機構註冊辦事處

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20 January 2015

Mr Anthony CHU
Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr CHU,

**Follow-up to Public Accounts Committee Report No. 59
Land grants for private hospital development**

I refer to your letter of 9 January 2015 regarding the monitoring and enforcement of the “no distribution of profit” clause under land grant conditions of two private treaty grants (“PTG”) of Hospital D. Our responses are provided below for the Committee’s consideration -

- (a) With reference to the relevant land grant conditions of LG5 and LG6 of Hospital D (**Annex 1**), the Department of Health (DH) sought advice from the Lands Department (LandsD) to facilitate the monitoring and enforcement of the “no distribution of profit” requirement. We also kept the Food and Health Bureau informed of the progress.

Between October 2012 and December 2013, DH had communicated with LandsD to ascertain the interpretation of “Grantee’s hospital facilities” related to LG6 and whether DH’s proposal of profit apportioning by land areas was acceptable. DH also provided the documents from Hospital D and the Grantee’s agent to facilitate LandsD’s consideration. Summary of the communication between DH and LandsD along with the relevant documents are provided at **Annex 2**.

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Taking into account the advice of LandsD and the documents at hand, DH is of the view that another private hospital of the Grantee as well as the nursing school can be considered as “Grantee’s hospital facilities”. This is supported by the letter of 6 April 1995 from the Grantee’s agent to District Lands Office which stated that the Grantee’s medical services covered also another private hospital of the Grantee as well as the Notes for District Lands Conference on 18 May 1995 (**Appendix 3 to Annex 2** with page number 17 and 19 respectively). In Hospital D’s letter of 20 August 2012, the Hospital explained that the nursing school was supporting the operation of the Hospital (**Appendix 2 to Annex 2** with page number 14). LandsD did not have comments on DH’s proposal to apportion profit according to land areas of Hospital D.

- (b) Based on the proposed profit apportionment approach, DH had checked Hospital D’s financial statements and summary of income collected by Grantee from Hospital D’s operation and the expenditure redeployed by the Grantee for hospital facilities and for other charitable purpose (except evangelical or ecclesiastical purposes) and considered no breach of the “no distribution of profit” requirement. An elaboration of the apportionment approach and detailed assessment methodology is at **Annex 3**.
- (c) With the approach adopted in (b), DH did not identify any breach of “no distribution of profit” requirement of LG5 and LG6 of Hospital D.

Please note that some of the appendices in Annex 2 are restricted documents used by DH officers in monitoring of relevant land grant conditions, and the letters to and from Hospital D / the Grantee contain financial information that are not advisable for public disclosure or further distribution without having consent from Hospital D / the Grantee.


(Dr FUNG Ying)
for Director of Health

Encl.

cc	Secretary for Food and Health	(Fax: 2526 3753)
	Director of Lands	(Fax: 2152 0450)
	Secretary for Financial Service and the Treasury	(Fax: 2147 5239)
	Director of Audit	(Fax: 2583 9063)

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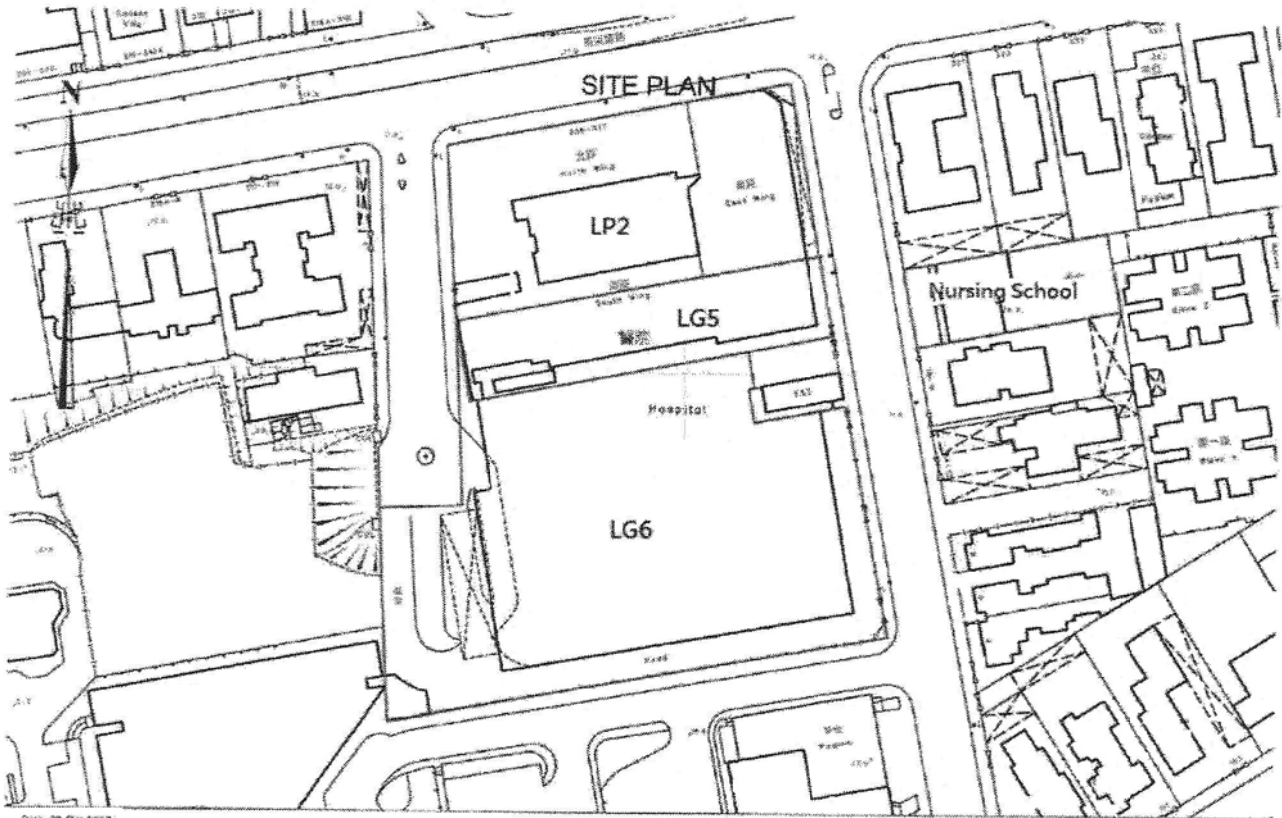
“No distribution of profit” requirement related to Hospital D

- Hospital D and another private hospital are under the same parent organization (the Grantee).
- For Hospital D, the Grantee is operating on LG 5 and LG 6 as well as self-purchased land LP2. Whilst the LP2 contains no restriction on distribution of profits, both LG5 and LG6 contain “no distribution of profit” requirement with details presented in the table below:

Land Lot	No Distribution of Profit Requirement
LG5	There shall be no distribution of profit derived from the said hospital. All profits, if any, derived from the said hospital shall be applied to charitable purposes of the grantee with the exception of any evangelical or ecclesiastical purposes
LG6	There shall be no distribution of profit derived from the said hospital. All profits, if any, derived from the said hospital shall be directed to the improvement or extension of the Grantee’s hospital facilities.

- Apart from the three Lots above, the Grantee acquired another piece of land from private market on 4 December 2007 and obtained a planning approval from Town Planning Board on 27 March 2009 for setting up a nursing school. This land lease does not carry a “no distribution of profit” requirement.
- A site plan of Hospital D and the nursing school is presented at Appendix.

Site Plan of Hospital D and the Nursing School



Date: 28-Oct-2012
Landscape Architect: Officer, DSD/MS/MS/MS
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Sheet Number
11-NW-15D

Assessment of Profits derived from Hospital D's Operation on PTG Sites

- The Department of Health (DH) has referred to the respective land grant conditions specified in the Land Grants and accordingly assess whether the profits derived from the hospitals operations have been used for the permissible activities.
- For the case of Hospital D, the hospital is operating on LG5, LG6 and one self-purchased land (LP2) with different degrees of restriction on the distribution of profit. For easy reference, the respective details and areas of the land lots are summarized below:

Land Lot	Area (% total)	Land Details	No Distribution of Profit Requirement
LP 2	3,255 m ² (27.7%)	Purchased from the open market	No restriction
LG 5	1,546 m ² (13.2%)	Private Treaty Grant (PTG) at nil premium	There shall be no distribution of profit derived from the said hospital. All profits, if any, derived from the said hospital shall be applied to charitable purposes of the grantee with the exception of any evangelical or ecclesiastical purposes.
LG 6	6,929 m ² (59.1%)	PTG at a premium of \$1,000	There shall be no distribution of profit derived from the said hospital. All profits, if any, derived from the said hospital shall be directed to the improvement or extension of the Grantee's hospital facilities.

- The three land lots are subject to different degrees of restriction on profit distribution. For the purpose of monitoring the profit of Hospital D, the hospital's profit would be apportioned in accordance with the respective areas of the three land lots. This basis of apportionment is adopted because Hospital D is operating as an integral unit on the three land lots and it is infeasible to ascertain which part of the hospital contributes to a particular portion of profit. Some hospital units (e.g. central sterilization units, medical gas storage, plant rooms) do not receive income but without which the income-generating services (e.g. operating theaters, specialist clinics) cannot function. The use of this basis also avoids the risk of artificial packaging and allocation of profits/surplus to the land lot with no restriction on profit distribution.

- The respective apportioned portions of Hospital D's profit (which are subject to different degrees of restriction on profit distribution) would be compared with the actual uses of receipts by the Grantee from Hospital D. When proceeding with apportionment by land areas, DH has adopted a more stringent approach by not including the land area of the nursing school (which is purchased from the open market) in calculation of total land area of Hospital D, resulting in only 27.7% (instead of a higher proportion) of Hospital D's profit being not under the "no distribution of profit" restriction to best protect the public interest.
- For monitoring purpose, the Grantee annually provides a statement, which is confirmed by an external auditor, to list out the receipts from Hospital D and the use of these receipts (sample attached as Appendix). As shown in the Appendix, the receipts from Hospital D include donation, licence fees and dividend from service providers; and, they would be treated as profit received from Hospital D by the Grantee for monitoring purpose. The uses of these receipts (or Hospital D's profit) by the Grantee would be subject to the limits of the respective apportioned portions of Hospital D's profit, and assessed against the uses permitted under the respective conditions/restrictions of the three land lots.

***Note by Clerk, PAC:** *Appendix not attached.*