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Replies to supplementary questions raised by Finance Committee Members in examining the Estimates of Expenditure 2016-17

Director of Bureau : Secretary for Justice

Session No. : 2

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<u>SV-SJ01</u>	SV0002	KWOK Dennis, YEUNG Ngok-kiu, Alvin	92	(2) Civil

CONTROLLING OFFICER'S REPLY

SV-SJ01

(Question Serial No. SV0002)

Head: (92) Department of Justice

Subhead (No. & title): (-) Not Specified

Programme: (2) Civil

Controlling Officer: Director of Administration and Development (Alan Siu)

Director of Bureau: Secretary for Justice

Question:

In 2015, the Department of Justice had instituted proceedings against 17 persons arrested in the occupied areas in Mong Kok for criminal contempt of court, but failed to issue notices of appointment for notifying them to attend court hearings within 14 days as required. The proceedings against the 17 respondents were eventually dismissed. In this connection, please advise this Committee of the additional court costs or counsel fees involved resulting from the setting aside of the proceedings of these cases.

(Date and time of meeting: 3:52 pm and 4:10 pm, 1 April 2016)

Asked by: Hon Dennis KWOK and Hon Alvin YEUNG Ngok-kiu (Member Question No.)

Reply:

The Department of Justice (DoJ) understands that the question refers to the criminal contempt proceedings (HCMP 488, 490-492, 494-506 of 2015) commenced by the Secretary for Justice (SJ) against 17 respondents in respect of the execution of an injunction order granted in an earlier action which prohibited the unlawful occupation on the public highway of certain parts of Mong Kok in November 2014. The Court of First Instance (CFI) dismissed the said court proceedings by its decision (the Decision) delivered on 1 September 2015 and awarded costs in favour of the Respondents.

DoJ reiterates the contents of its Press Release issued on 15 September 2015 (the Press Release). As stated in the Press Release, the Decision highlighted the existence of various legal issues (including the correct interpretation of the relevant statutory provisions). Indeed, as pointed out at the Special Finance Committee meeting on 1 April 2016, DoJ had had the advice of outside Senior Counsel in respect of the matter. However, having considered the matter carefully and balanced all relevant considerations in the overall public interest, SJ decided not to appeal against the Decision but to make fresh applications for leave to commence criminal contempt proceedings against the 17 Respondents so that the question

of their liabilities for criminal contempt (if any) can be decided as soon as possible. On 11 November 2015, the CFI granted such leave in a fresh set of proceedings commenced by the SJ.

Pursuant to the Decision, the costs awarded to the Respondents will be taxed by the Court if the parties are unable to reach an agreement to settle the claims for costs. DoJ has recently received claims from some of the Respondents. As these claims are still under consideration and in view of the possibility of without prejudice negotiation and (in the absence of agreement) taxation proceedings, DoJ is not in a position to divulge the amount of the claims involved. Further, DoJ is not at liberty to disclose the claim amount without the consent of the relevant parties.

DoJ has, in view of the importance of this matter, engaged outside counsel for advice on the commencement of the fresh legal proceedings. The briefing out expenses related to the procurement of independent legal advice in this regard are in the region of \$22,000.

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