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22 October 2020

By Email

Clerk to Finance Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong
(Attn: Ms Angel Shek)

Dear Ms Shek,

Finance Committee
Follow-up item for the meeting on 28 September 2020

Discussion Paper FCR(2020-21)71
Matters concerning the Chinachem Charitable Foundation raised at the meeting

The email from the Finance Committee (FC) Secretariat of 30 September 2020 to the Financial Services and Treasury Bureau has been forwarded to relevant bureaux and departments on 5 October 2020 for follow up. During FC's deliberation of the discussion paper referenced FCR(2020-21)71, a member raised that the Government should deploy an amount under the Chinachem Charitable Foundation (Foundation) to provide for more anti-epidemic resources. The Government was requested to respond to this suggestion and provide information about the amount deployable under the Foundation for the purpose of disaster relief. The Department of Justice (DoJ) now replies as follows.

As the protector of charities, the Secretary for Justice (SJ) is necessarily a party to charity proceedings and represents the beneficial interest or objects of the charity. Charities are generally allowed to operate autonomously under their own governing articles and in accordance with their own rules or regulations. Except otherwise prescribed by law or ordered by the Court, the charity may operate autonomously and decide the manner in which the public is to be informed about its operation. SJ does not participate in a charity's decision and arrangement to make donations to others for charitable purposes, and has no power to direct any charity to make donations.

Currently, the administration of the estate of the late Mrs Nina Wang (Estate) is vested with the interim joint administrators appointed by the Court. As pointed out by SJ's detailed written response to a relevant LegCo question on 29 May 2019¹, DoJ made an application to the Court on 29 March 2019 in respect of the relevant matters, to seek the Court's determination or directions, such that DoJ might continue to complete the remaining tasks. The Court held a directions hearing on 13 June 2019. The Foundation, being one of the parties to the proceedings, was directed to file an affirmation by 31 October 2019. As a result of the Foundation's failure to file the relevant affirmation after a few extensions of deadline, DoJ made an application to the Court on 6 May 2020. At the hearing on 26 May 2020, the Court ordered that unless the Foundation could file an affirmation within 56 days, it would be debarred from filing evidence so that the proceedings could continue to progress. The Foundation eventually filed its affirmation on 17 July 2020. At this stage, the next step is for the interim joint administrators to file their affirmation(s) in reply. Upon the completion of evidence, the Court will hold another directions hearing on 26 May 2021. Since the relevant legal proceedings is underway, it is not appropriate for DoJ to make any further comments.

DoJ has all along been paying close attention to the administration of the Estate and has been in frequent contact with the interim joint administrators, including considering the periodical reports provided by the interim joint administrators, approaching them to further understand relevant matters, requesting them to take follow-up actions and provide reports as the circumstances require, assisting the Court in legal proceedings taken out by them, and seeking directions from the Court as may be required in the course of interim administration of the Estate.

¹ LCQ16: Monitoring the administration of estates for charitable purposes.

DoJ will continue to closely monitor the interim joint administrators' work in managing and preserving the Estate.

Yours sincerely,

(Hinz Chiu)
Administrative Assistant
to Secretary for Justice