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Planning, Environment and Lands Bureau
Urban Renewal and Buildings Division
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1 December 1999

BY FAX

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(Attn. : Mr Stephen Fisher
Deputy Secretary)

Dear Mr Fisher,

Urban Renewal Authority White Bill

At the subcommittee meeting yesterday afternoon, the Chairman decided that the subcommittee would examine the White Bill clause by clause on 14 December 1999. In order to facilitate a full discussion, I set out below my response to your letter dated 16 November 1999.

You have stated in your letter that the Urban Renewal Authority (the Authority) has to submit a development project to the Secretary for Planning, Environment and Lands (the Secretary) for authorization even if the Authority has not received any objection within the publication period. Please clarify the legal basis requiring the Authority to obtain such authorization.

In preparing the table of comparison between the Land Development Corporation Ordinance (Cap. 15) (the repealed Ordinance) and the White Bill (LC Paper No. CB(1)398/99-00(02)), the Administration stated that the Land Development Corporation has to seek approval from the Secretary for the implementation of projects. As mentioned at the subcommittee meeting, the repealed Ordinance only requires the Corporation to seek approval of the Secretary in respect of development schemes and not development proposals.

The fact that the Corporation has sought approval of the Secretary on every development proposal is irrelevant. Section 5(2)(b) of the repealed Ordinance (inadvertently stated as section 5(b) in the table) only empowers the Corporation to prepare and implement development proposals. Similarly, Clause 6(h) of the White Bill, drafted along the same lines, would not impose a requirement on the Authority to seek approval of the Secretary. Express provision should be made in the Bill.

You also mentioned in your letter that the Administration does not consider it necessary to impose a time limit in Clause 21(4) for the Secretary to consider the development project and objections to determine whether or not to authorize the Authority to proceed with the project.

You may wish to note that a statutory time limit of 9 months, subject to an extension of a period of not exceeding 6 months, has been imposed in section 8(2) of the Town Planning Ordinance (Cap. 131), section 8 of the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) and section 11 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370). These provisions relate to the procedures dealing with objections.

Yours sincerely,

(Bernice Wong)
Assistant Legal Adviser

c.c. D of J (Mr. J D Scott, SALD)

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PELB(UR) 25/99/12 (99)
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7 December 1999

Ms Bernice Wong
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Ms Wong,

Urban Renewal Authority Bill (White Bill)

Thank you for your letter of 1 December 1999.

Our intention is that the Urban Renewal Authority (URA) has to submit a development project to the Secretary for Planning, Environment and Lands (SPEL) for authorization even if the URA has not received any objection within the publication period. This intention is implied in clause 24(2)(b) of the White Bill which provides that in the case of a development project, the URA has to apply to SPEL requesting him to recommend to the Chief Executive in Council resumption of the

land required not later than 12 months after the authorization by SPEL under clause 21(4) for the project to proceed.

We agree that the intention is not very clearly set out in clause 21 which focuses on the procedure for a development project against which there are objections. For the avoidance of doubt, we propose to amend clause 21 by adding a new sub-clause which reads (tentatively) as follows:

“(5) The Secretary may authorize the Authority to proceed with the development project if after the expiration of the publication period no objections have been lodged.”

Consequently, clause 24(2)(b) of the White Bill should be amended (tentatively) to read:

“(b) in the case of a development project, application is made to him not later than 12 months after the authorization by the Secretary under section 21(4) or (5) for the project to proceed.”

We agree that the Land Development Corporation Ordinance (Cap. 15) only explicitly requires the Land Development Corporation to seek the approval of SPEL in respect of development schemes. However, section 15(2)(b) of the Ordinance refers to “a development proposal authorized under section 5(2)(b) of this Ordinance”. This subsection is interpreted to mean that a development proposal also requires the approval of SPEL. This has in fact been the practice. We agree that section 5(2)(b) and section 15(2)(b) of the Land Development Corporation Ordinance do not clearly require approval to be sought for

development proposals. As mentioned above, we propose to amend clause 21 of the White Bill to provide that SPEL may authorize development projects.

We are of the view that it will not be useful to impose a statutory time limit in clause 21(4) for SPEL to consider the objections to a development project. SPEL may need to ask the URA questions concerning the objections and discuss with the URA proposed amendments. A statutory time limit may force SPEL and the URA to rush the process without full deliberations of the issues involved.

Please let me know if you have any further queries.

Yours sincerely,

(Stephen Fisher)
for Secretary for Planning,
Environment and Lands

c.c. Director of Planning (Attn: Mr T K Lee)
Department of Justice (Attn: Mr J D Scott)