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Secretary for Economic Development and Labour
(Attention : Mrs Erika Hui,
Assistant Commissioner for Tourism)
Economic Development and Labour Bureau
2/F Main and East Wings
Central Government Offices
Ice House Street Central
Hong Kong

23 April 2003

BY FAX

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Dear Mrs Hui,

Tung Chung Cable Car Bill

In the light of Member's concern over matters relating to claims for compensation under the Bill and the further information provided by the Administration set out in LC Paper No. CB(1)1469/02-03(01), I have given further consideration to clauses 12, 13 and 14 of the Bill and would like to comment as follows:

Clause 12

If it is intended that claims for compensation must be submitted within 12 months after the creation of the easement, should clause 12(3)(e) be amended to read "claims for compensation shall (emphasis added) be submitted in writing to the Director not later than 12 months after the creation of the easement"? This amendment will also make the provision consistent with clause 13(2).

Clause 13

- (a) It is noted that under the Roads (Works, Use and Compensation) Ordinance (Cap. 370) (RWUCO) and the Railways Ordinance (Cap. 519) (RO), the time limit for claiming compensation may be extended by the Lands Tribunal; on the other hand, the authority concerned is given the discretion to accept service of a claim after expiry of the time limit in specified circumstances. To address Members' concern on the time limit for claiming compensation under this Bill, will the Administration consider adding a provision, similar to that in RWUCO and RO, allowing claims to be made out of time?

- (b) Is there any reason why under the Bill, compensation is confined to diminution of the value of land and no compensation will be payable in respect of any loss or damage caused by or arising out of the creation of easements or exercise of any rights pursuant to such easements? As you are aware, under the Electricity Networks (Statutory Easements) Ordinance (Cap. 357) and the Sewage Tunnels (Statutory Easements) Ordinance (Cap. 438), apart from diminution of the value of land as a result of the easement, compensation is also payable in respect of loss or damage to land or property situated on land. Is there any reason for adopting a different approach in this Bill?
- (c) If a claimant is not satisfied with the decision of the Director of Lands to reject his claim or any part of it, can he submit the claim to the Lands Tribunal for determination? If so, should provisions be made to cover this? As you are aware, a similar provision can be found in the Sewage Tunnels (Statutory Easements) Ordinance.
- (d) In clause 13(7), should "in the case of any claim submitted to the Tribunal under this section" be added after "payable" to make the provision clearer?
- (e) Will interest be payable on compensation? If so, should a provision be included in the Bill to cover this?
- (f) Is it intended that all compensation (including any interest) and all costs agreed to be paid by the Director of Lands or awarded by the Lands Tribunal against the Government are to be paid out of the general revenue? If so, should provisions be made in the Bill to cover this? Please also consider whether it is necessary to stipulate a time limit for payment of compensation in the Bill.

Clause 14(5)

- (a) Clause 14(5) seeks to make clause 13(2) to (7) applicable to a claim against the Company under clause 14. Clause 13(7) empowers the Lands Tribunal to apply the provisions of the Lands Tribunal Ordinance (Cap. 17) to the determination of the claim. To make the provisions of the Lands Tribunal applicable to the determination of a claim under clause 14, should the reference to "compensation payable by the Government" in section 11(1)(a) of the Lands Tribunal Ordinance be adapted accordingly?
- (b) Is it intended that the reference to "subject to subsection (8)" in clause 13(7) will be applicable to a claim against the Company under clause 14? If not, should this be made clear in clause 14(5)?

I would appreciate it if you could let me have a reply in both languages preferably on or before the next Bills Committee meeting scheduled for 28 April 2003.

Yours sincerely,

(Connie Fung)
Assistant Legal Adviser

cc: DoJ (Attn: Mr John F Wilson (Consultant Counsel) Fax No. 2869 1302)
LA