

(譯文)

傳真函件

香港中區
中區政府合署西座8樓
房屋及規劃地政局
房屋及規劃地政局局長
孫明揚先生, GBS, JP

孫先生：

**規劃地政及工程事務委員會
與民政事務委員會**

西九龍文娛藝術區

本人謹遵規劃地政及工程事務委員會主席與民政事務委員會主席的指示，致函邀請閣下就發展香港會議展覽中心及毗連的酒店、商業及住宅設施(“會展中心發展項目”)的融資安排，提供有關資料。

在上述兩個事務委員會於2003年11月25日舉行的聯席會議上，委員留意到，西九龍文娛藝術區發展計劃的融資安排偏離一貫做法。他們質疑該項計劃的融資安排為何無須由立法會批准／審議。委員尤其關注一點，就是政府當局推行有關發展計劃所採取的安排，有否抵觸任何憲法原則／立法條文／規則。石禮謙議員曾於2003年11月18日致函規劃地政及工程事務委員會主席，明確地提出其中一些有關事項，以便於11月25日的事務委員會聯席會議上考慮。現附上石議員的函件，以供參閱。

我們已致函財政司司長，請其回應與管理公帑有關的事項，包括政府當局為推行西九龍文娛藝術區發展計劃而採取的融資安排及／或會計安排，是否違反《公共財政條例》(第2章)第3及4條的規定。立法會秘書處法律顧問會另行研究該等事項，然後向兩個事務委員會提供意見。

委員在會議席上亦留意到，據政府當局就2003年11月18日事務委員會聯席會議提供的文件所載，西九龍文娛藝術區發展計劃的發展模式並非首創，事實上，這個發展模式曾在香港成功採用。該文件以會展中心發展項目為例，指出該項目也是採用類似的單一發展模式進行。

為使委員了解當局進行會展中心發展項目的過程及從中汲取的經驗，謹請貴局向兩個事務委員會提供有關資料。該等資料應至少

包括呈交予有關當局的文件、有關當局進行商議的紀錄、邀請私人機構提交發展建議書的文件，以及與整個採購過程有關的其他文件。

謹請閣下在**2003年12月3日或該日前**把上述所需資料送交本人。請注意，除非閣下事先表明有關資料不可公開，否則該等資料會公開讓立法會全體議員、新聞界及市民大眾參閱，並會上存至立法會網址。

規劃地政及工程事務委員會秘書

(薛鳳鳴女士)

連附件

副本致：鄧兆棠議員, JP (規劃地政及工程事務委員會主席)(不連附件)
葉國謙議員, JP (民政事務委員會主席)(不連附件)
曹萬泰先生, JP (房屋及規劃地政局副秘書長(規劃及地政)1)
梁張雪玫女士(高級行政主任(行政))

2003年11月27日

Kowloon project's financing under fire

The government's 'barter arrangement' for building the planned cultural district may breach accounting rules, say critics

Quinton Chan and Chloe Lai

The government is bypassing normal funding arrangements for building the West Kowloon cultural hub and may be breaching its own accounting rules, critics warn.

Legislators and the head of the Association of Chartered Certified Accountants (ACCA) say the controversial plan does not follow the normal funding arrangements for capital works projects. They say approval for the \$24 billion scheme should be obtained from the Legislative Council's finance committee.

A government spokeswoman said the West Kowloon project was not public works, but "facilities to be used by the public". Therefore, Legco approval was not needed.

Chief Secretary Donald Tsang Yam-kuen announced in September that the 40-hectare site would be given to a single consortium to operate for 30 years. The winning bidder would use income from property sales to fund the construction of cultural facilities, such as theatres, museums and libraries.

The plan has been opposed by some small property developers who would be excluded from taking part in the development.

Zoning plans for the site, which would take the project beyond the scrutiny of the Town Planning Board, have also been criticised. And non-government organisations, lawmakers and cultural groups have voiced fears that the site could be turned into a "developer's colony".

Now, it appears the arrangements may also breach a government accounting principle known as "hypothecation of revenue".

Under the principle, derived from section four of the Public Finance Ordinance, all government revenue should be credited into the Treasury before it is used and all expenditure should come from the Treasury accounts.

Critics say the West Kowloon case does not follow these rules because the value of the land is being redirected to the developer to cover the project's costs without going through the Treasury accounts.

While the ordinance applies to all public works, it also stipulates

that the financial secretary can decide what constitutes public works.

ACCA president Leo Lee Ching said the government should first sell the land in West Kowloon and then use the money to fund construction of the cultural district.

"The government has made the project a barter deal and it is problematic," Mr Lee said. "It should separate the project's accounts on income and expenditure. For a project of such scale, the government should also seek approval from the Legislative Council."

The chief secretary said in Legco on Wednesday that if the West Kowloon site were put up for auction, the revenue raised might not be able to fund the cultural district because of the budget deficit.

A senior government official, who would not be named, also said the present plan may have breached the accounting principle.

"The present arrangements have deprived the Legislative Council's right to scrutinise the project. If this is the case, then many other government projects could also bypass Legco."

Democratic Party chairman Yeung Sum said the government must suspend the plan and conduct a genuine public consultation.

"This project involves no government expenditure and there will not be any legislation. The rules of the game are designed to bypass Legco and leave us unable to have any checks and balances."

The government was criticised by the director of audit in 1996 for violating the principle in a deal with Cathay Pacific for the construction of VIP lounges at the former Kai Tak airport. Cathay built the lounges and was given free use of them for a period to offset the cost.

But the government, in a reply to the auditor's report, said the financial rules should be flexible.

A Housing, Planning and Lands Bureau spokeswoman said last night that the West Kowloon project and the VIP lounge issue should not be compared as they were different. She also said a similar concept had been adopted in two public-private partnership leisure projects in Kwun Tong and Tseung Kwan O.