

PY-2415/5409/94

21 January 2004

(47) in LCS 2/HQ 682/98(6)

By Hand

Ms Anissa Wong
Director of Leisure and Cultural Services
Leisure and Cultural Services Department
1-3 Pai Tau Street
Shatin
New Territories

Dear Sirs,

Re: **New Administrative Structure for Sports Development**

Thank you for your letter of 30 December 2003.

We do appreciate that staff deployment is essentially a management prerogative but the proposed new administrative structure is much more than staff deployment. It fundamentally alters the staff organisation structure which is materially different from those represented to the former AOs and Legislative Council before merger.

You stated that:-

- (a) the post-merger organisational structure was disseminated as reference materials only;
- (b) such structure was not part of the merger package which the Finance Committee of the Legislative Council was invited to approve in June 2001;
- (c) the organisation structure is not part of the package offered to AO for election.

These statements are simply not true. We do appreciate that neither you nor your deputy director Mr. Alan Siu nor your assistant director Mrs. Sophia Wong served the Leisure and Cultural Services Department before or at the time of merger. However if you care to read the past papers you will find that:-

- (i) in a letter of 10 November 2000 from the Secretary of Working Group on Mode of Operation upon Merger of AO and RSO Grades to our client, it was stated that certain principles have been adopted and based on these principles, a set of proposed organisation chart upon merger was prepared.
- (ii) In particular, the Working Group adopted a “one stop service” principle by assigning a manager (of ALSM II grade) to each standard recreational venue. We mention this principle because such “one-stop service” was an important “selling point” to members of Legislative Council when Mr. Johnny Woo of your Department presented the merger to LegCo for approval in 2001.
- (iii) In your Consultation Paper presented to the LegCo Panels on Home Affairs and Public Service on 8 May 2001, the principle of “one-stop service” was presented by Mr. Johnny Woo of your Department as an important argument for the merger. The Paper had stated clearly that “an Assistant Leisure Services Manager (ALSM) II would be deployed to each of the 220 recreational venues and facilities to effect the “one-step service”.
- (iv) In your Department’s letter of 23 March 2001 to the AO grade, it was stated that “after extensive consultation with staff in the past 16 months and fine-tuning the merger package in the light of the views and suggestions received, the management has now come to the view that the merger proposal should be put to the standing Commission on Civil Service Salaries and Conditions of Service and the Finance Committee of the Legislative Council for consideration.”

Annex B to this letter was a Major Staff’s concerns and Management’s Position. Paragraph 15 under the sub-heading “Support for the New Mode of District Operation” stated that “A copy of this organisation structure, which has yet to be endorsed by Finance Committee, is attached at the Appendix”.

It was apparent that your Department not only presented the organisation chart to the Finance Committee for endorsement/approval, your senior officer, in an attempt to entice LegCo members to approve the merger, used the organisation structure as an example of improving services to the public through the new “one-stop service”.

In your new administrative structure, the so-called “one-stop service” and the “venue manager concept” will be adversely decried after redeployment of staff, notably at first in 36 swimming pools and other sports centers. The management level would be regressed and consequently quality services provided to public would undoubtedly be compromised. This shows the unscrupulous way in which your Department took and will continue to take to achieve objectives. In the process, not only AOs were betrayed, Honourable Members of the LegCo were also misled. The millions of dollars of public money spent on fitting out the office accommodation and providing office equipment in swimming pools and sports centers will be wasted for no reasons.

Your argument that the organisation structure is not part of the package offered to AOs is extremely tenuous. It is ridiculous to suggest that since the invitation for

transfer to the new LSM did not spell out the organisation structure, it was not part of the package. Are you saying that all the one and a half years' consultation and briefing work done prior to the merger bear no relationship with the invitation for transfer? Are you also saying that the former AOs, in deciding whether or not to join the new grade, will just consider the invitation for transfer without taking into account future organisation structure and in particular, the workload and promotion prospect in the new set-up? Are you also denying that what the Department has done in the past staff consultations about the organization structures and the "one-stop services" resulted in reasonable expectation of the former AOs that the management will honour their decisions.

In any event, in the doctrine of estoppel, there is no need to show that the representation made was part of the contractual terms. What is required is merely that a person making a representation and inducing another to change his position on the faith of it will be estopped to dispute and change the representation. Even silence could result in estoppel, as in a case of a land owner abstaining from correcting the mistake of a stranger building on his land. Such behavior could result in the owner being prohibited from asserting title to the land by equity.

We also take the view that before deciding on the new administrative structure which is so essentially different from what you presented to LegCo before merger, you are legally and duty bound to seek LegCo's approval for the proposed structure. LegCo is not a rubber stamp which the Government could manipulate to its advantage. If the Department is withdrawing its commitment to the public which was promised to LegCo, LegCo members are entitled to investigate and intervene.

Our client will take such action as necessary to protect its members' interests. If the Department is adamant in implementing the proposed new structure against the interests of our client's members, our client will have no alternative to call for more drastic action such as, inter alia, industrial action or protests, and to lodge a formal complaint to the Legislative Council, the CE Office and relevant authority.

Yours sincerely

PY/wp

c.c. CE Office

Legislative Council

Secretary for Home Affairs (Attn: Dr. Patrick HO)

Secretary for the Civil Service (Attn: Mr. Joseph W P WONG)