



地政總署
LANDS DEPARTMENT

Urgent By Fax & By Post

電郵地址 Email: dofl@landsd.gov.hk

電話 Tel: 2231 3000

圖文傳真 Fax: 2868 4707

本署檔號 Our Ref: (14) in LD 1/ST/LS/95 (TC) IV

來函檔號 Your Ref: CB(3)/PAC/R41

9 February 2004

Clerk of Public Accounts Committee
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong
(Attn : Mr Colin Chui)
[Fax: 2537 1204]

Dear Sir,

**The Director of Audit's Report on the
results of value for money audits (Report No. 41)**

Chapter 5 : Provision of noise barriers for mitigating road traffic noise

I refer to your letter of 4th February 2004 and in response to the points raised in the second paragraph thereof (reproduced hereunder for ease of reference) would advise as follows.

In the above connection, the Committee would like to know, in the Lands D's assessment, the effectiveness of the additional provision referred to in the Technical Circular in addressing the concerns raised by Audit and meeting the requirements recommended in the Audit Report, bearing in mind that the provision is subject to agreement of the Grantee/Purchaser concerned.

We note that the relevant recommendation in paragraph 4.18(c) of the Audit Report was that the Administration should “issue guidelines to ensure that provision will be incorporated into a land grant such that the Government is empowered to ask the grantee to contribute to the Government's cost of provisioning environmental mitigation measures which, by the conditions of the land grant, is the grantee's responsibility.”

It is considered appropriate that the right of the Government in such provisions should be subject to the agreement of the grantee/purchaser because of the following considerations:

- (a) where the precise form of the environmental mitigation measures have not been specified in the land grant, the form, timetable and cost of such measures adopted or proposed to be adopted by the grantee may differ from those to be adopted by the Government whilst still meeting the requirements of the Director of Environmental Protection. The possibility of the project's construction cost, building plans, construction timetable, and occupation permit being adversely affected by Government's unilateral decisions at any time during the course of the project could create great uncertainty and difficulty for the grantee who would have factored his own assessment of the likely costs of the environmental mitigation measures into the premium he paid for the lot. It would not be reasonable for the Government to unilaterally determine the amount of any such contribution by the grantee after the execution of the land grant;
- (b) the grantee might have already commenced or completed the environmental mitigation measures and fulfilled his obligations under the land grant prior to Government's decision to provide the environmental mitigation measures in place of the grantee; and
- (c) the grantee might not be able to agree to the Government's provisioning the mitigation measures for other reasons such as delays caused by changes to building and layout plans and hence completion of the development.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'P. Lau', written in a cursive style.

(Patrick Lau)

Director of Lands

c.c. Secretary for the Environment, Transport and Works
Director of Territory Development
Director of Environmental Protection
Director of Audit