



拓展署
Territory Development
Department, Hong Kong

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Public Accounts Committee
Legislative Council Secretariat
No. 8 Jackson Road
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Hong Kong

(Attn : Mr Colin Chui)

Dear Mr. Chui

**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 dated 14 January 2004 on the Director of Audit's Report No. 41. My response to the two questions in Paragraphs 1(a) and 1(b) of your letter are as follows:

- (a) whether the Government would break the law for not providing the noise barriers concerned; if so, of the legislation concerned.**

Yes, the Government would break the law for not providing the noise barriers concerned, as it is a condition in the Environmental Permit of the T7 project that they should be built. The legislation concerned is the Environmental Impact Assessment Ordinance (Cap. 499) ('the EIAO') and the associated Technical Memorandum (TM).

Under both the EIAO and the administrative EIA system in operation prior to the commencement of the EIAO, proponents of road projects are required to protect all noise sensitive receivers from excessive traffic noise (i.e. 100% compliance with the noise standard of 70dB(A) for domestic premises) as far as practicable. The on-site barriers proposed by the developer could only protect 72% of the residential units. Direct noise mitigation at source was therefore necessary to protect the

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residents as far as practicable. If we had not proposed construction of the noise barriers along that section of road T7 despite the fact that it is practicable to do so, the Director of Environmental Protection would not have approved our application for an Environmental Permit (EP) for the project. The road project could not have proceeded without a valid EP. The construction of the noise barriers concerned formed part of the conditions in the EP issued for the project in May 2000 under the EIAO. It is thus a statutory requirement for TDD to construct those noise barriers. Failure to do so would be a violation of the EIAO.

(b) if negotiations with the developer had been held but he refused to contribute to the cost of the noise barriers constructed by the Government, whether the Government would still proceed with the construction for the reason of providing continuity; if so, of the justifications (including any legal and public interest grounds) for doing so; if not, the reasons for that.

If negotiations with the developer had been held but he refused to contribute to the cost of the noise barriers, we would still be required to proceed with the construction of the noise barriers concerned on Road T7 in order to mitigate the traffic noise as far as practicable and to comply with the statutory requirements of the EIAO. Had we failed to do so, we would be in breach of the EP condition and accordingly in violation of the EIAO.

Yours sincerely



(John S V Chai)
Director of Territory Development

c.c. Permanent Secretary for the
Environment, Transport and Works (Works)
Director of Lands
Director of Environmental Protection
Director of Audit

JC/jl

