



拓展署  
Territory Development  
Department, Hong Kong

來函編號 Your Reference CB(3)/PAC/R41  
本署編號 Our Reference TDD(CR) 8/4/3  
電話 Telephone 2231 4567  
傳真 Fax 2805 7006  
電郵 E-mail  
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Public Accounts Committee  
Legislative Council Secretariat  
No. 8 Jackson Road  
Central  
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 reference CB(3)/PAC/R41 dated 4 February 2004 in which you ask:

**“why TDD has not waited until it was known if the developer was willing to contribute to the cost of the above noise barriers work (*adjacent to the private development*) before carrying out the works which had the effect of allowing the developer not to build noise barriers which he was obligated to do so under the land grant and, as a result of relieving his obligation, losing Government's bargaining power in securing the developer's agreement to contribute.”**

TDD was obliged by the Environmental Permit to construct the noise barriers in question irrespective of whether or not the developer was willing to contribute to the cost of the noise barriers. Therefore, TDD did not have to await the outcome of any negotiations, even if those were initiated, before carrying out the noise barrier works. As explained by the Director of Lands in his letter of 22 December 2003 to the PAC, there was no provision under the Conditions of Grant governing the development for the Grantee to pay for any works outside the lot boundaries. In the absence of such an obligation on the Grantee, the Government could not realistically expect an agreement to such a contribution as a matter of goodwill. In the circumstances, the carrying out of the noise barrier works by TDD could not have affected the Government's bargaining power even if the issue had been brought up with the Grantee.

Nevertheless, in paragraph 3 of his letter to you reference UB/PAC/ENG/41-2 dated 19 January 2004, the Director of Audit highlighted the importance of negotiating with the developer before the EPD's certification of the developer's revised mitigation measures in June 1998. Effectively, there was only a short window of four months, from February 1998, when the EIA Study Management Group agreed on the proposed omission of the developer's noise barrier, to June 1998 before which Government might have held any bargaining power to negotiate with the developer for a contribution. Therefore, by the time when the contract for construction of Road T7, including the noise barriers started on 10 January 2001, delaying such construction would not have changed Government's negotiating position since any bargaining power that might have existed was long gone.

Moreover, since the concerned noise barriers, now being constructed by TDD will protect 100% of the dwellings in the development as required by the Environmental Permit, the noise barriers originally to be built within the developer's lot boundaries protecting only 72 % of the dwellings are nugatory, it was an appropriate step not to require the Grantee to construct the noise barriers.

Yours sincerely



(John S V Chai)  
Director of Territory Development

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

JC/jl