

CB(1) 2301/03-04(01)

Society for Protection of the Harbour Limited
保護海港協會有限公司

2006, One Pacific Place,
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Mr. Michael Suen
Secretary for Housing, Planning and Lands,
Room 821, West Wing,
Central Government Offices,
Central, Hong Kong.

14 June 2004

Dear Mr. Suen,

We refer to your letter dated 9th June 2004 from Ms. Christine Chow

We are concerned at your attempt to distort the facts of this matter which fortunately are well documented by official documents which will be referred to. We are also surprised by your unsupported allegation that 'the criticisms made by the SPH on the Government in its 8 June letter are factually incorrect and groundless' when you were unable to specifically refute any one fact set out in either our letter or in the Summary of Facts thereto enclosed.

Our complaint is based upon the following facts and you are hereby openly invited to dispute any of them.

1. The Wanchai Reclamation Plan (WDII) was based upon the wrong legal interpretation of the Protection of the Harbour Ordinance ("the Ordinance").
2. The Central Reclamation Plan (CRIII) was based upon the same wrong legal interpretation.
3. At the meetings of the Central Tender Board on 30.1.2003 and 6.2.2003, the Government were fully aware of the challenge by our Society by Judicial Review of the wrong legal interpretation of the Ordinance.
4. At these meetings, the Government were fully aware of the impact of the pending Judicial Review and that the same would affect the Central Reclamation.

5. **Despite such knowledge, the Government deliberately awarded the Central Reclamation Works Contract on 10th February 2003.**
6. **On 14th June 2003, the Tribunal hearing the legal proceedings instituted by China Harbour Engineering Company against the Government over the Central Reclamation Works Contract gave its Decision that:-**
 - (a) **The Government had rushed into the Works Contract with full knowledge of the pending Judicial Review proceedings then being instituted by our Society;**
 - (b) **The Government had acted with 'undue haste' and had entered into the Works Contract with 'too much haste'; and**
 - (c) **The Government was ordered to re-tender the Works Contract.**
7. **Despite the Decision of the Tribunal, the Government have failed and/or refused to re-tender the Works Contract.**
8. **Had the Government complied with the Decision and re-tendered the Works Contract, the present claim by the Contractors of HK\$280 million might not have arisen.**

Unless you are able to specifically refute the above factual statements, which summarise our previous letter to you, you are invited as a matter of honour to withdraw your allegation against our Society referred to in the second paragraph above.

Yours faithfully,



Christine Loh
Chairperson

c.c. Legislative Council
Chief Executive-in-Council

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HPLB(PL) CR1-150/07

30 June 2004

Ms Christine Loh
Chairperson
Society for Protection of the Harbour Limited
2006, One Pacific Place
88 Queensway
Hong Kong

Dear Ms Loh,

I refer to your letter of 14 June 2004 to the Secretary for Housing, Planning and Lands (“SHPL”) , who has authorized me to reply on his behalf.

Our letter dated 9 June 2004 has already set out the Administration’s views regarding a number of factual inaccuracies in your letter to the Legislative Council Members dated 8 June 2004 concerning Central Reclamation Phase III (“CRIII”) and its works contract.

In particular, I wish to reiterate that SHPL gave a factual reply when he answered the Hon. Martin Lee’s oral question on Central Reclamation on 2 June 2004. SHPL was simply trying to set out the circumstances leading to the suspension of certain works which in turn gives rise to the contractor’s claim and did not make any comment whatsoever on your Society. SHPL also made it clear that the amount claimed has not been “accepted” by the Government. The Society’s criticism in its letter of 8 June on the Government attempting to shift the responsibility of causing the contractor’s claim is untrue and groundless.

We regret that despite our repeated clarification of the fact that the Government has not awarded the CRIII works contract in a hasty manner, the Society still holds a different view. We stand by what we have said in our letter of 9 June and have nothing further to add.

Yours sincerely,

(Christine Chow)
for Secretary for Housing, Planning and Lands

c.c. Legislative Council Secretariat
Clerk to Executive Council
Secretary for Environment, Transport and Works
(Attn. Mr Lo Yiu-ching and Mrs May Tam)
Director of Territory Development
(Attn. Mr John Chai)
Director of Planning
(Attn. Mr Bosco Fung)
Secretary, Central Tender Board
Department of Justice
(Attn. Mr Simon Lee and Miss Joyce Poon)