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5 March 2004

Mr Michael M Y SUEN, GBS, JP
Secretary for Housing, Planning and Lands
Housing, Planning and Lands Bureau
8/F, West Wing
Central Government Offices
Central
Hong Kong

Dear Mr SUEN,

Panel on Planning, Lands and Works

**Proposed Amendments to the Building (Planning) Regulations -
refining the definition of "street" for site classification purpose**

The above item was discussed at the Panel meeting on 24 February 2004. On the instruction of Dr Hon TANG Siu-tong, Chairman of the Panel, I write to convey members' concerns expressed at the meeting and seek the Administration's response on the related issues.

Inadequate information provided in the discussion paper

The Panel notes that the background to the above proposal is **the sale of the Siu Sai Wan site by public auction in March 1997**. However, due to the meagre information provided in the discussion paper on the Siu Sai Wan auction case and the lack of clarity of the information on the relationship between the legislative proposal and the problems manifested in the case, members have encountered great difficulty in understanding the policy objective and the effect of the proposed legislative amendments. In this regard, Panel members have expressed strong dissatisfaction with the poor preparatory work undertaken by the Administration on putting forth the legislative proposal to consult the Panel.

Whether any public officer has erred in the case

The Panel notes that the Lands Department determined the reserve price of the Siu Sai Wan site before the auction on the basis that it was a Class A site. After the auction, the Buildings Department agreed to the developer's claim that an existing walkway, which was previously not regarded as a "street" by the Administration, could arguably be regarded as a "street" and ultimately, the site was developed as a Class C site. Panel members consider that the public officers concerned have the responsibility to clarify before the land auction any uncertainties concerning the classification of the site. Members therefore have raised grave concern that the arrangements in the Siu Sai Wan auction were unfair to prospective purchasers and might have caused loss of Government revenue.

In this regard, the Panel considers it necessary to seek the Administration's confirmation on whether any public officer has erred in the case. Members in particular question why the officer(s) concerned did not seek clarification including legal advice, prior to the site auction, on the status of the said existing walkway which was a crucial factor affecting the classification of the site. Members also ask whether any disciplinary action has been or would be taken on the responsible public officer(s); and if the answer is in the negative, the Administration should provide detailed explanation.

Definition of Class B and Class C sites under the Building (Planning) Regulations

The Panel notes that for a Class B site, the corner site is not regarded as abutting on two streets unless at least 40 percent of the boundary of the site abuts on the streets, whereas for a Class C site, the corner site is not regarded as abutting on three streets unless at least 60 percent of the boundary of the site abuts on the streets. At the Panel meeting on 24 February 2004, Hon James TO enquired about the rationale of these percentages. At his request, the Administration agreed to provide relevant information.

Other related issues

The Panel notes the view of the Public Accounts Committee (PAC) that as a result of the uncertainties about the classification of the Siu Sai Wan site, the Government eventually failed to achieve the planning objective of lowering the development density of the site, prospective purchasers might not have put forward the most competitive bids at the auction, and the Government was unfair to developers of various sizes with different risk-taking capacity.

In light of PAC's comments, the Panel would like to know the measures which have been or will be taken to address the problems manifested in the auction of the Siu Sai Wan site, and in what manner the proposed legislative amendments to the definition of "streets" in the Building (Planning) Regulations can address these problems.

I should be grateful if the Administration would provide response on the above issues and let me have it (in both Chinese and English and with soft copy) **on or before 19 March 2004.**

With best regards,

Yours sincerely,

(Ms Anita SIT)
Clerk to Panel

cc Dr Hon TANG Siu-tong, JP (Chairman)
Mr Parrish NG, PAS(PL)3, HPLB (Fax: 2899 2916)