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Urgent By Fax (No. 2869 6794)

3 December 2003

Miss Odelia LEUNG
Clerk to Panel
Legislative Council Secretariat,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong

Dear Miss Leung,

Panel on Planning, Lands and Works
Aerial right of Government land

Thank you for your letter of 19 September 2003 conveying the proposal of the Bills Committee on Buildings (Amendment) Bill 2003 to us. The Bills Committee suggested that the Administration should consider imposing a levy on advertisement signboards projecting over Government land since the corresponding aerial right belongs to the Government.

The Administration has carefully considered the proposal and its views are as follows :

- (a) the public's main concern over signboards is their safety. This aspect is being dealt with by enforcement against unauthorized and dangerous signboards under the Buildings Ordinance (Cap. 123). The control of signboards will be further enhanced by the minor works control regime proposed under the Buildings (Amendments) Bill 2003;

- (b) the Land (Miscellaneous Provisions) Ordinance (Cap. 28), which also deals with illegal occupation of Government land, appears to be broad enough to cover signboards overhanging Government land. Similarly, there are other objects and structures that may fall within the ambit of Cap. 28. Examples include awnings, canopies and drying racks projecting over streets/pavements. If signboards overhanging Government land are charged a fee under Cap. 28, other objects/structures as described above would need to be treated similarly on equity grounds. However, it would not be practicable to launch a fee scheme under such circumstances given the likely high administrative costs involved and the disproportionately small amount of revenue generated;
- (c) Cap. 28 can only deal with signboards overhanging Government land. Those on or over private land are outside the ambit of the Ordinance. It is likely that many signboards are only partially overhanging Government land. The land title and lot boundary in each and every case will have to be checked before the land status of a signboard can be ascertained. Given the huge number of signboards over the territory (estimated to be over 220,000), it will not be cost-effective to set up such a fee scheme and to ensure compliance; and
- (d) as far as Government revenue is concerned, all properties are subject to rate assessment in accordance with the provisions of the Rating Ordinance (Cap. 116). Advertisement signboards are regarded as properties and therefore are also subject to rates. The Rating and Valuation Department (RVD) has already included signboards (be they in private lots or overhanging Government land) in rate assessments as appropriate.

Advertisement signboards protruding over streets or Government land have formed part of the Hong Kong streetscape for a very long time. For the reasons given in the above paragraph and to avoid over-regulating signboards and hence business activities, we do not consider it necessary to introduce a separate fee scheme for signboards simply because some of them occupy air space over Government land.

In view of the above considerations, the Administration considers it appropriate to maintain the status quo, i.e. the safety aspect of signboards should continue to be dealt with under the building control regime, and the revenue aspect to be taken care of by RVD's existing rate assessment mechanism.

Yours sincerely,

(Gary Y.S. Yeung)
for Secretary for Housing, Planning and Lands