



HONG KONG BAR ASSOCIATION

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Your Ref: CB2/HS/2/05

24th February 2006

Mrs Percy Ma
 Clerk to Subcommittee on Proposed Senior Judicial Appointments
 Legislative Council of the Hong Kong Special Administrative Region
 Legislative Council Building,
 8 Jackson Road, Hong Kong.

Dear Mrs Ma,

Re: Subcommittee on Proposed Senior Judicial Appointments

Thank you for your letter of 17 February 2006.

The Bar Council has considered the invitation in your letter that it should express views on the two recommended senior judicial appointments. It resolved to decline the invitation on this occasion.

The Bar Council has revisited its response in April 2002 to the Consultation Paper of the LegCo Panel on Administration of Justice and Legal Services on the Process of Appointment of Judges. The Bar Council confirmed the stance maintained in the 2002 response that the endorsement function exercised by the Legislative Council should not be politicized.

香港大律師公會

香港金鐘道三十八號高等法院低層二樓

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Whatever is done or said in that process must be consistent with preserving the independence of the Judiciary. The role of the Legislative Council of endorsing recommended senior judicial appointments is neither to make recommendations as to appointment nor to duplicate the process of consultation undertaken by the Judicial Officers Recommendation Commission. The Legislative Council should not sit on "appeal" from the JORC or conduct a review of the recommendation exercise. The Bar Council took the view then, and maintains it now, that as long as suitable persons are appointed to the JORC who perform their tasks conscientiously, the possibility of an unacceptable candidate being put forward must be remote.

Yours sincerely,



Philip Dykes SC
Chairman
Hong Kong Bar Association

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