

# FIRST STAR DEVELOPMENT LIMITED

Your Ref : HD(A&M)P 12/23/9 Pt.45

10<sup>th</sup> June 2002

BY FAX 2762 1110 & BY POST

Mr. Anthony Miller, J.P.  
Director of Housing  
Housing Department  
Housing Authority Headquarters  
33 Fat Kwong Street  
Ho Man Tin  
Kowloon  
Hong Kong

Dear Mr. Miller

Private Sector Participation Scheme – Hunghom Peninsula  
Kowloon Inland Lot No.11076, Hunghom Bay Reclamation Area, Kowloon

We refer to your letter dated 27<sup>th</sup> May 2002.

We learn with delight the announcement of Mr. Donald Tsang, Chief Secretary for Administration, on 5<sup>th</sup> June 2002 that the moratorium on the sale of Home Ownership Scheme ("HOS") flats, which was implemented in September 2001, will cease to apply with effect from 1<sup>st</sup> July 2002 and that the sale of HOS flats will resume after 1<sup>st</sup> July 2002.

However, with great disappointment, we note that none of the 4,948 flats quota under the Phase 24A and Phase 24B sale programmes will be allocated to flats in Hunghom Peninsula. It means that the Housing Authority is not prepared to nominate home-owners to purchase the flats in Hunghom Peninsula on a date earlier than April 2003; and it is yet uncertain whether the Housing Authority will do so even after April 2003.

As you may be aware of, your Department has been pushing us hard to complete the Hunghom Peninsula development on time. In response, we have done our best to expedite the works; and as a result, we are expecting the issuance of the Occupation Permit for Hunghom Peninsula by the Building Authority within these two weeks.

Also, all the outstanding issues in connection with the consent to sell have been resolved with the Lands Department and the consent should be available shortly.

Whilst we acknowledge that there is Special Condition (25) under the Conditions of Sale of Kowloon Inland Lot No.11076 ("Grant"), we must however stress that it has all along been the practice of the Housing Authority since the implementation of the Private Sector Participation Scheme ("PSPS") that it would use its utmost endeavour to

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nominate home-owners to purchase the flats as soon as possible, and indeed there were occasions in the past that the Housing Authority had nominated home-owners to purchase the flats well before the development was completed. It was certainly not in the contemplation of either the Government or our Company when entering into the Grant that the Housing Authority would refrain from nominating home-owners to purchase the flats even when the development is completed.

We do not think it is the spirit of the PSPS or the original intention of the parties for the Housing Authority to simply rely on Special Condition (25)(b) due to a change of Government policy, and therefore refuse to proceed with any nomination altogether.

In any event, from the previous course of dealing and the surrounding circumstances of the case, we believe it is clear that the Housing Authority is obliged to use its utmost endeavour to nominate home-owners to purchase the flats in Hunghom Peninsula as soon as possible.

The current decision of the Government not to put the flats in Hunghom Peninsula for sale even after completion of the development is unfair and is totally contrary to the expectation of our Company, in particular, financially.

As it is now announced that no flat in Hunghom Peninsula will be offered for sale before April 2003 or at a even much later date yet to be determined, we think obliged to bring to your attention the extra and unexpected costs and losses that will be incurred due to the delay in the sale of the flats in Hunghom Peninsula.

Rates will be payable after the issuance of the Occupation Permit,

Though Government rents are payable in any event; but if the flats are sold, then they will not be the responsibility of our Company but will be payable by the home-owners.

When the development is completed, which will occur very soon, a management company will have to be retained to manage Hunghom Peninsula even though no flat is sold; and management fees will start to be payable as well.

From your experience in managing idle flats in other HOS projects, you will fully appreciate that huge expenses will be incurred for the regular maintenance of idle flats. This is now expected to happen in Hunghom Peninsula.

Another huge sum of money will need to be spent on repairs and replacements before all these idle flats are able to be put into the market for sale after a long period of non-occupation.

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Furthermore, if no flat in Hunghom Peninsula is sold, it will also be impossible for us to sell or to lease the shops and car parking spaces in the same development; and as a result, we will suffer loss of sale proceeds and rental income.

As a normal practice and in reliance upon the previous course of dealing between us, we have raised finances for the project and we expect to make repayment after realization of the proceeds on the sales or the rentals on the leases which we expect will take place right after or even before completion of the development. But now, to the contrary, substantial extra interests will accrue due to the delay in the sale.

As a rough estimate, the unexpected and extra costs and losses that we have to bear amount to HK\$167 million per year. Please refer to the annex for the estimated breakdown.

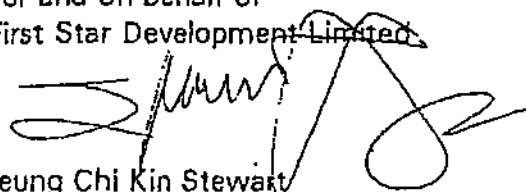
We are given to understand that it is due to the change of the Government's housing policy that a moratorium be imposed on the sale of HOS; and though such moratorium will soon be uplifted, that there will still be a restriction on the number of HOS flats to be available on the property market. And such change of Government policy causes the Housing Authority not to nominate home-owners to purchase the flats in Hunghom Peninsula in the foreseeable future, at least before April 2003.

This is however not a *force majeure* event but indeed only an administrative measure for the convenience of the Government in the implementation of its policy.

We are of the view and we strongly plead that, we, as a private developer, should not be, and it is inequitable for us to be, penalized and caused to suffer loss due to a change in Government policy. It is totally unreasonable and unfair that the Government shall implement its policy to the detriment and at the expense of a private developer who supports the Government by participating in the PSPS.

We therefore urge you to consider our concern seriously. We trust that, as a responsible Government, you and your colleagues must have already had plans on how to handle and resolve such a difficult situation which we are now facing. We sincerely look forward to having a meeting with you to discuss the matter.

Your faithfully,  
For and on behalf of  
First Star Development Limited

  
Leung Chi Kin Stewart

Encl.

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## Annex

### Estimated Costs and Expenses per 12 months

Rates	HK\$14.4M
Government Rents	HK\$8.6M
Management Fees	HK\$19.5M
Expenses for regular maintenance of idle units	HK\$10.0M
Expenses for repairs and replacements on idle units before they can be offered for sale in the market after long period of non-occupation	Cannot Be Ascertained
Loss of rental incomes generated from shops	HK\$7.0M
Loss of rental incomes generated from car parking spaces	HK\$7.5M
Loan Interest:	HK\$100.0M
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	HK\$167.0M
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