

# FIRST STAR DEVELOPMENT LIMITED

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2<sup>nd</sup> July 2002

BY HAND

Mr. Donald Tsang  
Chief Secretary for Administration  
The Government of Hong Kong Special Administrative Region  
12<sup>th</sup> Floor, West Wing  
Central Government Offices  
Lower Albert Road  
Central  
Hong Kong

Dear Mr. Tsang

**Private Sector Participation Scheme – Hunghom Peninsula in Kowloon Inland Lot No.11076, Hunghom Bay Reclamation Area, Kowloon (“Project”)**

We refer to the meeting between your goodself and our Dr. Cheng Yu Tung and Mr. Leung Chi Kin Stewart on 27<sup>th</sup> June 2002 at your offices during which we raised our concerns on the unforeseen difficulties that we are now facing in the Project due to a change in the Government policy. In the meeting, we both agreed that the matter needs to be attended to urgently.

As you may be aware of, the Project is now at its final stage. Most of the construction works have been completed. Though the consent to sell has not been issued by the Lands Department yet (we will address on the reasons of the delay at the latter part of this letter), we anticipate that the occupation permit will be issued at any time. Under normal circumstances, the Housing Authority should have already nominated home-owners to purchase flats in Hunghom Peninsula.

For your ease of reference, we enclose a copy of our letter dated 10<sup>th</sup> June 2002 to Mr. Anthony Miller, the then Director of Housing. The letter drew Mr. Miller’s attention to the unanticipated and unfair difficulties we will be facing and the extra and unexpected costs and losses that will be incurred if the sale of the flats in Hunghom Peninsula is to be delayed.

We do not intend to repeat our concerns or the figure of the estimated costs and losses again here. We however do want to emphasize that our current difficult situation arises simply because of a change in the Government housing policy. The failure of the Government to nominate home-owners to purchase flats in Hunghom Peninsula notwithstanding its completion is an absolute deviation from previous practice and course of dealing in the history of the Private Sector Participation Scheme (“PSPS”). The delay in the sale of the completed flats in Hunghom Peninsula is not a *force majeure* event but instead an administrative measure for the convenience of the

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Government in the implementation of its policy but to the detriment and at the expense of our Company.

In light of the above, we have been in the course of seeking counsel's opinion but trust that as a responsible Government, you would have plans or would at least be prepared to consider proposals to help both the Government as well as our Company to overcome the current difficult situation rather than leaving either party to resort the matter to legal process.

In this connection, we sincerely hope that the Government would consider the following proposals put forward by us.

## Our Proposals

### A. Conversion for Sale in the Private Property Market

Instead of keeping Hunghom Peninsula for sale under the PSPS (which, under the current Government policy, will not be materialized in the near future), will the Government consider converting it into private housing and putting it for sale jointly with us in the private property market? We are happy and eager to work together with the Government on such proposal.

As the quality standard for private housing is different from flats under the PSPS, we are of the view that the quality of the current flats in Hunghom Peninsula needs upgrading before they can be put up for sale in the private property market. We estimate that it will cost about HK\$200 per square foot.

Our Company will be responsible for the upgrading of the flats and their subsequent marketing and sale in the private property market.

We agree to bear the upgrading costs and the sale and marketing expenses of the flats provided that all these items, including the additional interests arising therefrom, as well as the extra loan interests on the Project accrued since the development is completed until its sale, are all deductible from the final sale price before sharing of any profit between the Housing Authority and our Company as hereinafter stipulated.

The flats will be sold at the prevailing market price, thus it will not cause any unfair competition to other developers in the private property market.

Then, we come to the proposal on the sharing of profit.

We believe that the Housing Authority must already have in mind the proposed sale price per square foot under the PSPS for the current flats in Hunghom Peninsula, or at least have a formula for such determination. We suggest that the Housing Authority will be entitled to the original profit margin and our Company will be entitled to the

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reimbursement as stipulated under Special Condition 27 of the Condition of Sale of the Lot ("Land Grant") based on the original sale price.

Then any difference between the final total sale price and the original total sale price, subject to the deduction of the upgrading costs, the sale and marketing expenses, and the interest aforesaid will be shared between the Housing Authority and our Company at a ratio to be further agreed. We appreciate that the property market is fluctuative and unpredictable; and we agree to bear such risk.

## B. Outright Buy-Out

Alternatively, will the Government consider an outright sale of all the flats in Hunghom Peninsula to one single buyer? Our Company will be interested to buy-out all the flats in Hunghom Peninsula at a reasonable price to be negotiated.

The above two proposals are all preliminary thoughts only. We will be happy to enter into further and detail discussion on the proposals with your offices or other responsible Government officials as soon as possible.

## Consent to Sell

We now come back to the issue on granting of the consent to sell which is crucial as it determines when the "20 calendar months" starts to run under Special Condition 25 of the Land Grant. The later the said period starts to run, the longer we have to wait before the provision for "buy-back by the Housing Authority" can be triggered.

We therefore consider it necessary to draw to your attention that notwithstanding that we had first submitted our application for consent to sell as early as on 31<sup>st</sup> March 2000, such consent has, up till now (2<sup>nd</sup> July 2002), not been granted yet.

The application for consent to sell goes hand-in-hand with and is dependant on the application for approval of the deed of mutual covenant and management agreement for the Project ("DMC") which was also submitted on the same date.

For your ease of reference, we enclose a chronological sequence of events showing what have happened after our submission.

You will notice that the Housing Department and the Lands Department raised new and major issues on the DMC only so late as on 28<sup>th</sup> February 2002, almost two years after our first submission. We have as usual used our best endeavour to address their concerns on the earliest possible. Some of the issues have eventually been resolved but there are still some which remain outstanding and await the determination by the Housing Department and the Lands Department.

Then, on 20<sup>th</sup> June 2002, further new issue was raised which requested for review of the whole set of the DMC according to the draft DMC Guidelines issued in October


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2001 irrespective that our application for approval of the DMC was first made in March 2000. Our solicitors have on today sent reply to the Lands Department objecting such request.

We are of the view that if the Housing Department and/or the Lands Department have any comments on our application for consent to sell and the DMC, they should have raised them as early as possible but not by bits and pieces and at such a late stage. Sceptically, we cannot help wondering that the Housing Department and the Lands Department are setting up obstacles to delay the issue of the relevant consents.

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



Cheng Yu Tung

c.c. Mr. Suen Ming Yeung Michael  
Secretary for Housing, Planning and Lands

Encl.