

政府總部  
發展局  
工務科

香港花園道美利大廈



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4 January 2011

3rd floor, Citibank Tower,  
3 Garden Road,  
Hong Kong Legislative Council Secretariat  
(Attn: Mr Stephen LAM)

Dear Mr Lam,

**Mechanism for application for compensation due to adverse effect  
on Fung Shui caused by public works**

Thank you for your letter dated 14 December 2010 which contained a referral from the Complaints Division of LegCo Secretariat dated 7 December 2010. The complainant considers that the Administration should put in place a stringent approving and monitoring mechanism to handle fung shui claims to ensure the proper use of public funds. Our response is as follows –

In general, claims for compensation arising from the implementation of public works which the residents claim to be related to fung shui can be classified into three categories viz Tun Fu allowance, ex-gratia allowance for clearance of graves, kam taps and shrines, and compensatory works.

Claims for Tun Fu allowance and ex-gratia allowance for clearance of graves, kam taps and shrines are lodged by indigenous villages affected by the public works. The claimants must furnish information on how their villages are affected and the extent of impact to substantiate their claims.

As regards claims for Tun Fu allowance, the Government has been paying since the 1960s Tun Fu allowance to the affected indigenous villages based on claims lodged by the claimants. The allowance is paid prior to commencement of construction of public works that involve land acquisition and clearance in the New Territories. It aims to maintain an amicable relation with the villagers for expediting works progress.

All claims for Tun Fu allowance must be fully justified and a list of itemised costs in respect of Tun Fu ceremonies must be submitted for consideration. Typical itemised costs include fung shui master's fee, Tun Fu master's fee, purchase of joss-papers and sticks, food to be offered in the ceremony etc. In determining the final amount of Tun Fu payment, the reasonableness of the claim with reference to previous similar claims, the distance between the locations of the public works and the villages or sites which fung shui is alleged to be affected, village size and population will be taken into account. The relevant District Officer will also be consulted. The granting of approval of the Tun Fu allowance is also based on established criteria. Each village may only submit one single claim in respect of each public works project. Payment for a claim under \$20,000 is approved by the relevant District Lands Officer. Payment between \$20,001 and \$30,000 has to be approved by the Director of Lands. A claim above \$30,000 has to be approved by the Secretary for Financial Services and the Treasury. After the ceremony, the village representative is required to submit to the relevant District Lands Office for record an account of expenditure for the Tun Fu ceremony.

As regards ex-gratia allowance for clearance of graves, kam taps and shrines, Government will consider paying such allowance to the indigenous villagers in the New Territories and local fishermen if their graves, kam taps and shrines have to be relocated as a result of public works. Such allowance will be assessed according to standard allowance rates, taking into account the types, sizes as well as building materials of the graves and shrines affected.

As regards compensatory works, works departments will in general strive to minimise impacts on the surrounding environment when implementing public works. However, when it is inevitable that the implementation of works, be it in the urban or rural areas, will cause adverse impacts or inconvenience to the surrounding environment, the public or businesses nearby, the works departments will adopt a people-oriented approach and provide community facilities or improve existing ones, such as Pai Lau, landscaping and resurfacing works according to circumstances, as

compensation to mitigate the negative impacts of the public works on the surrounding environment. This is to address public concerns and to maintain an amicable relation with the public for facilitating smooth implementation of works. While some residents may consider these compensatory works to be fung shui related, fung shui is actually not a consideration factor of the departments concerned. There were not many cases of such fung shui compensatory works in the past. As the Express Rail Link (XRL) project enters the construction stage with a large amount of works to be undertaken in the rural areas of the New Territories, there have been more discussions as well as claims for compensatory works recently. These claims are allegedly related to fung shui. But we must point out that fung shui is not a consideration factor of these compensatory works. Our objectives are to alleviate the residents' concerns and to mitigate the negative impacts of the works on the surrounding environment.

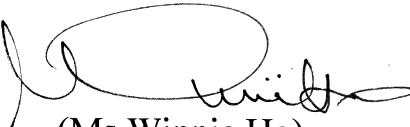
As stated above, fung shui claims for compensatory works were not common in the past. Excluding the XRL project, there was only one compensatory claim for Pai Lau received between 2007 and end of November 2010. The claim was eventually rejected as there was not sufficient justifications and support in terms of the benefits it may bring to the local community. Relevant departments currently consider each claim on a case-by-case basis. The implementation of public works will inevitably impact or cause inconvenience to the local communities at times. Therefore, we seek to protect the local environment, greening as well as the culture and history of the communities during the planning of the works. We will also endeavour to re-provision the community facilities affected as far as possible to minimise the impact of the works on the communities. The above principles are being followed in public works carried out in both the urban and the rural areas. Throughout the process, we will discuss details with the local communities as necessary in conjunction with relevant departments such as the works department and the District Office.

As there are quite a number of claims associated with the XRL project and in view of the public's concerns about the compensatory works, the Works Branch of Development Bureau plans to formulate principles and procedures for reference of the departments. These will cover the scope of application, factors for consideration, assessment criteria, project management and tendering procedures, with a view to enhancing operation transparency. Specific details will need to be adjusted to suit individual circumstances of the public works.

In implementing the compensatory works, the works departments will follow the established government procurement procedures. Government procurement adheres to the principles of open and fair competition and best value for money. All tenderers will be treated equally. So long as the contractors meet all the eligibility requirements, they can take part in the tendering exercise. Moreover, the government procurement procedures can ensure tenders will be assessed in a fair and equitable manner. Only tenders meeting the technical requirements and achieving the best value for money will be accepted. Works departments will be responsible for preparation of tender specifications and tender assessment. Claimants will not be involved in the process. As such, the possibility of collusion does not exist.

To conclude, we have in place a stringent approving mechanism to handle and monitor the three categories of fung shui claims for compensation, i.e. claims for Tun Fu allowance, ex-gratia allowance for clearance of graves, kam taps and shrines, and compensatory works, to ensure the proper and appropriate use of public funds.

Yours faithfully,



(Ms Winnie Ho)

for Secretary for Development

c.c. THB (Attn: Mr Fletch Chan)  
HyD (Attn: Mr Henry Chan)  
LandsD (Attn: Mr H W Law)  
HAD (Attn: Mr Andrew Tsang)