

香港特別行政區政府

The Government of the Hong Kong Special Administrative Region

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(Translation)

11 January 2011

Secretary General
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road,
Central, Hong Kong
(Attn : Ms Hedy FOK)

Dear Ms Fok,

**Meeting between Legislative Council Members
and Heung Yee Kuk Councillors on 20 January 2011**

**Review of the Town Planning Ordinance
Freezing of Private Land Uses and
Damage to Development Rights of Private Land as well as
Allowing People Other Than Those with Land Interests
to Apply for Conversion of Private Land Uses**

Thank you for your letter of 14 December 2010 to the Secretary for Development relating the concern of Heung Yee Kuk (HYK) about the existing Town Planning Ordinance (the Ordinance). Indeed, we have written to the LegCo Secretariat on 23 December 2010 in response to the concern from HYK. I would reiterate the Administration's position regarding the issues raised in your letter as follows:

Under the Ordinance, there is no statutory provision for

compensation for any development affected by a planning action. This system has been in use for many years and is also in line with the common law principles. Compensation issues related to planning actions were carefully considered by the Special Committee on Compensation and Betterment (the Special Committee) in 1992. Basically, the Special Committee held the view that it was reasonable to impose planning restrictions in the interest of the public. However, some amendments should be made to make the drafting of statutory plans more open and the planning application system more flexible with a view to striking a reasonable balance between public interest and private property rights. The Ordinance was amended in 2005 with the main purpose of increasing transparency and making the planning process more open and fair. Under the amended Ordinance, i.e., the Ordinance now in force, members of the public (including land owners affected) will have sufficient time to make comments of support or objection to a statutory draft plan published by the Town Planning Board (the Board) and all those submit comments could attend hearings. The consent of the land owner should be obtained or the land owner should be notified before an application is made for amendment of a plan (submitted under s.12A of the Ordinance) or for planning permission submitted under s.16 of the Ordinance). The Board will also publish the application for collecting public comments. In considering an application, the Board will take into account all relevant planning considerations including the planning intention specified on statutory plans, compatibility of land uses, the impact of the proposed developments and the public comments received.

An outline zoning plan (OZP) drafted under the Ordinance mainly provides a broad land use framework. The implementation of proposals of the land planned for public purposes on an OZP involves the allocation of resources and the priorities set by the relevant government departments. As land in the New Territories is mostly agricultural land, and uses which have been existing before the first gazettal of an OZP can continue, the use, disposal and inheritance of private property is hence not affected. When there are plans to implement the public purposes, the relevant departments will work in accordance with the established mechanism and the relevant ordinances.

Regarding change of land uses, as mentioned in paragraph 2 above, s.12A and s.16 of the Ordinance have clearly set out the requirements. Before making a relevant planning application, the applicant is required to obtain authorisation of or give notification to the land owner to ensure that the land owner is aware of the planning application and can give comments on it. In considering an application, the Board will also take into account the comments of the land owner to make a reasonable decision.

According to the existing procedures, after the Board approves a s.12A planning application, the amendments to land uses must be incorporated into a statutory plan for publication in the Gazette and consultation. Developments could only commence after the representations are heard and processed by the Board and the OZP is approved by the Chief Executive in Council. At the same time, the approval of a s.16 planning application made under an OZP does not mean that the applicant is entitled to implement the development at the application site. The approval of a s.16 planning application will not deprive a land owner's development right.

Thank you again for relaying HYK's views to us.

Yours sincerely,

(Anson LAW)
for Secretary for Development

c.c.

Director of Planning (Attn: Ms Donna Tam) Fax: 2877 0245