



香港地產建設商會

THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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27 April 2011

By fax (2761 7444) and mail

Your Ref: HDCR 4-3/PH/1-10/0-1

CB(1) 2081/10-11(01)

Secretary for Transport and Housing
Transport and Housing Bureau
33 Fat Kwong Street
Ho Man Tin
Kowloon

Attn: Mr. Eugene Fung

Dear Eugene,

Festival City Phase 2 (盛薈) in Tai Wai

I refer to your letter of 26 April 2011.

We are also disappointed by the repeated suggestions that we have not addressed the point again repeated in the 4th paragraph of your letter of 26 April 2011.

As our Compliance Committee has observed, the crux of this matter lies in a difference in interpretation between the developer and the Administration regarding the legal status of the Preliminary Agreement for Sale and Purchase under the Consent Scheme, in the context of the application of the proposed special stamp duty ("SSD"). Their conclusion is that *no REDA guideline was breached*.

As we have pointed out in our submission to the Bills Committee made under cover of our letter of 5 January 2011, the problem arose because whilst the Bill was being scrutinized in LegCo, the Administration had already adopted the attitude that the people of Hong Kong would have to order their affairs as if the proposed SSD were law. Further, the Administration was already providing interpretation on the charge to SSD and giving directions on compliance of the requirements of the proposal as if it were law. This state of "rule by decree" is highly undesirable and is in contravention of the spirit of the rule of law.

Please note that REDA cannot be expected to express an opinion, let alone adjudicate, on a dispute between a developer and the Administration on the interpretation of a proposed piece of legislation which, when the dispute arose, was yet to be formulated



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and presented to LegCo. Instead of making repeated requests of REDA to express a view on the dispute, we would respectfully suggest that the Administration should address the propriety of the way that it has sought to introduce and enforce a tax even before a Bill has been formulated and presented to LegCo.

On a closing note, while we would certainly welcome your passing this letter to LegCo, it would be presumptuous for you to assume, in your letter of 26 April 2011, that we have no further comments to make if you do not hear from us by noon of 27 April 2011, which is less than 24 hours from the issuance of your letter.

Yours sincerely

Louis Loong
Secretary General

c.c. Ms. Eva Cheng, JP, Secretary for Transport and Housing
Mr. Stewart Leung, Chairman, Executive Committee
The Honourable Abraham Shek