

**REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE
ON
REPORT NO. 58 OF THE DIRECTOR OF AUDIT
ON
THE RESULTS OF
VALUE FOR MONEY AUDITS**

July 2012

P.A.C. Report No. 58

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ACRONYMS AND ABBREVIATIONS

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Procedure

The Committee's Procedure The practice and procedure, as determined by the Committee in accordance with Rule 72 of the Rules of Procedure, are as follows:

- (a) the public officers called before the Committee in accordance with Rule 72 of the Rules of Procedure, shall normally be the Controlling Officers of the Heads of Revenue or Expenditure to which the Director of Audit has referred in his Report except where the matter under consideration affects more than one such Head or involves a question of policy or of principle in which case the relevant Director of Bureau of the Government or other appropriate officers shall be called. Appearance before the Committee shall be a personal responsibility of the public officer called and whilst he may be accompanied by members of his staff to assist him with points of detail, the responsibility for the information or the production of records or documents required by the Committee shall rest with him alone;
- (b) where any matter referred to in the Director of Audit's Report on the accounts of the Government relates to the affairs of an organisation subvented by the Government, the person normally required to appear before the Committee shall be the Controlling Officer of the vote from which the relevant subvention has been paid, but the Committee shall not preclude the calling of a representative of the subvented body concerned where it is considered that such a representative could assist the Committee in its deliberations;
- (c) the Director of Audit and the Secretary for Financial Services and the Treasury shall be called upon to assist the Committee when Controlling Officers or other persons are providing information or explanations to the Committee;
- (d) the Committee shall take evidence from any parties outside the civil service and the subvented sector before making reference to them in a report;
- (e) the Committee shall not normally make recommendations on a case on the basis solely of the Director of Audit's presentation;
- (f) the Committee shall not allow written submissions from Controlling Officers other than as an adjunct to their personal appearance before the Committee; and

Procedure

- (g) the Committee shall hold informal consultations with the Director of Audit from time to time, so that the Committee could suggest fruitful areas for value for money study by the Director of Audit.

2. **Confidentiality Undertaking by Members of the Committee** To enhance the integrity of the Committee and its work, members of the Public Accounts Committee have signed a confidentiality undertaking. Members agree that, in relation to the consideration of the Director of Audit's reports, they will not disclose any matter relating to the proceedings of the Committee that is classified as confidential, which shall include any evidence or documents presented to the Committee, and any information on discussions or deliberations at its meetings, other than at meetings held in public. Members also agree to take the necessary steps to prevent disclosure of such matter either before or after the Committee presents its report to the Council, unless the confidential classification has been removed by the Committee.

3. A copy of the Confidentiality Undertakings signed by members of the Committee has been uploaded onto the Legislative Council website.

4. **The Committee's Report** This Report by the Public Accounts Committee corresponds with Report No. 58 of the Director of Audit on the results of value for money audits which was tabled in the Legislative Council on 18 April 2012. Value for money audits are conducted in accordance with the guidelines and procedures set out in the Paper on Scope of Government Audit in the Hong Kong Special Administrative Region - 'Value for Money Audits' which was tabled in the Provisional Legislative Council on 11 February 1998. A copy of the Paper is attached in *Appendix 2*.

5. **The Government's Response** The Government's response to the Committee's Report is contained in the Government Minute, which comments as appropriate on the Committee's conclusions and recommendations, indicates what action the Government proposes to take to rectify any irregularities which have been brought to notice by the Committee or by the Director of Audit and, if necessary, explains why it does not intend to take action. It is the Government's stated intention that the Government Minute should be laid on the table of the Legislative Council within three months of the laying of the Report of the Committee to which it relates.

Consideration of the Director of Audit's Report tabled in the Legislative Council on 18 April 2012 As in previous years, the Committee did not consider it necessary to investigate in detail every observation contained in the Director of Audit's Report. The Committee has therefore only selected those chapters in the Director of Audit's Report No. 58 which, in its view, referred to more serious irregularities or shortcomings. It is the investigation of those chapters which constitutes the bulk of this Report. The Committee has also sought and obtained information from the Administration on some of the issues raised in another chapter of the Director of Audit's Report No. 58. The Administration's response has been included in this Report.

2. **Meetings** The Committee held a total of 10 meetings and two public hearings in respect of the subjects covered in this Report. During the public hearings, the Committee heard evidence from a total of 13 witnesses, including two Directors of Bureau and three Heads of Department. The names of the witnesses are listed in *Appendix 3* to this Report. A copy of the Chairman's introductory remarks at the first public hearing in respect of the Director of Audit's Report No. 58 on 30 April 2012 is in *Appendix 4*.

3. **Arrangement of the Report** The evidence of the witnesses who appeared before the Committee, and the Committee's specific conclusions and recommendations, based on the evidence and on its deliberations on the relevant chapters of the Director of Audit's Report, are set out in Chapters 2 and 3 of Part 4 below.

4. The video and audio record of the proceedings of the Committee's public hearing is available on the Legislative Council website.

5. **Acknowledgements** The Committee wishes to record its appreciation of the cooperative approach adopted by all the persons who were invited to give evidence. In addition, the Committee is grateful for the assistance and constructive advice given by the Secretary for Financial Services and the Treasury, the Legal Adviser and the Clerk. The Committee also wishes to thank the Director of Audit for the objective and professional manner in which he completed his Report, and for the many services which he and his staff have rendered to the Committee throughout its deliberations.

The Audit Commission ("Audit") conducted a review of the Hong Kong Council for Accreditation of Academic and Vocational Qualifications ("HKCAAVQ").

2. The Committee did not hold any public hearing on this subject. Instead, it asked for written response to its enquiries.

3. The Committee noted from paragraph 3.13 of the Director of Audit's Report ("Audit Report") that not all panel members engaged in the 20 accreditation exercises reviewed by Audit had submitted to the HKCAAVQ their declaration forms on conflicts of interest as required by the HKCAAVQ's guidelines. Paragraph 3.14 also revealed that some panel members had been appointed even though they might have a potential conflict of interest, and there was no documentary evidence showing the justifications for their appointment.

4. According to paragraph 3.18(b) of the Audit Report, the HKCAAVQ would revise the guidelines on appointment of specialists as panel members and the staff concerned would be reminded not to appoint specialists who had conflicts of interest with the operators. The Committee enquired:

- whether the HKCAAVQ would make it a mandatory requirement under its revised guidelines that specialists having conflicts of interest with the operators must not be appointed as panel members, and that all panel members must submit a declaration form on conflicts of interest to the HKCAAVQ; and
- if the requirements mentioned above would not be mandatory, how the HKCAAVQ could ensure that the situation of non-submission of declaration forms and appointment of panel members having conflicts of interest would not occur again.

5. The **Executive Director, HKCAAVQ** replied in his letter of 5 June 2012, in *Appendix 5*, that:

- the declaration of conflicts of interest by panel chairpersons and members of an HKCAAVQ accreditation panel was a mandatory

requirement under the Code of Conduct for Panels and practice of the HKCAAVQ;

- the HKCAAVQ would not appoint specialists with conflicts of interest as panel chairpersons or members. The appointment of all panels was approved by the Deputy Executive Director. Before formal appointment, the HKCAAVQ required prospective panel chairpersons and members to complete declaration forms, declaring that they did not foresee any potential conflicts of interest in engaging in the accreditation exercise and had read the HKCAAVQ Code of Conduct for Panels. Prospective panel chairpersons and members must return the declaration forms to the HKCAAVQ before their appointment. Staff of the HKCAAVQ would follow up on whether they had returned the declaration forms properly and on time;
- during the pre-accreditation exercise briefing, the Secretary of the Panel, a staff of the HKCAAVQ, would also ensure that the declaration forms were in place as a matter of practice. The HKCAAVQ had good reasons to suspect that the situation of non-submission of declaration forms occurred mainly as a result of misplaced documentation or filing errors relating to the declaration forms in the cases mentioned in the Audit Report. The HKCAAVQ assured that, in the future, there would be proper documentation on all matters related to declaration of conflicts of interest;
- under the current Code of Conduct for Panels, panel chairpersons and members were required to inform the HKCAAVQ of any possible conflicts of interest which might arise either before, during or following the accreditation activity, and make full disclosure of their interest to the HKCAAVQ at the earliest available opportunity. If a conflict of interest issue was identified in the course of an accreditation exercise, the panel chairperson or member involved must immediately put such issue before the panel and seek instruction. Depending on the circumstance, he/she might be required by the panel to withdraw from the exercise or be excused from the discussion and decision-making of a particular subject matter where the conflict of interest occurred. In some cases, where the conflict was considered to be slight or only tangibly possible, the panel chairperson or member involved might be allowed to continue in the panel's work; and

- the HKCAAVQ was revising the Code to give more specific advice to enhance staff's understanding of what constituted conflicts of interest. Examples would be developed into a database for reference. The HKCAAVQ expected that the revision would be completed by September 2012.

6. As stated in paragraph 4.8 of the Audit Report, Audit reviewed 10 notifications assessed by the HKCAAVQ in the period 2008-2009 to 2011-2012 (up to October 2011) and found that for 3 cases, there were delays by the operators in notifying the Education Bureau ("EDB") of the changes in the course registration details, with the delay ranging from four months to eight years. In this connection, the Committee asked whether the delay had affected any students who had enrolled in the registered courses concerned.

7. In his letter of 17 May 2012 in *Appendix 6*, the **Executive Director, HKCAAVQ** responded that:

- under the current system, a non-local course to be offered and taught in Hong Kong was required to be registered on the Non-local Higher and Professional Education Course Register ("Register") maintained by the Registrar of Non-local Higher and Professional Education Courses ("Registrar") of the EDB. Before such a non-local course was registered, the Registrar would usually seek advice from the HKCAAVQ which would assess whether a non-local course had met the registration criteria under the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) ("the Ordinance"). Amongst such criteria, one important aspect was that the non-local course to be offered and taught in Hong Kong must be of comparable standard as that in the home course offered and taught by the overseas institution;
- after registration, the operator was required under section 19 of the Ordinance to notify the Registrar within one month about any change in the course. Upon such notification, the HKCAAVQ was normally requested to advise the Registrar whether the change affected the meeting of the registration criteria of the course. The Registrar was the ultimate authority to determine whether the change affected the meeting of the registration criteria of the course; and
- the changes at issue were initiated by the overseas institutions offering the non-local courses in Hong Kong. When the HKCAAVQ conducted

assessments and asked the institutions about the changes, the institutions provided documentary evidence to confirm that the same changes took place in the comparable home courses. As a result, the Registrar was advised by the HKCAAVQ that the changes would not affect the meeting of the registration criteria of the courses in all the three cases.

8. The Committee also noted from paragraph 4.14 of the Audit Report that according to the service standard set by the HKCAAVQ, an assessment of a Continuing Education Fund ("CEF") course should be completed within eight weeks. However, Audit found that out of the 327 assessments completed by the HKCAAVQ on CEF courses in the period April 2008 to August 2011, 131 assessments had taken more than eight weeks to complete, and the average delay was about 6 weeks. The Committee asked whether any enrolled students of the CEF courses concerned had been affected.

9. The **Executive Director, HKCAAVQ** stated in his letter of 17 May 2012 that:

- a course provider could not promote its course as registered under CEF or enroll students who sought to obtain CEF subsidy before the course had gone through the assessment of the HKCAAVQ and received the approval of the Labour and Welfare Bureau for CEF registration. Therefore, the time required by the HKCAAVQ for course assessment would not directly affect any enrolled CEF learners; and
- in order to benefit the potential CEF learners who sought to enroll in CEF reimbursable courses with wider choices, the HKCAAVQ had streamlined the assessment process, substantially shortening the average assessment time to 6.7 weeks for the course applications received during the period between April 2011 and mid-January 2012.

10. The Committee notes the above replies of the Executive Director, HKCAAVQ and wishes to be kept informed of the progress made in implementing the various Audit recommendations.

A. Introduction

The Audit Commission ("Audit") conducted a review of the management of government land, covering the Lands Department ("Lands D")'s action to prevent, detect and rectify unlawful occupation of government land. The review focused on the following areas:

- prevention and detection action;
- enforcement action;
- Audit's case studies;
- Land Control Information System; and
- performance reporting.

B. Prevention and detection action

Inspections and investigations by District Lands Offices

2. As revealed in paragraph 1.12 of the Director of Audit's Report ("Audit Report"), the Lands D had accorded a relatively low priority to land control matters. Audit found that most of the unlawful government land occupation cases ("land control cases") were detected as a result of media reports and complaints from the public. Owing to the absence of regular inspections, the Lands D could not always detect unlawful occupation of government land in a timely manner, resulting in some government land sites having been unlawfully occupied for a long period of time without being detected. Moreover, the Lands D did not always take prompt and effective enforcement action on identified land control cases, causing some cases to remain unresolved for a long time after detection.

3. The Lands D stated in paragraph 1.14 of the Audit Report that owing to the large areas of unleased and unallocated government land and other higher priorities, District Lands Office ("DLO") staff mainly relied on complaints and referrals for taking land control action and they could only conduct patrols of the fenced-off and black-spot sites. The Lands D also stated that given the competing priorities, further resource redeployment to land control would unlikely be realistic.

4. Against the above background, the Committee asked:

- whether the Administration considered that it had satisfactorily discharged its duty to protect government land from unlawful occupation;
- whether the Secretary for Development had directed the Lands D to take measures to tackle the problem of unlawful occupation of government land and carry out its land control duties more effectively; and
- why the Lands D considered it unrealistic to deploy further resources to land control.

5. **Mrs LAM CHENG Yuet-ngor, Secretary for Development**, responded that:

- unlawful occupation of government land in the New Territories was of a diverse nature. Due to historical reasons, some government land and private land in the New Territories were interlocking, and some private-land owners would be tempted to encroach upon government land; and
- the Administration fully understood that both the Legislative Council ("LegCo") and members of the public were very concerned about the problem of unlawful occupation of government land. The Development Bureau always responded to Audit Reports in a positive manner. As pointed out in paragraph 1.16 of the Audit Report, she agreed that the Lands D should take prompt and effective action to protect government land from unlawful occupation. Paragraph 1.16(d) also stated that the Lands D was prepared to implement Audit's recommendations where feasible and practicable. As the responsible policy bureau, the Development Bureau would allocate the appropriate level of resources to the Lands D to enable it to execute its duties effectively.

6. **Miss Annie TAM Kam-lan, Director of Lands**, responded that:

- the Lands D dealt with land control matters seriously, including the problem of unlawful occupation of government land in the New Territories and the urban area. The Lands D encountered more

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problems in handling land matters in the New Territories due to the large areas of unleased and unallocated government land and the situation of interlocking government land and private land in the New Territories; and

- according to the Lands D's record, in 2004, 2,365 cases were completed and 4,954 cases were carried forward to 2005. However, as shown in Table 1 in paragraph 3.3 of the Audit Report, the Lands D had dealt with a large number of land control cases from 2008 to 2011. In 2008, 7,725 cases were completed and 5,292 cases were carried forward to the following year. In 2011, 9,006 cases were completed and only 3,909 cases were carried forward to the following year. All these figures indicated that the Lands D had made a lot of effort to deal with land control cases in the past several years.

7. The Committee pointed out that members of the public expected the Administration to discharge effectively its duty to protect government land from being unlawfully occupied and to take law enforcement action promptly against those people who breached the law. However, the Audit Report revealed that there were various cases of unlawful occupation of government land, some of which had existed for an excessively long period of time. It appeared to the Committee that the Lands D had been slack in taking law enforcement actions in land control matters.

8. The Committee also doubted whether the existing level of penalties (including fine and imprisonment) for unlawful occupation of unleased land under section 6(4) of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) ("LMPO") could produce adequate deterrent effect. As stated in paragraphs 3.27 to 3.29 of the Audit Report, of the 21 convicted cases from 2008 to 2011, the total amount of fines imposed was only \$81,900, and only one unlawful occupier was sentenced to three-month imprisonment in 2008 with suspension for three years. The maximum fine of \$10,000 under the LMPO was imposed in only two cases. In fact, the level of penalties under the LMPO had not been revised since 1972.

9. The Committee queried:

- why the Administration had not taken the initiative to amend the LMPO to raise the level of fines for unlawful occupation of unleased land in the past 40 years; and

- whether the Administration would take prompt action to review the LMPO and increase the level of penalties, including introducing a system of daily fine, so as to produce adequate deterrent effect against such offences.

10. The **Secretary for Development** replied that:

- as reported in paragraph 3.28 of the Audit Report, at a meeting of the LegCo Panel on Planning, Lands and Works in February 2004, the Director of Lands mentioned that the existing levels of penalty for offences of unlawful occupation of land did not have an adequate deterrent effect. The Lands D had followed up the matter with its policy bureau, proposing to increase the penalty and introduce a system of daily fine. The bureau had discussed with the Lands D the need for legislative amendment to enhance the deterrent effect. It transpired that in about 2007, the bureau took the stance that legislative amendment was time-consuming and complicated, and requested the Lands D to improve the situation through other means that did not require amendment to the law. To address the land control problem, the Lands D had taken other measures, such as redeployment of staff and convening case conferences to discuss difficult cases, and the situation had improved in the following years;
- both the Development Bureau and the Lands D had not raised the issue of legislative amendment or increasing the penalties for offences of unlawful occupation of government land during the current term of the Government; and
- she totally agreed that the level of penalties under the LMPO had not been reviewed for a long time and this was inappropriate. She would immediately direct responsible staff of the Development Bureau and the Lands D to conduct a review, with a view to putting up a proposal to amend the LMPO for consultation with the LegCo Panel on Development as soon as possible in the next LegCo session.

11. The **Director of Lands** supplemented that:

- the Lands D was fully aware of the public expectation for the department to properly manage government land. In response to the policy bureau's request in 2007, the Lands D had strived to explore other

effective means to address the land control problem. As reported in Table 2 in paragraph 3.5 of the Audit Report, most land control cases were dealt with by self-rectification, clearance action and referral to other government departments; and

- in some warranted cases with sufficient evidence, the Lands D would take prosecution action against the occupiers. However, there were not many prosecution cases because it was difficult to collect sufficient evidence.

The Lands Department's work priorities

12. While the Administration stressed that the Lands D attached great importance to address the land control problem, the Committee noted that in her various responses to the Audit recommendations as recorded in the Audit Report, the Director of Lands only "agreed to consider" the recommendations, but not "agreed to" the recommendations firmly. In contrast, the Secretary for Development used the term "agreed" in her response. The Committee asked whether the choice of the expression "agreed to consider" reflected that the Director of Lands lacked the determination to implement Audit's recommendations in dealing with land control matters.

13. The **Director of Lands** explained that she did not object to the general principles set out by Audit. However, as the Audit recommendations covered many details of the Lands D's work in managing government land, including the handling of land control cases, the Lands D had to examine thoroughly how its work procedures and the Lands Administration Office Instructions should be amended in order to implement Audit's recommendations. Hence, she used the expression "agreed to consider" for the sake of prudence.

14. The **Secretary for Development** added that it was pragmatic and prudent for the Director of Lands to state that she "agreed to consider" the Audit recommendations because some of them, such as amending the law and allocating more resources to land control functions, fell outside the Director of Lands' scope of responsibility and had to be decided by the policy bureau. As the bureau secretary, she could give a more direct response to those recommendations.

15. The Committee noted that at the Finance Committee special meeting this year, in reply to a Member's enquiry, the Director of Lands advised that the Lands D did not plan to increase resources for carrying out land control and lease enforcement work. Moreover, the Director of Lands mentioned in the Audit Report many times that the Lands D had other higher priorities. The Committee enquired whether the Lands D considered that it already had sufficient manpower to perform its land control duty and hence no additional resources were required, or whether it had attached a low priority to such duty.

16. The **Director of Lands** replied that:

- it was true that the Lands D had many competing priorities apart from land management, including land resumption, small house, changes to land lease and so on. The public expected the Lands D to discharge all such duties properly. Notwithstanding its other duties, the Lands D attached great importance to the management of unleased government land. Additional resources were allocated to conduct inspections and take enforcement operations against unlawful occupation through internal redeployment of staff resources. In 2004, there were only 131 Lands D staff deployed to carry out such functions and the number had increased by 78 to 209 in 2011. Of the 78 additional staff, 68 were deployed to perform land control duty in the New Territories; and
- when a land control case came to the attention of the Lands D through media reports or other channels, the Lands D would follow it up proactively. Case 3 mentioned in the Audit Report was an example. After the Lands D became aware of the case upon receipt of a media enquiry on suspected structures on government land in Sheung Shui, Lands D took immediate actions and all unauthorised structures on the sites concerned were removed within two months.

17. The Committee pointed out that one of Audit's criticisms was that the Lands D did not proactively conduct regular inspections targeting at unlawful government land occupation. It only acted in response to complaints and media reports. In the absence of regular inspections, many land control cases were undetected, with some having taken place for a long period of time. The Committee was also concerned that the Lands D's passive approach in conducting inspections and taking enforcement actions would encourage people to occupy government land illegally for many years, as they had a low risk of being detected. The Committee

asked whether the Lands D would adopt a proactive approach and conduct regular inspections.

18. The Committee also asked why the Lands D could resolve Case 3, which had been outstanding for a long time, in two months while some cases had remained unresolved for more than 10 years.

19. The **Director of Lands** explained that:

- although some cases had remained unresolved for a long time, the Lands D had in fact taken actions to deal with them over the years. Owing to the special circumstances of Case 3, it could be resolved shortly after being reported. Some cases, like Case 5, involved intermittent unlawful government land occupation and could not be resolved promptly;
- to completely safeguard government land from unlawful occupation would require round-the-clock guarding or surveillance of all unleased government land, which would incur enormous manpower and was not practicable. Hence, the Lands D mainly acted in response to complaints, media reports and referrals. Nevertheless, the Lands D would strategically protect those unleased land sites which were vulnerable to illegal occupation by fencing and conducting regular patrols on them (i.e. fenced-off and black-spot sites). The number of black-spot sites had increased from 408 in 2004 to 522 in 2011; and
- the Lands D also kept the land control situation under review from time to time. She had recently requested the DLOs to examine again the work of the review committees in their respective districts and their work procedures with a view to strengthening the actions on difficult cases and black-spot sites.

20. The **Secretary for Development** stated that:

- it was not practical to allocate an enormous amount of manpower resources to conduct patrols of all unleased government land. In recent years, she had tried to promote community monitoring whereby members of the public were encouraged to play a role in monitoring the use of public facilities and public resources, such as public open space

and management of trees. She would request relevant government departments to adopt measures to facilitate people in detecting and reporting land control cases; and

- she agreed that the Lands D's information system for land control matters should be improved. She had requested the Director of Lands to explore the use of information technology to assist the Lands D in monitoring land control cases, with a view to enabling the department to properly perform its duties without having to deploy a large amount of manpower resources to undertake inspection and surveillance duties.

21. It appeared to the Committee that community monitoring might not be effective because people living close to the unlawfully occupied land might be reluctant to report the case to the Administration for good neighbourhood relationship. On the other hand, people living far away might not have knowledge of the illegal occupation. The Committee enquired whether:

- the Administration would consider changing its existing passive approach for detecting unlawful occupation of government land; and
- the Lands D had made use of the aerial photography service to assist it in identifying and detecting land control cases, such as by comparing aerial photographs taken of suspected unauthorised structures on government land at different times.

22. The **Secretary for Development** agreed that the Administration should explore other useful means of managing government land. The Development Bureau and the Lands D would follow up the Committee's suggestions.

23. On the use of aerial photography, the **Director of Lands** said that:

- the Lands D's Survey and Mapping Office provided aerial photography service for all government bureaux and departments. On average, the Lands D shot more than 10,000 aerial photographs at different flying heights covering the whole territory of Hong Kong every year; and
- while aerial photographs were widely used in mapping, land administration and development, etc, they might not be useful for determining the size of a structure on a piece of land. Moreover, a

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large amount of manpower would be required if the Lands D was to compare all the aerial photographs taken every year. Nevertheless, the Lands D had recently adopted a procedure whereby upon receipt of a complaint about unlawful occupation of government land, the Lands D staff would check the aerial photographs taken of the site concerned first before conducting a site inspection. If unlawful occupation was suspected, the staff would bring along statutory notices for posting, thus shortening the procedure. However, Lands D staff still had to conduct physical inspections for the purpose of posting notices, collecting evidence, etc.

Self-detection by the Lands Department

24. To ascertain the effectiveness of the Lands D's patrols in detecting land control cases, the Committee enquired whether, in the past five years, there were land control cases which were identified by the Lands D during patrols instead of through media reports and complaints and which the Lands D had taken clearance actions subsequently.

25. In her letter of 25 May 2012 in *Appendix 7*, the **Director of Lands** stated that:

- in the past five years from 2007 to 2011, there were a total of 538 cases of unlawful occupation of government land which were identified by the Lands D during patrols, i.e. the self-detected cases. 291 of these cases were related to land in the New Territories while the remaining 247 involved land in the urban areas. Such cases mainly involved dumping on government land, erection of structures and fencings, etc; and
- in processing the cases, the relevant DLOs posted notices under section 6(1) of the LMPO. Some occupiers ceased the unlawful occupation before expiry of the notice period, but for some other cases, the DLOs needed to take further land control actions to clear the unlawfully occupied land through demolition/clearance by contractors or joint operations with the government departments concerned. Clearance actions had been completed in regard to all 538 self-detected cases.

26. The Committee noted that compared to more than 8,000 land control cases received by Lands D each year, there were few self-detected cases over the years.

C. Enforcement action

Prosecution action

27. The Committee was concerned that the land control problem had deteriorated in recent years. Table 1 in paragraph 3.3 of the Audit Report revealed that the number of suspected land control cases received by the DLOs had increased from 7,284 in 2008, 8,597 in 2009 to 9,109 in 2010. In 2011, 8,406 cases were received. In comparison, paragraph 3.21 revealed that the number of cases recommended by the Lands D for prosecution had decreased by 56% from 16 in 2008 to 7 in 2011, and the number of prosecution cases had also decreased by 82% from 11 in 2008 to only two in 2011.

28. The Committee further referred to paragraph 3.9 which stated that there was a large number of outstanding land control cases, and 70% of the outstanding Category I (high priority) cases as of December 2011 had exceeded the Lands D's four-month target, with four cases outstanding for more than 10 years.

29. The Committee questioned why the Administration had not stepped up law enforcement and prosecution actions to combat the aggravating land control problem, but had allowed the problem to persist. Given that the Lands D had informed Audit in paragraph 3.9(c) of the Audit Report that the long outstanding cases included those where the occupiers had sought the assistance of local dignitaries and influential bodies, the Committee further asked whether the Administration had not proactively dealt with the problem because of the pressure exerted by influential people and dignitaries in society. For example, an Executive Council Member had recently spoken in support of some villagers' occupation of government land.

30. The **Secretary for Development** stated that:

- the Development Bureau was responsible for formulating and implementing the Government's policy on unlawful occupation of government land. In the course of policy implementation, different persons might give different views. She would promptly make clarification when certain views were given by dignitaries who might cause confusion in the public. The Government's policy on land control matters was clear and would not be affected by the verbal remarks of individual persons;

- it was the Lands D's experience that some occupiers of government land would seek help from local dignitaries and influential bodies. For instance, in one of the case studies raised in the Audit Report, the relevant District Council had passed a motion demanding the Administration to allow some unauthorised structures erected on the occupied government land to remain. But such act would not affect the Lands D's law enforcement work; and
- the Lands D was the main enforcement agency for dealing with unlawful occupation of unleased land under the LMPO. The Lands D also played the role of a landlord in the management of government land. As a landlord, the Lands D would try to handle complaints about unlawful occupation by other possible means instead of resorting to prosecution action immediately. For example, self-rectification was a pragmatic way of resolving the unlawful occupation problem. If the occupier did not cease the unlawful occupation, the Lands D would institute prosecution. The effectiveness of the Lands D's work should not be measured by the number of prosecution cases.

31. On the Lands D's prosecution action, the **Director of Lands** stated that:

- under section 6 of the LMPO, when unlawful occupation of government land was detected, the Lands D would post a statutory notice requiring the occupier to cease the occupation within three days or more. Depending on the circumstances of the case, such as the presence and scale of unauthorised structures on the occupied land, 28 days would be allowed in accordance with the Department of Justice ("DoJ")'s advice. In other words, self-rectification was an option provided for under the law and the Lands D could not institute prosecution as soon as unlawful occupation was detected. If the occupier did not comply with the statutory notice, the Lands D could consult the DoJ to decide whether or not to institute prosecution. Prosecution action could only be taken when the occupier did not have reasonable excuses;
- as reflected in Case 1 of the Audit Report, in taking prosecution action, the Lands D faced difficulty in obtaining an occupier's confession, without which the Lands D would have to collect sufficient evidence. Very often, this was difficult as people were not willing to be witnesses; and

- the Lands D considered that apart from prosecution, self-rectification and clearance action could also produce deterrent effect because the structures erected at the occupier's cost would be removed.

Time for completing land control cases

32. The Committee also asked why the four Category I cases had remained outstanding and unresolved for more than 10 years. The **Director of Lands** responded that:

- although the Lands D had not completed action on the four cases at the time of the Audit Report, the department had in fact taken actions to deal with them over the years. Furthermore, in Case 5, the occupier cleared the unauthorised structures after the Lands D had posted notices requiring cessation of the unlawful occupation, but the occupation recurred afterwards. The situation repeated 10 times with clearance actions taken by the occupier on seven occasions and by the Lands D on the other three occasions. Subsequently, the occupier applied for a short-term tenancy ("STT") to use the land for gardening purposes, instead of for restaurant use as in previous applications. The application was acceptable and approved; and
- the above case showed that the Lands D had taken corresponding actions as the case developed.

33. As a large number of Category I cases had exceeded the four-month target, the Committee enquired whether the Lands D would review whether the target was still realistic.

34. Paragraph 3.12 of the Audit Report also stated that the Lands D considered it not practicable to set time targets for dealing with Category II (medium priority) and Category III (low priority) cases. The Committee asked whether the Lands D agreed that without setting targets for such cases, some of these unlawful land occupation cases might remain unresolved for a long period of time.

35. In her letter of 25 May 2012, the **Director of Lands** informed the Committee that:

- a review on the four-month target for completing Category I cases would be conducted jointly with the DLOs to revise such time target in light of the actual circumstances; and
- setting time targets for Category II and Category III cases was, to a certain extent, difficult and by no means practicable as the time taken for dealing with such cases might vary from one to another. Nevertheless, instructions had been given to the DLOs advising that except for special reasons, such as safety concern or the need to cope with the actions of other departments, land control actions should be taken against such cases principally according to the seriousness of the case of unlawful occupation and the priority order of dates of receipt of the relevant complaints and referrals.

Unlawful government land occupation over a watercourse in Yuen Long (Case 1)

36. The Committee noted from paragraph 3.24 that in Case 1, an unauthorised bridge was built on three private lots, spanning over a watercourse which was government land. As the bridge was built for the convenience of local villagers, the Committee asked whether the Lands D could consider other options rather than demolishing the bridge, or whether the Administration could take the initiative to build another bridge to serve the villagers' need.

37. The **Director of Lands** replied that:

- the Lands D understood that local residents and logistics operators needed the bridge for crossing the watercourse and accessing the separate land lots, and hence had considered accepting the STT application to regularise the occupation. The Lands D had consulted the relevant government departments on the STT. However, as the bridge had already been built and the government departments could not confirm its structural safety, the Lands D had to reject the application. If the occupiers had applied for an STT before building the bridge, the Lands D would have dealt with the application expeditiously and the works departments concerned could have given advice to address the safety concerns;

- following the rejection of the STT application, the DLO/Yuen Long had required the occupiers to demolish the bridge by 9 May 2012, failing which the DLO/Yuen Long would carry out the demolition. The DLO/Yuen Long would also seek legal advice and decide whether to institute prosecution; and
- as both sides of the watercourse were private land lots, the Administration could not build a bridge on those lots without the owners' consent. Moreover, the bridge was not an indispensable facility for the district. It might not be in the public interest for the Administration to spend public money on building a bridge which only served the need of a small group of people and logistics operators. In the present case, the occupiers should demolish the bridge first and build another one that met the safety conditions set by relevant works departments. Then they could apply for an STT again and the Lands D would process the application expeditiously. If they had difficulties in building the bridge, they could seek the assistance of the District Office (Yuen Long) of the Home Affairs Department ("HAD").

38. The **Secretary for Development** agreed that the Administration should facilitate members of the public. For instance, the Minor Works Control System was implemented with a view to providing an alternative to the established statutory procedures for building owners to carry out small-scale building works in a lawful, simple, safe and convenient manner. However, it was unacceptable for people to first occupy government land unlawfully and then apply for an STT for regularisation after being detected.

Safety of Lands Department staff in taking enforcement action

39. As stated in paragraph 1.6(c) of the Audit Report, the clearance of unauthorised structures detected on government land could be difficult due to resistance by the inhabitants. The Committee was concerned that frontline staff of the Lands D might be assaulted in carrying out inspections and land control actions. It therefore asked about the number of such cases and the number of cases in which Lands D staff had to seek the assistance of other government departments in gaining access to unlawfully occupied government land.

40. The **Director of Lands** stated at the public hearing and in her letter of 25 May 2012 that:

- in 2011, there were 20 cases in which Lands D staff were assaulted during the course of inspections or land control actions. Besides, there were 102 cases in the same year in which Lands D staff needed to seek the assistance of the Police or the concerned District Offices of the HAD in order to gain access to the unlawfully occupied government land; and
- the Lands D attached much importance to the safety of its staff in carrying out enforcement actions. The staff had greater difficulty in taking enforcement actions in rural areas where local people tended to resist more strongly. In launching a land control operation, the Lands D would assess if there would be strong resistance by consulting the relevant HAD District Office and the people concerned. Where necessary, the Lands D would enlist the assistance of the Police in carrying out clearance actions.

D. Audit's case studies

Prolonged unlawful occupation of government land without being detected (Case 2)

41. In Case 2, the prolonged unlawful occupation of government land was subsequently regularised by the granting of an STT. The Committee was concerned about Audit's comments in paragraph 4.6(e) that some people might take advantage of the STT arrangement by first unlawfully occupying government land, and then applying for an STT after the Lands D's detection, as in Case 2.

42. The Committee enquired about the criteria adopted by the Lands D in considering an STT application submitted by an unlawful occupier of government land after the Lands D had taken enforcement action, and whether the Lands D would reject such application.

43. The **Director of Lands** stated that:

- the Lands D did not encourage people to first occupy government land and then apply for regularisation by way of an STT. In considering granting an STT to regularise an unlawful occupation of government land, the Lands D would assess each case on its own merits. The

Lands D would consider various factors, such as whether the proposed use of the land concerned was appropriate, whether relevant government departments had any adverse comments and whether there was any local objection; and

- the STT applications by unlawful occupiers would not be approved by the Lands D indiscriminately. Of the seven cases studied by Audit, the STT applications in Cases 1, 3, 4 and 7 were rejected. When their applications were rejected, the occupiers would face the risk of being required to clear the unauthorised structures on the land concerned and being prosecuted.

44. The Committee noted from paragraph 4.4 of the Audit Report that the records relating to the land lot in Case 2 after the land resumption in March 1980 were missing. In response to the Committee's question, the **Director of Lands** said that the land resumption had taken place before the establishment of the Lands D. Despite its efforts, the Lands D could not trace the relevant land resumption file records. Hence, the purpose of resuming the land was not known.

Insufficient monitoring of licensed structures (Case 3)

45. In Case 3, the Lands D had noted serious breaches of the licence conditions of some structures in Sheung Shui some 20 years ago, but only cancelled the government land licence for the structures in late 2011. Moreover, paragraph 4.12(d) revealed that the DLO/North only informed Person C2 in May 2006 that his application submitted in 1991 for re-issue of a licence in his name could not be approved. The Committee asked about the reasons for the prolonged delay and the measures that the Lands D had taken to prevent recurrence of similar situation.

46. The **Director of Lands** explained at the public hearing and in her letter of 25 May 2012 that:

- some structures erected on government land were governed by government land licences ("GLLs") issued by the Government in earlier years and also were temporarily tolerated because they complied with the 1982 Squatter Survey records of the Housing Department. Case 3 was an example of such cases. The case was complicated as it involved structures licensed under two different systems and delay had occurred due to insufficient coordination between the two systems; and

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- a Technical Memorandum had been issued by the Lands D in May 2012 to provide guidelines on how the Squatter Control Unit staff should deal with situations where squatter structures were surrounded by illegal fences/gates or entry was refused for inspection and on ways to further improve the existing inspection procedures. As regards GLLs, the Lands D had also issued a memo to the DLOs in May 2012 to elaborate on the enhancement of the management and control of government land.

47. The Technical Memorandum and the memo of May 2012 mentioned above were also provided to the Committee in the Director of Lands' letter of 25 May 2012.

Unlawful land occupation in a country park (Case 4)

48. In Case 4, the DLO/Yuen Long detected as early as in April 1993 that there was a commercial recreational park development in Yuen Long, i.e. Tai Tong Lychee Valley ("TTLV"), which was partly located within the Tai Lam Country Park ("TLCP") with unauthorised structures erected on both private land and government land. As of June 2000, the recreational park unlawfully occupied an area of 4,672 square metres of government land, involving extensive site formation with landscaping, footpaths and open space in some of the country-park area. As of February 2012, the recreational park was still in operation and the DLO was processing a new STT application submitted by the park operator.

49. The Committee noted that after the case was revealed by the Audit Report and widely reported by the media, there had been recent press reports that the Lands D had posted a statutory notice on 19 April 2012 requiring the operator to stop the unlawful occupation by 28 April 2012, or else the Government would take clearance actions. Under such circumstances, the Committee questioned:

- why the unlawful government land occupation had not been rectified for more than 18 years after detection; and
- whether the Lands D had only taken vigorous law enforcement actions due to the pressure brought about by the Audit Report and the media.

50. The **Director of Lands** responded that:

- the Lands D had carried out enforcement actions during the years. Upon receipt of the case referred by the Agriculture, Fisheries and Conservation Department ("AFCD") in 1993, the DLO/Yuen Long immediately mounted a joint operation with the relevant government departments. As reported by Audit, from June 1996 to November 2011, the DLO/Yuen Long conducted 25 site inspections and issued 12 warning letters to the park operator, requiring him to demolish the unauthorised structures. During the period, the park operator had submitted eight STT applications for regularising the unauthorised structures on government land, all of which were rejected by the Lands D;
- it was found that due to an omission of the Lands D staff concerned to follow the department's instructions to input the case into the Land Control Information System ("LCIS") for land control actions after the Lands D had rejected the STT application in 2006, no action had been taken by the Lands D to demolish the unauthorised structures in the TTLV. The omission was not discovered by the Lands D's management and the case was left unnoticed until 2011 when the operator submitted another STT application;
- owing to the objection of the AFCD, the DLO/Yuen Long had recently rejected the STT application for regularising the existence of the 17 structures erected on the government land inside the TLCP. The DLO/Yuen Long posted a notice on site requiring the occupier to cease occupying the concerned government land before 29 April 2012; and
- the Lands D would not accept any new STT applications in respect of the TTLV unless the AFCD held other views. The Lands D had also referred the case to the DoJ for consideration of prosecution.

51. The Committee asked about the specific measures that the Lands D would take to improve its internal control systems and procedures so as to prevent the recurrence of similar omissions.

52. In her letter of 25 May 2012, the **Director of Lands** stated that the DLO/Yuen Long was examining past records in the LCIS to ensure that there was no case of similar nature in the system. The DLO/YL had also revised the working

procedures to ensure that land control records should be created first before follow-up action was taken by the land control team. An internal circular to this effect had been issued. In addition, the Lands D Headquarters had issued a memo to all the DLOs and the New Territories Action Team providing guidelines on the arrangement for data input of the LCIS with respect to those cases pending the outcome of the STT applications.

53. The Committee noted the view of the TTLV operator that the Government had infringed on his private property rights by incorporating his land lots into the TLCP. The Committee asked whether this was the case and whether the Administration had consulted affected local villagers before designating the TLCP.

54. The **Secretary for Development** responded that the TLCP was designated under the Country Parks Ordinance (Cap. 208) ("CPO") in the 1970s. In designating a country park for the benefit and enjoyment of the public, the Government did not take away the property rights of private land owners. However, the developments of the private lands inside country parks were subject to restrictions and this was the source of contention.

55. **Mr Alan WONG Chi-kong, Director of Agriculture, Fisheries and Conservation**, stated that:

- the private land inside the TLCP was agricultural lots. Private land in country parks was subject to the regulation of "Control of use of land in country park" (i.e. section 16 of the CPO) and lease conditions of the land. The use of private land within a country park could be changed after obtaining approval from the relevant authority according to established legal procedure. In the case of the TTLV, however, the operator only applied for STTs after the structures had been erected; and
- country parks were designated for the purposes of nature conservation and provision of recreational facilities to members of the public. Hence, the AFCD had all along had strong reservations about approving developments in country parks as that would be inconsistent with the purposes of country parks.

56. As regards the consultation prior to the designation of the TLCP, the **Director of Agriculture, Fisheries and Conservation** said that the TLCP was formally designated on 23 February 1979. In 1978, the Administration had consulted the affected parties and the public on the designation of several country parks, including the TLCP. The parties consulted included the then chairman and vice-chairmen of the Shap Pat Heung Rural Committee. Tai Tong Village was under the jurisdiction of Shap Pat Heung. No objection had been raised by the villagers of Tai Tong Village or the Shap Pat Heung Rural Committee.

57. In his letter of 17 May 2012 in *Appendix 8*, the **Director of Agriculture, Fisheries and Conservation** also provided a chronology of the events and actions taken by the Administration relating to the consultation before designation of the TLCP.

58. In response to the Committee's request, the **Director of Lands** provided in her letter of 25 May 2012 a detailed update on the progress made by the Administration in rectifying the unlawful occupation of government land in Case 4. In gist, she advised that:

- regarding the unauthorised structures erected on the government land inside the TLCP, the DLO/Yuen Long started to clear the structures remaining on site on 30 April 2012 upon expiry of the statutory notice on 29 April 2012. The clearance operation was completed on 4 May 2012. The concerned government land within the TLCP was under the management of the AFCD in accordance with the CPO;
- regarding the several structures erected on the government land outside the TLCP, the TTLV operator had applied to the DLO/Yuen Long for an STT. However, due to the objection of the AFCD, the DLO/Yuen Long rejected the application and posted a notice requiring the occupier to cease occupying the government land before 19 May 2012. The DLO/Yuen Long inspected the concerned government land upon expiry of the notice, and found that some of the structures erected on the government land remained on site. The DLO/Yuen Long immediately arranged to begin clearance operation on 21 May 2012; and
- on the first day of the clearance operation (i.e. 21 May 2012), the DLO/Yuen Long and its contractor's workers were met with furious resistance. Subsequently, escorted by more than 100 police officers, the DLO/Yuen Long and the contractor's workers demolished the

concerned structures in the following two days. The whole operation was completed on 23 May 2012. The site in question had been included in the "black spots" inspection programme. The DLO/Yuen Long would arrange regular patrols to deter recurrence of unlawful occupation of the site in the future.

Information on STT applications

59. To enhance the transparency of the Lands D's handling of STT applications and enable the public to help monitor unlawful occupation of government land, the Committee enquired whether the Administration would consider:

- setting time targets for handling an STT application for regularising unlawful government land occupation and uploading the targets onto the Lands D's website; and
- uploading onto the Lands D's website information on the STT applications received by the Lands D for using government land for private purposes or for regularising unlawful occupation of government land, so that the public might raise objection if necessary.

60. The **Secretary for Development** and the **Director of Lands** responded that:

- the time required for handling an STT application would vary according to the complexities and nature of each individual case. For some STT applications, the Lands D might need to consult the views of different government departments and would take longer time. It was the Lands D's practice to promptly follow up an application with relevant departments and inform the occupier of the decision as soon as possible. If the application was rejected, the Lands D would resume land control action;
- in deciding whether an STT could be granted, the Lands D would consider the applicant's financial position, credit status, etc. Hence, information on application for regularisation could not be published on the Internet or made available to the public because the identity and the personal data of the applicants would be revealed; and

- many of the STT applications received by the Lands D were related to using the land for gardening purposes. It would not be meaningful to introduce a complicated public consultation procedure for STT applications which would require a large amount of manpower to operate. In practice, in processing an STT application which was sensitive and might arouse concerns from the local district, the Lands D would take the initiative to request the relevant District Office of the HAD to consult related people and organisations, and the Lands D could also bring up the case for discussion at the relevant District Council.

E. Land Control Information System

61. According to paragraph 5.8 of the Audit Report, the existing LCIS was not effective in supporting the Lands D in managing its land control cases as it did not record the date of posting any statutory notice requiring clearance of structures on government land, or the date of any land control action taken. The LCIS also did not provide management reporting functions, such as ageing analyses and exception reporting of outstanding cases. The Committee asked:

- about the level of staff who were involved in developing the LCIS, and whether management staff had given any input; and
- the reason why DLO staff did not input data to the LCIS accurately and timely, as identified by Audit, and what remedial measures had been taken to improve the situation.

62. The **Director of Lands** replied that:

- different levels of staff were involved in developing the LCIS. The Lands D was fully aware of the limitations of the existing system and therefore had obtained funding for revamping it;
- as the LCIS was used by more than 200 staff, they might adopt different criteria for categorising cases and deciding whether a case should be treated as "completed". As such, the data input to the LCIS might not be accurate; and
- the Lands D issued guidelines to the DLOs to ensure the accuracy and completeness of the LCIS from time to time. Recently, the Lands D had issued a memorandum to remind the DLOs, among other things, to

adopt a uniform approach in counting the number of cases, and to timely submit statistical reports. The Lands D had also reminded the land control staff of the requirements during training courses and seminars. New staff would be informed during induction training courses.

63. The Committee noted from paragraph 5.19 of the Audit Report that the completion of the LCIS revamping project had been delayed from June 2012 to July 2014. The Committee enquired about the interim measures that the Lands D would put in place before completion of the revamping project to address the limitations of the existing LCIS, including improving data sharing and collaboration among the 12 DLOs and the Lands D Headquarters in the handling of land control cases.

64. In her letter of 25 May 2012, the **Director of Lands** advised that at present, the Lands D was able to obtain the necessary information in relation to the progress of land control cases through the existing LCIS. Nevertheless, the DLOs and the New Territories Action Team had been reminded to input data to the LCIS timely and accurately. The Lands D would continue to prepare analyses and case reports manually on regular and ad-hoc basis if required.

65. The Committee shared Audit's concern about the propriety of the Lands D's existing arrangement of marking a land control case in the LCIS as "completed" once the occupier had submitted an STT application, and creating a new case if the STT application was subsequently cancelled or not approved. The Committee noted that this might result in under-reporting of the actual age of a case, and Case 7 was an example. According to paragraph 5.16 of the Audit Report, in this case, the unlawful government land occupation had remained unresolved for eight years and 11 months, but the case was recorded in the LCIS as outstanding only for three years and 10 months.

66. The **Director of Lands** responded that under the Lands D's existing guidelines, a land control case would be regarded as completed after the related STT application had been dealt with. If another STT application relating to the case was received after some years, the case would be treated as a new one. However, the Lands D would review the guidelines in the light of Audit's comments and recommendations.

F. Conclusions and recommendations

67. The Committee:

Overall comments

- considers that land is a scarce and valuable resource in Hong Kong and it is of the utmost importance that the Lands Department ("Lands D") discharges effectively its duty to manage unleased and unallocated government land to protect such land from being unlawfully occupied;
- expresses serious dissatisfaction and disappointment about the persistent failure of the Secretary for Development, the Director of Lands and the officers who assumed the position of the land authority in Hong Kong in the past to effectively discharge their duty to protect government land from unlawful occupation and the Lands D's slackness in taking law enforcement actions in land control matters, in that:
 - (a) as revealed in the Director of Audit's Report ("Audit Report"), there were various cases of unlawful occupation of government land, some of which had existed for an excessively long period of time;
 - (b) the Lands D has accorded a low priority to land control matters and has deployed most of its resources to other duties such as land disposal and resumption;
 - (c) the Lands D has failed to proactively conduct regular inspections targeting at unlawful government land occupation, but has mainly acted in response to complaints and media reports;
 - (d) there were too few prosecution cases in comparison with the number of unlawful government land occupation cases ("land control cases") received by the Lands D. For instance, there were only two prosecution cases but a total of 8,406 cases in 2011;
 - (e) the Development Bureau and the Lands D have failed to review the level of penalties (including fine and imprisonment) for unlawful occupation of unleased land under section 6(4) of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) ("LMPO") during the current term of the Government, despite that the level of penalties has not been revised since 1972 and the fines for convicted cases of such offence were too lenient to have an adequate deterrent effect. For instance, of the 21 convicted cases

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from 2008 to 2011, the total amount of fines imposed was only \$81,900, with the maximum fine of \$10,000 imposed in only two cases; and

- (f) although the Lands D's existing Land Control Information System ("LCIS") is not effective in supporting the department in managing its land control cases, it has not taken prompt action to revamp the system;
- acknowledges:
 - (a) the Secretary for Development's undertaking to immediately conduct a review on the penalty for unlawful occupation of government land, with a view to putting up a proposal for amending the LMPO for consultation with the Panel on Development as soon as possible in the next Legislative Council ("LegCo") session; and
 - (b) the Secretary for Development's stance that it is unacceptable for people to first occupy government land unlawfully and then apply for a short-term tenancy ("STT") after being detected;
- finds it unacceptable and inexcusable that despite the Secretary for Development's above stance, some people can still take advantage of the short-term tenancy ("STT") arrangement to first unlawfully occupy government land, and then applying for an STT after being detected by the Lands D (Case 2 in the Audit Report is an example);
- strongly urges the Secretary for Development and the Director of Lands to:
 - (a) accord a high priority to tackling the problem of unlawful occupation of government land and deploy sufficient resources for carrying out the duty effectively;
 - (b) promptly initiate legislative amendments to increase the level of penalties and consider introducing a system of daily fine to ensure that the penalty for unlawful occupation of government land will be adequate for achieving a deterrent effect; and
 - (c) take specific and effective measures to translate into actions the Secretary for Development's stance, and ensure that an STT

application by an unlawful occupier of government land will not be entertained indiscriminately so as to demonstrate the Government's resolve to prevent abuse of the STT arrangement;

Prevention and detection action

- expresses grave dismay and finds it unacceptable that:
 - (a) in the absence of regular inspections of unlawful government land occupation (other than inspecting fenced-off and black-spot sites) by the Lands D, many land control cases were undetected, with some having taken place for a long period of time (Case 2 is an example);
 - (b) the Lands D did not always take prompt and effective enforcement action after detecting land control cases, resulting in some cases remaining unresolved for a long period of time (Cases 3 to 6 are examples);
 - (c) the patrol programmes of the District Lands Offices ("DLOs") were not properly documented and were not submitted to the Lands D Headquarters for monitoring; and
 - (d) the Lands D did not conduct inspections of licensed structures;
- acknowledges the Secretary for Development's initiative to promote community monitoring whereby members of the public are encouraged to play a role in monitoring and reporting land control cases, but considers the effectiveness of such initiative doubtful because people living close to the unlawfully occupied land may be reluctant to report the case for good neighbourhood relationship while non-neighbouring people may not have knowledge of the illegal occupation;
- strongly urges the Secretary for Development and the Director of Lands to identify measures to improve the effectiveness of the Lands D's work on the administration of government land, apart from promoting community monitoring;
- acknowledges that:
 - (a) the Secretary for Development has requested the Director of Lands to explore the use of information technology to assist the Lands D

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in monitoring land control cases, given the need to use resources effectively; and

- (b) the Director of Lands has agreed with the audit recommendation in paragraph 2.9(e) of the Audit Report;
- strongly urges the Director of Lands to:
 - (a) proactively explore effective measures, such as the development of integrated information technology systems and comparison of aerial photographs taken of suspected unauthorised structures on government land at different times, to assist the Lands D in detecting unlawful government land occupation;
 - (b) conduct an overall review of the Lands D's strategy, priority and resource allocation on management of unleased and unallocated government land, as recommended in paragraph 1.15 of the Audit Report;
 - (c) ascertain the magnitude of the land control problem, and take necessary preventive measures to reduce the number of land control cases as far as possible, as recommended in paragraph 2.9(a) of the Audit Report;
 - (d) strengthen the Lands D's publicity campaigns on prevention of unlawful occupation of government land, as recommended in paragraph 2.9(b) of the Audit Report;
 - (e) require the DLOs to strengthen and document their risk-based inspection programmes, as recommended in paragraph 2.9(c) of the Audit Report;
 - (f) require the DLOs to periodically submit their inspection programmes to the Lands D Headquarters for monitoring, as recommended in paragraph 2.9(d) of the Audit Report; and
 - (g) take measures to step up the Lands D's monitoring and control of surveyed structures and licensed structures, as recommended in paragraph 2.15 of the Audit Report;

Enforcement action

- expresses astonishment and finds it unacceptable that:
 - (a) 70% of the outstanding Category I (high priority) land control cases as of December 2011 had exceeded the Lands D's four-month target, with four cases outstanding for more than 10 years;
 - (b) the DLOs did not maintain records of the reasons for Category I cases not meeting the four-month target, at variance with the Lands D's requirement; and
 - (c) the number of land control cases recommended by the DLOs for prosecution had decreased by 56% from 2008 to 2011, and the number of prosecution cases had also decreased by 82% during the period;
- expresses great dissatisfaction and disappointment that:
 - (a) the Lands D has not set time targets for dealing with Category II (medium priority) cases and Category III (low priority) cases, and the Director of Lands considers it difficult and not practicable to do so;
 - (b) the existing LCIS cannot produce ageing analysis reports of land control cases or generate exception reports of long outstanding cases;
 - (c) the DLO/Yuen Long's staff concerned did not immediately record the confession made by the defendant in Case 1, resulting in acquittal of the case;
 - (d) the DLO/Yuen Long did not take action to stop the construction of an unauthorised bridge over government land in Case 1 which was found during a site inspection in March 2010, and the bridge had been allowed to remain over government land up to March 2012, giving rise to safety concerns; and
 - (e) as of March 2012, eight land control cases had remained unresolved for over one year after court conviction;

- expresses grave concern that in 2011, there were 20 cases in which Lands D staff were assaulted during the course of inspections or land control actions and 102 cases in which Lands D staff needed to seek the assistance of the Police or the concerned District Offices of the Home Affairs Department in order to gain access to the unlawfully occupied government land;
- acknowledges that:
 - (a) the Director of Lands would review whether the four-month target for dealing with Category I cases is appropriate; and
 - (b) the Director of Lands has agreed with the audit recommendation in paragraph 3.30(b) of the Audit Report;
- strongly urges the Director of Lands to:
 - (a) require the DLOs to ascertain the reasons for cases that have remained outstanding for a long time and expedite action to rectify them, take measures to ensure Category I cases meet the four-month target as far as possible, and document and report the reasons for each Category I case not meeting the four-month target, as recommended in paragraph 3.14(a) of the Audit Report;
 - (b) reconsider the setting of time targets for dealing with Category II and Category III cases, so as to ensure that such cases will be dealt with within a reasonable period of time;
 - (c) take measures to compile periodic exception reports on long outstanding land control cases, as recommended in paragraph 3.14(b) of the Audit Report;
 - (d) strengthen staff training by implementing regular training programmes on conducting investigation of land control cases and evidence collection, and organising experience-sharing sessions of prosecution cases, as recommended in paragraph 3.30(a) of the Audit Report;
 - (e) require the DLOs to take prompt clearance action for cases of continued unlawful land occupation after court conviction, as recommended in paragraph 3.30(c) of the Audit Report;

Unlawful occupation of government land

- (f) in respect of Case 1, take expeditious actions in collaboration with the District Office (Yuen Long) of the Home Affairs Department and other relevant government departments to assist the villagers to construct a bridge which meets the legal requirements for the convenience of the villagers;
- (g) take effective measures to protect the safety of Lands D staff in carrying out inspections and land control actions, including conducting detailed assessment on the risk of encountering obstruction before the actions and taking suitable precautionary measures, and providing adequate support and training to the staff; and
- (h) take prosecution action in cases where Lands D staff were assaulted in law enforcement actions as the circumstances warranted, so as to achieve a deterrent effect;

Audit's case studies

- finds it appalling and totally unacceptable that:

Prolonged unlawful occupation of government land without being detected (Case 2)

- (a) the unlawful occupation of a government land lot in Sheung Shui in Case 2 had not been detected during the 20-year period from March 1980 to December 2000;
- (b) the records relating to the land lot in Case 2 after the land resumption in March 1980 are missing;

Insufficient monitoring of licensed structures (Case 3)

- (c) notwithstanding that the Lands D had noted in Case 3 serious breaches of the licence conditions of some structures some 20 years ago, it only cancelled a government land licence for the structures in late 2011;
- (d) the DLO/North had not taken prompt follow-up action after issuing warning letters in March and December 2010 relating to the unauthorised building works at Site A;

Unlawful occupation of government land

- (e) the DLO/North only informed Person C2 in May 2006 that his application submitted in 1991 for re-issue of a licence in his name could not be approved;

Unlawful land occupation in a country park (Case 4)

- (f) notwithstanding that the Lands D had detected the unlawful occupation of government land by a commercial recreational park, i.e. Tai Tong Lychee Valley (located partly within the Tai Lam Country Park ("TLCP")) in Yuen Long in Case 4 as early as 1993, the unlawful land occupation had not been rectified for more than 18 years after detection;
- (g) as of June 2000, the recreational park unlawfully occupied an area of 4,672 square metres of government land, involving extensive site formation with landscaping, footpaths and open space in some of the country-park area;
- (h) owing to an omission of the Lands D staff concerned to follow the Lands D's instructions to input the case into the LCIS for land control actions after rejecting the park operator's STT application in 2006, no action had been taken by the Lands D to demolish the unauthorised structures in Tai Tong Lychee Valley. The omission had not been discovered by the Lands D's management until 2011 when the operator submitted another STT application;
- (i) the park operator had operated an unlicensed food business (without a licence under the Food Business Regulation — Cap. 132 sub. leg. X) and set up three exhibition rooms for displaying vegetables, farming instrument and insects without a licence under the Places of Public Entertainment Ordinance (Cap. 172), as revealed in two site inspections in December 2011 and January 2012 by the Food and Environmental Hygiene Department;

Intermittent unlawful government land occupation (Case 5)

- (j) the intermittent unlawful land occupation in Case 5 had taken place for over 10 years from October 1999 to January 2010 before the Lands D granted an STT to the village house owner in February 2010;

Unauthorised works on a government slope (Case 6)

- (k) the unauthorised platform on government land in Case 6 had existed for more than six years from July 2003 to January 2010 before the Lands D granted a temporary government land occupation permit to the house owner for site investigation and slope upgrading works with effect from February 2010, giving rise to slope safety concern;
 - (l) the DLO/Tuen Mun had not consulted the Geotechnical Engineering Office of the Civil Engineering and Development Department before issuing the temporary government land occupation permit in December 2011; and
 - (m) notwithstanding that the DLO/Tuen Mun had conducted 12 site inspections and issued a total of 13 warning letters from 2003 to 2011 in Case 6, it had not taken any clearance or prosecution action;
- commends the decisive acts of the Secretary for Development and the Director of Lands in taking law enforcement actions to rectify the unlawful land occupation and demolish the unauthorised structures erected on government land at Tai Tong Lychee Valley (Case 4) in late May 2012, despite the obstruction caused by some villagers to the operation;
 - acknowledges that:
 - (a) in respect of Case 4:
 - (i) the Director of Agriculture, Fisheries and Conservation has clarified that before the designation of the TLCP under the Country Parks Ordinance (Cap. 208) in February 1979, the Administration had consulted the affected parties and the public in 1978, including the chairmen and vice-chairmen of the rural committees concerned, and no objection had been raised by the villagers of Tai Tong Village or the Shap Pat Heung Rural Committee;
 - (ii) the various STT applications by the operator of Tai Tong Lychee Valley for regularising the unauthorised structures on the government land were all rejected by the DLO/Yuen Long

due to the objection of the Agriculture, Fisheries and Conservation Department; and

- (iii) the Lands D had successfully carried out clearance operations to remove the unauthorised structures erected on the government land inside and outside the TLCP in April and May 2012. The site concerned outside the TLCP has been included in the "black spots" inspection programme and the DLO/Yuen Long will arrange regular patrol to deter recurrence of unlawful occupation of the site in the future;
- (b) the Director of Lands has taken measures to improve the Lands D's working procedures for handling land control cases pending the outcome of STT applications, including the issuance of guidelines by the Lands D Headquarters to all DLOs on the arrangement for data input of the LCIS with respect to those cases pending the outcome of the STT applications;
- (c) the Director of Lands has agreed with the audit recommendations in paragraphs 4.13(b) and (c), 4.23, 4.40 and 4.44(b) of the Audit Report;
- (d) the Director of Food and Environmental Hygiene has agreed with the audit recommendations in paragraph 4.24 of the Audit Report;
- (e) the Director of Agriculture, Fisheries and Conservation has agreed with the audit recommendations in paragraphs 4.23 and 4.25 of the Audit Report; and
- (f) the Director of Civil Engineering and Development has agreed with the audit recommendations in paragraph 4.40 of the Audit Report;
- strongly urges the Secretary for Development and the Director of Lands to take decisive law enforcement actions to tackle warranted cases of prolonged unlawful occupation of government land, instead of taking actions only after such cases have been revealed by the Audit Report and widely reported by the media, thereby demonstrating the Lands D's determination to properly carry out its land control duties and deter unlawful occupation of government land;

- strongly urges the Director of Lands to:
 - (a) improve the internal control systems of the Lands D to ensure the DLO staff's compliance with the department's instructions and procedures for handling land control cases, and require management staff to strengthen supervisory checks to enable timely detection of non-compliance;
 - (b) consider setting time targets for handling STT applications and upload the targets onto the Lands D's website;
 - (c) improve the consultation procedure for the granting of STTs, and consider uploading onto the Lands D's website information on the STT applications received by the Lands D for using government land for private purposes or for regularising the unlawful occupation of government land for the knowledge of the public;
 - (d) review the public consultation procedure for designating a piece of land as part of a country park and make improvement as appropriate;
 - (e) formulate and implement a risk-based inspection programme for detecting unauthorised modifications or re-building of licensed structures, as recommended in paragraph 4.13(a) of the Audit Report;
 - (f) require the DLOs to take more effective enforcement action in cases involving intermittent occupation of government land, including taking prosecution action in warranted cases with sufficient evidence, as recommended in paragraph 4.31 of the Audit Report; and
 - (g) conduct a review to identify other long outstanding cases of unlawful government land occupation and take prompt and effective action to rectify and prevent such unlawful occupation, as recommended in paragraph 4.44(a) of the Audit Report;

Land Control Information System

- expresses grave concern:
 - (a) that the existing LCIS was not effective in supporting the Lands D in managing its land control cases;
 - (b) that the DLOs did not input data to the LCIS accurately and timely, and the system did not provide management reporting functions, such as ageing analyses and exception reporting of outstanding cases;
 - (c) about the propriety of the Lands D's existing arrangement of marking a land control case in the LCIS as "completed" once the occupier has submitted an STT application, and creating a new case if the STT application is subsequently cancelled or not approved because this may result in under-reporting of the actual age of a case; and
 - (d) that the completion of the LCIS revamping project, which aims to address the limitations of the existing LCIS, has been delayed from June 2012 to July 2014;
- acknowledges that the Director of Lands has agreed with the audit recommendations in paragraphs 5.17 and 5.22 of the Audit Report;
- strongly urges the Director of Lands to take effective measures to improve data sharing and collaboration among the 12 DLOs and the Lands D Headquarters in the handling of land control cases before completion of the LCIS revamping project; and

Follow-up actions

- wishes to be kept informed of:
 - (a) the progress made in implementing the various recommendations made by the Committee and the Audit Commission; and
 - (b) the land control actions taken by the Lands D in rectifying the unlawful government land occupation in Cases 1 and 6.

A. Introduction

The Audit Commission ("Audit") conducted a review of the Youth Square with focus on the following areas:

- operation and performance;
- planning and implementation; and
- the way forward.

2. According to paragraphs 1.7 to 1.11 of the Director of Audit's Report ("Audit Report"), in his Policy Address of 1998, the Chief Executive of the Hong Kong Special Administrative Region announced that the then Chai Wan Community Centre at Chai Wan Road would be redeveloped into the Hong Kong Centre for Youth Development (renamed as the Youth Square in April 2009) to serve as a focal point for youth development activities in Hong Kong. In March 2005, the Government decided that the Home Affairs Bureau ("HAB") would take up the direct responsibility of managing and operating the Youth Square and would bear all commercial risks arising therefrom. A Management Advisory Committee ("MAC") was set up in January 2009 to advise the Government on the overall strategy, objectives and the operation of the Youth Square. In February 2009, the HAB informed the Panel on Home Affairs ("HA Panel") of the Legislative Council ("LegCo") that it would strive to achieve full-cost recovery by making every effort to operate the Youth Square in a cost-effective manner.

3. In March 2009, through an open tender, the HAB awarded a management and operation contract ("the Contract") for the Youth Square to the only conforming tenderer ("the Contractor"), i.e. the New World Facilities Management Company Limited, for seven years from 23 April 2009 to 22 April 2016 at a sum of \$371 million.

4. **Hon Abraham SHEK** declared that he was currently an Independent Non-executive Director and a member of the Audit Committee of the NWS Holdings Limited.

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5. **Mr TSANG Tak-sing, Secretary for Home Affairs**, made an opening statement at the public hearing on 30 April 2012. The full text of his statement is in *Appendix 9*.

B. Operation and performance

Achievement of youth development objective

6. According to paragraph 2.6 of the Audit Report, the HAB had not set performance targets under the Contract to measure the extent of the Youth Square's contribution to youth development. The Committee asked how, in the absence of such performance targets, the HAB measured and ensured that the youth development objective had been achieved through the facilities and services provided at the Youth Square.

7. The **Secretary for Home Affairs** and **Mr CHENG Yan-chee, Deputy Secretary for Home Affairs**, responded that performance targets were set out in the Contract and the Contractor was required to achieve, among others, at least 70% for occupancy of the hostel, not less than 70% usage rate for the retail shops, offices and youth activity areas, and not less than 65% usage rate for the Y-Theatre, Y-Platform, Y-Studio, and organise at least 12 venue promotional programmes (with over 300 youths participating in each programme) a year.

8. The Committee further enquired whether there were any stipulations in the Contract governing the provision of facilities and services for youth organisations ("target users").

9. The **Deputy Secretary for Home Affairs** replied that:

- there was no specific stipulation in the Contract regarding the usage rates for the Youth Square venues and facilities by target users, except that in December 2009, the MAC and the Contractor agreed to set a target mix of 40% for hostel guests from youth organisations;
- to boost the occupation rate of the hostel and usage rates for the venues and facilities by target users, the MAC and the Contractor agreed to accord a higher priority to the target users and non-profit-making

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organisations in leasing the retail shops and offices at the Youth Square; and

- the above-mentioned rental policy had been promulgated on the Youth Square website.

10. The Committee further enquired whether there had been any international exchange activities held at the Youth Square and asked the HAB to provide details of the participants in these activities.

11. The **Secretary for Home Affairs** stated in his letter of 30 April 2012 (in *Appendix 10*) that a total of nine international exchange activities were hosted at the Youth Square between July 2010 and February 2012, but the HAB did not have any information about the participants in those activities.

12. The Committee was concerned that although a higher priority had been accorded to target users and non-profit-making organisations, the rental rates might not be affordable to most of the target users. To ascertain whether the HAB had addressed the need of target users in this regard, the Committee asked:

- how the rental rates and concessionary rental rates for target users were formulated, and whether the HAB had obtained information on the rentals charged by other similar facilities in the market to ensure that the level of the concessionary rental rates charged for the Youth Square venues and facilities were comparable to the prevailing market prices;
- the HAB's criteria in determining the concessionary rentals offered to target users in leasing the retail shops and offices at the Youth Square; and
- whether the HAB had studied the affordability of target users from time to time and made reasonable and timely adjustment to the concessionary rental rates, taking into account the prevailing market prices of other venues and facilities for use by youth organisations and young entrepreneurs.

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13. The **Deputy Secretary for Home Affairs** said that:

- the HAB had determined the rentals for the Youth Square venues and facilities by making reference to the rateable values of similar facilities provided by the Rating and Valuation Department and their market prices, with appropriate concessionary rentals granted to target users. As the facilities and services provided at the Youth Square were the first of its kind in the community, the rental rates could hardly be compared to other facilities available in the neighbourhood. The Rental Vetting Committee under the MAC would determine the appropriate level of concessionary rentals for each leasing application on its own merits;
- in the initial two years of the Youth Square's operation, the HAB had decided to offer concessionary rentals to both non-profit-making organisations and profit-making organisations in order to attract patronage to the Youth Square; and
- as the critical mass of the Youth Square had taken shape and the occupation rate of the hostel and usage rates for the retail shops and offices had reached a satisfactory level, the MAC and the Financial Services and the Treasury Bureau ("FSTB") agreed that concessionary rentals would no longer be offered to tenants from profit-making organisations for the new tenancy term commencing mid-2012.

14. According to paragraph 2.17(b) and Table 5 of the Audit Report, Audit observed that 15 out of 36 retail shops were let to tenants providing tutorial services. The Committee asked how the provision of tutorial services met the six objectives formulated by the MAC in December 2010 for the Youth Square, including encouraging innovative ideas from the youth and cultivating leadership skills, as set out in paragraph 2.7 of the Audit Report.

15. The **Deputy Secretary for Home Affairs** explained that the leasing of the retail shops in the first two years of the Youth Square's operation was not as positive as the HAB had expected. To avoid leaving the facilities vacant, tenants who met the criteria laid down by the MAC had also been accepted even though the services provided by some of them might not meet the youth development objectives. The MAC would give due regard to the changing circumstances and adjust the rental policy in a timely manner. He would report the Committee's concern to the Rental Vetting Committee under the MAC for its consideration of the leasing applications for the new tenancy term commencing mid-2012.

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Usage of facilities and youth patronage

16. As revealed in paragraphs 2.24 and 2.25 of the Audit Report, the utilisation rates of facilities for audio recording, video recording and editing, photographic production, fashion and design, dancing and exhibition were less than 50%, reflecting that the facilities were not gainfully used for youth development. The Committee asked whether the HAB had studied the reasons behind the low utilisation rates of such facilities and proposed any effective measures to improve the situation, such as collaborating with youth-related organisations to host more meaningful and attractive youth programmes at the Youth Square and making arrangements to facilitate those living in remote areas to join activities held at the Youth Square during the summer vacation and weekends.

17. The **Deputy Secretary for Home Affairs** responded that:

- the overall design of and the facilities provided at the Youth Square were formulated taking into account the views and suggestions expressed by various stakeholders, including the Commission on Youth, youth organisations and youth-related non-governmental organisations ("NGOs") during the initial design stage;
- in response to the changing circumstances and needs of youths, the HAB had directed the Contractor to make efforts to promote the facilities to target users and offer rental concessions during non-prime time to attract more youth patronage; and
- the HAB had organised programmes including activities on civic education and accepted the hosting of non-youth related programmes at the Youth Square in the first two years of its operation to bring in greater visitor flow. Efforts had also been made to identify strategic partners for staging annual events such as Hong Kong Schools Speech Festivals, Hong Kong Schools Music Festivals, etc. at the Youth Square so as to boost the usage of facilities by target users.

18. The Committee noted from Table 4 in paragraph 2.17(a)(i) of the Audit Report that many of the offices at the Youth Square did not appear to be active in business during Audit visits on ten occasions between September 2011 and February 2012. To ascertain the causes of the situation, the Committee asked about the booking sessions and opening hours of the Youth Square venues and facilities.

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19. The **Deputy Secretary for Home Affairs** said that the facilities of the Youth Square opened from 8:00 am to 11:00 pm daily. In his letter of 8 May 2012 in *Appendix 11*, the **Secretary for Home Affairs** supplemented that rentals were charged on an hourly basis for the conference room, dance studio, multi-purpose and function rooms, and charged by sessions for a minimum of 4 hours for the Y-Theatre, Y-Studio, etc.

20. In response to the Committee's request, the HAB provided a copy of the standard tenancy agreements for the retail shops and offices at the Youth Square for the Committee's reference. The Committee asked whether:

- the HAB agreed that the standard tenancy agreements for the retail shops and offices were too complicated for young entrepreneurs to comprehend and some of the constraints on the use of the premises were too rigid and excessive, and the opening hours of the venues and facilities did not cater to the practical need of young people who might need to hire the facilities overnight;
- the HAB considered that the booking sessions of the facilities on an hourly basis were not flexible enough for those youth groups which really needed to hire the facilities on a daily basis; and
- the HAB had introduced a focused marketing strategy targeting at youth organisations and young entrepreneurs.

21. The **Deputy Secretary for Home Affairs** explained that:

- in the case of young entrepreneurs, the HAB and the Contractor would explain to them in detail the terms and conditions set out in the tenancy agreements before the agreements were signed. The tenancy agreements for the Youth Square's retail shops and offices were in fact the standard tenancy agreement commonly used for other government premises;
- regarding the opening hours of the facilities, he would report the Committee's concern to the MAC and the Contractor and find out if some flexible arrangements could be made without causing security problems;

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- on the booking sessions, certain flexibility could be exercised by the Contractor should the youth groups really need to hire the facilities on a daily basis; and
- the rental policy including the concessionary rental rates for target users had been promulgated on the Youth Square website. Whenever the retail shops and offices were available for leasing, notices would be posted on the Youth Square website and those individuals or organisations who had enquired about the leasing arrangements in the past would be contacted.

22. The Committee further asked about the parties which were responsible for the selection of tenants and the marketing of the Youth Square venues and facilities.

23. The **Deputy Secretary for Home Affairs** and **Ms Kitty YU Wing-lun, Principal Assistant Secretary (Civic Affairs), HAB**, replied at the public hearing, and the **Secretary for Home Affairs** stated in his letter of 27 April 2012 in *Appendix 12* that:

- the MAC, chaired by the Permanent Secretary for Home Affairs, advised the Government on the operation of the Youth Square, including the overall strategy and objectives, themes and contents of youth development programmes, and the use, allocation, rental and fees of facilities. The MAC also assessed the effectiveness of youth development programmes held at the Youth Square and monitored the performance of the Contractor. The Contractor was appointed to manage and operate the Youth Square on behalf of the Government, and was responsible for the marketing of the retail shops and offices. The Contractor was also required to report regularly to the MAC on its operation strategy and work results; and
- all applications for leasing the retail shops and offices at the Youth Square were vetted by the Rental Vetting Committee according to the leasing policy adopted by the MAC. The Rental Vetting Committee was chaired by a representative of the HAB, with members drawn from the MAC.

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24. The Committee noted that the number of visitors to the Youth Square was a meaningful quantitative indicator for assessing the extent to which the Youth Square had been a focal point of youth development activities. As revealed in paragraph 2.26 of the Audit Report, however, the existing methodology adopted by the Contractor for reporting the visitor-flow figures failed to yield the actual number of visitors to the Youth Square. In this connection, the Committee enquired about the measures that the HAB had taken to address the problem, and whether other management information and statistics, including the visitor numbers categorised by target users and non-target users, would be produced in the future.

25. The **Deputy Secretary for Home Affairs** responded that:

- the existing methodology adopted by the Contractor for reporting the visitor-flow figures were commonly used by property management agencies for keeping track of the popularity of a facility. The statistics were useful for the MAC in monitoring the popularity of the Youth Square facilities and, in particular, the trend of the change over time; and
- the HAB had undertaken to conduct a review on the management and operation mode of the Youth Square in 2013 and would engage various stakeholders in the review. The HAB would work out with the Contractor in the review as to how to compile more useful management information and statistics, such as the number and profile of participants of various programmes held at the Youth Square, in an effective manner and at minimal costs.

26. The Committee wondered why, despite that the Youth Square was under the HAB's on-going monitoring and supervision, the above problems and deficiencies in the operation of the Youth Square only surfaced at the time Audit conducted the review but had not been identified and addressed by the HAB earlier. It appeared to the Committee that the HAB had overly relied on the Contractor for managing and promoting the Youth Square. As such, the Committee asked:

- about the level of manpower support deployed by the HAB to the management of the Youth Square project, and whether the HAB considered it an appropriate level given the current operating results; and

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- whether the HAB had established a mechanism to ensure that the views and suggestions given at the MAC meetings were properly followed up.

27. In response, the **Secretary for Home Affairs** and the **Deputy Secretary for Home Affairs** explained that:

- as the Youth Square had only operated for two years, it was difficult to achieve the youth development objective and the full-cost-recovery objective as it took time for the image of the Youth Square to be built up and the facilities thereof to be well-received by youth groups and young people. Through the stepping up of measures by the Contractor, the HAB had seen improvements in the utilisation rates of some of the facilities recently;
- as regards the manpower issue, the Permanent Secretary for Home Affairs was the chairman of the MAC. Although no checklist of follow-up actions was separately compiled after each meeting of the MAC, the Deputy Secretary for Home Affairs and the Principal Assistant Secretary (Civic Affairs) who attended the MAC meetings were responsible for taking forward the valuable views and suggestions made by MAC members. They also worked closely with the Contractor to ensure that those recommendations were properly followed up. Besides, for day-to-day operational matters, a team of HAB staff were stationed at the Youth Square and they worked with the Contractor on a daily basis to promptly tackle any issues and matters arising from the operation of the Youth Square; and
- since March 2010, an item of "Matters Arising" was included in the agenda of MAC meetings for reporting the follow-up actions taken on matters arising from the previous meetings.

C. Planning and implementation

Consultation with stakeholders

28. As revealed in paragraph 3.27 of the Audit Report, although the Steering Committee and the MAC included members who had rich experience in youth development work or strong connection with youth groups, the Steering Committee became inactive after September 2004 and the MAC was not set up until January 2009. The Committee queried whether the HAB had, during the period

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2005 to 2008, obtained adequate input from various stakeholders in deciding the terms and conditions of the Contract, including the appropriate performance targets to be set.

29. In response to the Committee's query, the **Secretary for Home Affairs** stated in his letter of 16 May 2012 (in *Appendix 13*) that as the Steering Committee had not convened further meetings after September 2004, no records of the Steering Committee's discussions on the tendering exercise (including the setting of performance targets) were available.

30. The Committee referred to the membership list of the MAC (in *Appendix 12*) and noted that the ex-officio members included a representative from the Eastern District Council and a representative from the Board of Management of the Chinese Permanent Cemeteries. The Committee asked why those representatives were appointed and whether they belonged to any youth-related organisations.

31. The **Deputy Secretary for Home Affairs** replied that:

- during the initial planning stage, the Youth Square was planned to serve the youths from across the territory and neighbouring residents in the Eastern District, hence the HAB considered it appropriate to appoint a representative from the Eastern District Council as an ex-officio member; and
- the Board of Management of the Chinese Permanent Cemeteries made a donation of \$200 million to sponsor the construction of the Youth Square. Therefore, the HAB appointed its representative to sit on the MAC in recognition of their support to the Youth Square project.

Provisions for penalties and incentive management fee

32. To ascertain whether the HAB had included terms and conditions in the Contract that were conducive to encouraging satisfactory performance on the part of the Contractor, the Committee asked whether:

- there were any provisions in the Contract which empowered the HAB to impose penalties under prescribed conditions, such as when the Contractor failed to meet the agreed performance targets; and

- the HAB had imposed penalties on the Contractor so far and if it had, the level of the penalties and the reasons thereof.

33. The **Secretary for Home Affairs** informed the Committee in his letter of 4 June 2012 (in *Appendix 14*) that:

- according to Clause 50 of Part II "Conditions of Contract" of the Contract (in *Appendix 11*), when the Contractor failed to achieve 90% of the agreed minimum performance targets of any one of the Key Performance Indicators ("KPI") set out in Clause 21.3 of Part VI "Service Specifications", the Government had the right to deduct the annual basic management fee according to the following formula:

Level of performance target achieved under each KPI	Extent of deduction for each KPI (% of the annual management fee for the year)
(a) More than 80% but less than 90% of the agreed minimum performance target	0.3%
(b) Less than 80% of the agreed minimum performance target	0.5%

- in 2009-2010, the Contractor failed to meet the following two performance targets:
 - (a) for the usage rate of retail shops, studios and youth activity areas where the agreed minimum performance target was 70%, the Contractor could only achieve a usage rate of 49.1% (i.e. less than 80% of the agreed minimum performance level); and
 - (b) for the usage rate of auditorium and exhibition platform where the agreed minimum performance target was 65%, the Contractor could only achieve a usage rate of 56.2% (i.e. more than 80% but less than 90% of the agreed minimum performance level); and

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- as a result of the above and given that the annual basic management fee for 2009-2010 was \$53 million, a total of \$424,000 (i.e. an aggregate of 0.8%) had been deducted.

34. The Committee also noted that Clauses 49.6 to 49.8 of Part II "Conditions of Contract" of the Contract (in *Appendix 11*) provided for an incentive management fee payable to the Contractor. It appeared to the Committee that the relevant clauses were too generous as the HAB would pay an additional 4% of the basic management fee to the Contractor if it was able to achieve just over and above all performance targets, which was a very low threshold. The Committee therefore asked whether the incentive management fee provision was a standard provision in similar government contracts.

35. In his letter of 4 June 2012 in *Appendix 14*, the **Secretary for Home Affairs** stated that the payment of an incentive management fee to a government contractor under certain conditions was not unique to the Contract for the Youth Square.

Tender assessment

36. As revealed in paragraph 2.40 of the Audit Report, the management fees (\$371 million for a period of seven years) payable to the Contractor, who was the only conforming tenderer, were 86% over the pre-tender estimate of \$200 million as specified in the relevant tender report submitted to the Central Tender Board in February 2009. The Committee asked about details of the tenders received, whether the Central Tender Board had been consulted and whether the HAB had considered any other options, such as re-tendering, when it knew that the management fee collected by the only conforming tenderer was significantly higher than the original estimate.

37. **Miss Cathy CHU, Deputy Secretary for Financial Services and the Treasury (Treasury), FSTB**, said at the public hearing and the **Secretary for Home Affairs** explained in his letters of 18 May 2012 (in *Appendix 15*) and 25 May 2012 (in *Appendix 16*) that:

- two tenders had been received for the management and operation services of the Youth Square. Regarding the tender assessment, the HAB had formed a tender assessment panel to assess the tenders

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received. Having assessed the tenders for the service contract, the tender assessment panel found that only one tender fully met the tender requirements, and the panel submitted the tender report (including the recommended tender) to the Central Tender Board for approval; and

- in considering the tender report, the Central Tender Board noticed that the tender price of the recommended tender was significantly higher than the HAB's pre-tender estimate. The Central Tender Board therefore requested further information from the HAB to help assess whether the price of the recommended tender was reasonable, and advised the HAB to negotiate with the tenderer of the recommended tender to obtain a better price. The HAB subsequently replied to the Central Tender Board that after negotiating with the concerned tenderer, the tenderer agreed to lower the tender price from the original \$385 million to \$371 million. At the same time, the HAB also informed the Central Tender Board that by accepting the tender price, the operating expenses would still be lower than those of other similar facilities. In addition, the HAB stated that it would shoulder the increase in the tender price through internal redeployment of resources and other methods. The Central Tender Board ultimately approved the tender report with the revised tender price.

D. Conclusions and recommendations

38. The Committee:

Overall comments

- notes that:
 - (a) the Youth Square, with a capital cost of \$771 million, is a unique project that involves high project risks and is a key government investment to promote youth development;
 - (b) although the Youth Square is expected to serve as a central facility for youth development, it is located in the eastern part of the Hong Kong Island;
 - (c) the Government has taken up the direct responsibility of managing and operating the Youth Square and bears all commercial risks arising therefrom. A Management Advisory Committee ("MAC")

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was set up in January 2009 to advise the Government on the overall strategy, objectives and the operation of the Youth Square;

- (d) there was only one conforming tender received for the management and operation contract ("the Contract") for the Youth Square, and the tender report (including the recommended tender) was approved by the Central Tender Board; and
- (e) the Youth Square was officially opened in March 2010 and has been fully operated for only two years (up to March 2012). It may be premature to conclusively establish the effectiveness of its operation;
- considers that the promotion of youth development is a meaningful policy objective and warrants the Government's subsidy, and it is the Home Affairs Bureau ("HAB")'s responsibility to ensure that the public funding allocated to the Youth Square is able to achieve the intended objective of youth development;
- expresses grave concern that :
 - (a) there was a significant difference between the pre-tender estimated cost (\$200 million) and the tender price (\$371 million) of the Contract and the HAB had not informed the Legislative Council ("LegCo") of the difference;
 - (b) the objectives of youth development and full-cost recovery that the HAB aims to achieve for the Youth Square might be in conflict;
 - (c) the HAB has achieved neither the objective of youth development nor the objective of full-cost recovery in the first two years (up to March 2012) of the Youth Square's operation, as reflected by the low utilisation rate of the Youth Square venues and facilities by youth organisations ("target users") and the unsatisfactory operating results as identified in the Director of Audit's Report ("Audit Report");
 - (d) the HAB has failed to include in the Contract specific terms that require the Contractor, who was appointed to manage and operate the Youth Square on behalf of the Government, to target at youth organisations in providing services for the Youth Square. For instance, there are no stipulations on the target-user mix of the

Youth Square

hostel, target-user usage of the venues and facilities and youth programmes held at the Youth Square;

- (e) in the absence of specific contract terms requiring the Contractor to focus on target users, the Contractor has mainly worked towards meeting the performance targets on occupation rate of hostel and usage rates for venues and facilities, and has limited incentive to make effort to boost target users' usage of the Youth Square. Neither does the HAB have the contractual right to demand the Contractor to make improvement in this regard; and
 - (f) some of the terms and conditions in the Contract may not be able to encourage satisfactory performance of the Contractor, as follows:
 - (i) the maximum level of penalty (i.e. a deduction of 0.5% of the annual basic management fee for achieving less than 80% of the agreed target of any of the key performance indicators) to be imposed on the Contractor is too lenient. As a result, only 0.5% of the management fee could be deducted in 2009-2010 when the Contractor only achieved a usage rate of 49.1% for the retail shops, studios and youth activity areas, far below the minimum performance target of 70%; and
 - (ii) the incentive management fee clause is not a standard provision in similar government contracts and too generous, as it sets too low a threshold (i.e. just over and above all performance targets) for the Contractor to achieve;
- acknowledges that:
- (a) in order to promote the popularity of the Youth Square, the HAB has accepted the hosting of non-youth programmes at the Youth Square so as to bring in greater visitor flow at the initial stage of its operation and to make better use of the spare capacity available;
 - (b) the five youth-related non-governmental organisations ("NGOs") interviewed by the Audit Commission have provided views on the ways and means to improve the management and operation of the Youth Square, including the need for developing a focal theme and a clear image for the Youth Square, the need for setting affordable hostel and facility hiring charges for youth groups, and the need for more publicity and promotion efforts; and

Youth Square

- (c) the Secretary for Home Affairs has undertaken to review the management and operation mode of the Youth Square in 2013, and consult various stakeholders, namely the Commission on Youth, the MAC, the Contractor and the youth-related NGOs in the review;
- strongly urges the Secretary for Financial Services and the Treasury to establish a mechanism to require policy bureaux/government departments to report to the Finance Committee ("FC") or relevant Panels of LegCo, as appropriate, in case of significant difference between the estimated cost and the awarded tender price of a project for which the FC's funding approval has been obtained, even though no supplementary provision has to be sought;
- strongly urges the Secretary for Home Affairs to:
 - (a) take into account the views and recommendations of the Committee and the Audit Commission in the 2013 review, promptly define the parameters for the review, and organise focus groups to solicit the views of youth-related NGOs and young people on the Youth Square;
 - (b) critically examine in the review how to strike a fair balance between offering the Youth Square venues and facilities at affordable prices to the youth groups while achieving the full-cost-recovery objective, and how the Youth Square should be positioned in this regard; and
 - (c) in designing the contracts of the HAB's projects in future, pay due regard to the project objectives and include appropriate and relevant terms and conditions that can ensure achievement of the intended objectives and encourage satisfactory performance of the contractors;

Operation and performance

- expresses great dissatisfaction and disappointment that:
 - (a) the HAB has overly relied on the Contractor for managing and promoting the Youth Square to the extent that the HAB has failed to take the lead to timely adjust the rental strategy, work direction, etc. in the light of changing circumstances; and

Youth Square

- (b) the HAB has neither designated sufficiently high-level officials to be responsible for following up the issues and concerns raised by members of the MAC, nor established a formal and effective mechanism to ensure that the views and suggestions given at the MAC meetings are properly followed up;
- finds it unacceptable that:

Achievement of youth development objective

- (a) the HAB has failed to set qualitative and quantitative performance targets to measure the extent of the Youth Square's contribution to youth development;
- (b) the actual target-user mix of the youth hostel was only 18% in 2010-2011 and 34% in the first nine months of 2011-2012, falling short of the interim target of 40% set by the MAC and the Contractor. In particular, the fact that the majority of the hostel guests are tourists does not meet the hostel's original objective of serving participants of youth exchange and leadership training programmes as the HAB had informed the LegCo in June 1999;
- (c) only 52% of the programmes held at the Youth Square from May 2009 to January 2012 were youth-related, revealing the need for organising more youth programmes to better achieve the youth development objective;
- (d) of the 36 retail shops in the Youth Square, 15 were let to tenants for providing tutorial services which may not be able to achieve the Youth Square's objectives of encouraging innovative ideas from the youth and cultivating leadership skills as formulated by the MAC;
- (e) many offices at the Youth Square were not operated regularly, indicating that the office facilities were not gainfully used for youth development;
- (f) as of October 2011, the Government had let 24 (67%) of the 36 retail shops at the Youth Square at concessionary rentals to profit-making organisations (classified as "low-priority" tenants);

Youth Square

- (g) as of October 2011, only 11% of the 36 retail shops at the Youth Square were let to "high-priority" tenants (non-profit-making youth organisations);

Usage of facilities and youth patronage

- (h) the HAB has not taken youth-friendly measures to attract young entrepreneurs and young people to use the venues and facilities of the Youth Square. For example, the standard tenancy agreements for the offices and retail shops at the Youth Square are very complicated, and the booking sessions (e.g. the multi-purpose rooms are charged on an hourly basis instead of a daily basis) and opening hours (from 8:00 am to 11:00 pm) of the Youth Square venues and facilities may be too rigid to suit the practical need of young people;
- (i) the HAB has not adopted a focused marketing strategy to attract "high-priority" tenants to hire the venues and facilities of the Youth Square. Instead of taking the initiative to invite prospective "high-priority" tenants to hire the facilities, retail shops or offices, the HAB has only posted on the Youth Square website the notices on the availability of such venues and facilities for leasing, and contacted those who have enquired about the tenancy arrangements in the past. The HAB has also not promulgated adequate details of the concessionary rentals on the Youth Square website;
- (j) the utilisation rate of facilities for audio recording, video recording and editing, photographic production, fashion and design, dancing and exhibition was less than 50%, reflecting that the facilities were not gainfully used for youth development;
- (k) the reported visitor-flow figures (including both visitors entering and leaving the Youth Square) could not reflect the actual number of visitors. In fact, the visitor-flow figures could have been 100% more than the visitor numbers. Besides, the figures included staff, workers, hostel guests and others, some of whom should not have been counted as visitors and some might not be youths;
- (l) the HAB has not compiled or estimated the total number of youths visiting the Youth Square, although such number would be useful to help evaluate whether the Youth Square has become a focal point for youths;

Youth Square

Operating results

- (m) the Youth Square incurred an operating deficit of \$33.2 million for 2010-2011 (the first year of full operation), which differed significantly from the estimated deficit of \$5 million a year as reported to LegCo in March 2005; and
- (n) although the HAB would grant appropriate concessionary rentals for the Youth Square venues and facilities let to target users, the concessionary rental rates might still not be affordable to them;
- acknowledges that:
 - (a) the HAB would cease to offer concessionary rentals to profit-making organisations for the new tenancy term commencing mid-2012; and
 - (b) the Secretary for Home Affairs has agreed with the audit recommendations in paragraphs 1.14, 2.19, 2.33 and 2.46 of the Audit Report;
- strongly urges the Secretary for Home Affairs to:
 - (a) conduct periodic surveys on target users to identify their reasons for not using the venues and facilities of the Youth Square, and ascertain their needs and affordability, and take appropriate measures to improve their usage of the venues and facilities, e.g. offering appropriate concessionary rentals to them and removing any unnecessary constraints on the use of the venues and facilities;
 - (b) establish a mechanism to keep the overall strategy and work direction of the Youth Square under review so that timely adjustment can be made in the light of changing circumstances;
 - (c) designate sufficiently high-level officials to be responsible for following up the issues and concerns raised by MAC members and establish a formal and effective mechanism to follow up the views and suggestions made at the MAC meetings, with the outcomes properly documented for management review;
 - (d) make greater efforts to promote the venues and facilities of the Youth Square to target users, including reviewing the rental

Youth Square

strategies, concessionary rental rates and leasing arrangements to suit the practical need of young people, and promulgate adequate details of the concessionary rentals on the Youth Square website;

- (e) improve the methodology for reporting visitor-flow figures and collect useful management information and statistics such as the visitor numbers categorised by target users and non-target users, and the number and profile of participants of various programmes held at the Youth Square; and
- (f) in collaboration with youth-related organisations, make greater efforts to stage and host more youth programmes at the Youth Square targeting at young people from across the territory, including making arrangements to facilitate those living in remote areas to join activities held at the Youth Square during the summer vacation and weekends;

Planning and implementation

- expresses grave concern that:
 - (a) although the Youth Square aims to serve as a focal point for territory-wide youth development activities, it is not an easy task for the HAB to meet this objective because of the remote location;
 - (b) the Youth Square lacks a focal theme to clearly distinguish it from other youth-related facilities and to attract youths;
 - (c) there was a delay of 28 months in completing the construction of the Youth Square, resulting in deferred provision of the facilities and an additional cost of \$3.1 million to maintain the idle works site from January 2004 to April 2005;
 - (d) the Steering Committee has become inactive after September 2004 and did not fully discharge its function to oversee the development of the Youth Square, and the MAC was not set up until January 2009. As a result, the HAB did not obtain adequate input during 2005 to 2008 from major stakeholders (youth groups and relevant NGOs) to assist it in planning and overseeing the implementation of the Youth Square project and preparing the Contract conditions;

Youth Square

- (e) the existing composition of the membership of the MAC may not have sufficient representation of youth organisations; and
 - (f) the HAB has not informed LegCo of the operating results of the Youth Square, notwithstanding that its operating deficits were significantly larger than the estimated one reported to LegCo in March 2005;
- acknowledges that the Secretary for Home Affairs has agreed with the audit recommendations in paragraphs 3.21, 3.28 and 3.33 of the Audit Report;
 - strongly urges the Secretary for Home Affairs to:
 - (a) examine in the 2013 review the composition of the membership of the MAC to ensure that there is sufficient representation of youth organisations;
 - (b) improve the implementation of similar projects in future by engaging various stakeholders in drawing up the contract terms and performance standards; and
 - (c) proactively keep the LegCo informed of the operating results of the Youth Square; and

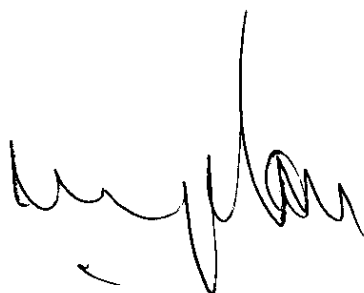
Follow-up action

- wishes to be kept informed of the progress made in implementing the various recommendations made by the Committee and the Audit Commission.

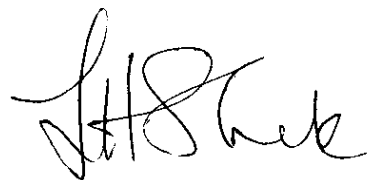
**SIGNATURES OF THE CHAIRMAN,
DEPUTY CHAIRMAN AND MEMBERS OF THE COMMITTEE**



Philip WONG Yu-hong
(Chairman)



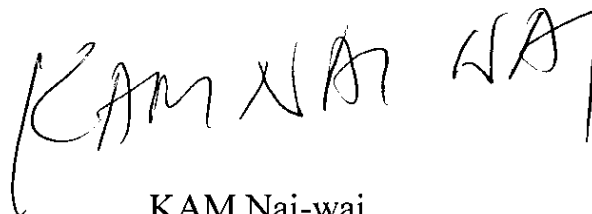
Paul CHAN Mo-po
(Deputy Chairman)



Abraham SHEK Lai-him



Ronny TONG Ka-wah



KAM Nai-wai



Cyd HO Sau-lan



Starry LEE Wai-king

13 June 2012

**CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NO. 58
DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT**

**Director of
Audit's Report
No. 58**

**P.A.C.
Report No. 58**

<u>Chapter</u>	<u>Subject</u>	<u>Chapter</u>
2	Hong Kong Council for Accreditation of Academic and Vocational Qualifications	1
7	Unlawful occupation of government land	2
8	Youth Square	3

**RULES OF PROCEDURE OF
THE LEGISLATIVE COUNCIL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

72. Public Accounts Committee

(1) There shall be a standing committee, to be called the Public Accounts Committee, to consider reports of the Director of Audit –

- (a) on the accounts of the Government;
- (b) on such other accounts required to be laid before the Council as the committee may think fit; and
- (c) on any matter incidental to the performance of his duties or the exercise of his powers as the committee may think fit.

(2) The committee shall also consider any report of the Director of Audit laid on the Table of the Council which deals with examinations (value for money audit) carried out by the Director relating to the economy, efficiency and effectiveness of any Government department or public body or any organization to which his functions as Director of Audit extend by virtue of any Ordinance or which receives public moneys by way of subvention.

(3) The committee shall consist of a chairman, deputy chairman and 5 members who shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. *(L.N. 214 of 2005)*

(3A) The chairman and 2 other members shall constitute a quorum of the committee. *(L.N. 214 of 2005)*

(3B) In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence. *(L.N. 214 of 2005)*

(3C) All matters before the committee shall be decided by a majority of the members voting. Neither the chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided, in which case he shall give a casting vote. *(L.N. 214 of 2005)*

(4) A report mentioned in subrules (1) and (2) shall be deemed to have been referred by the Council to the committee when it is laid on the Table of the Council.

(5) Unless the chairman otherwise orders, members of the press and of the public shall be admitted as spectators at meetings of the committee attended by any person invited by the committee under subrule (8).

(6) The committee shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members and to any person invited to attend a meeting at least 5 clear days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

(7) *(Repealed L.N. 214 of 2005)*

(8) The chairman or the committee may invite any public officer, or, in the case of a report on the accounts of or relating to a non-government body or organization, any member or employee of that body or organization, to give information or any explanation or to produce any records or documents which the committee may require in the performance of its duties; and the committee may also invite any other person to assist the committee in relation to any such information, explanation, records or documents.

(9) The committee shall make their report upon the report of the Director of Audit on the accounts of the Government within 3 months (or such longer period as may be determined under section 12 of the Audit Ordinance (Cap. 122)) of the date on which the Director's report is laid on the Table of the Council.

(10) The committee shall make their report upon the report of the Director of Audit mentioned in subrule (2) within 3 months (or such longer period as may be determined by the Council) of the date on which the Director's report is laid on the Table of the Council.

(11) Subject to these Rules of Procedure, the practice and procedure of the committee shall be determined by the committee.

**Paper presented to the Provisional Legislative Council
by the Chairman of the Public Accounts Committee
at the meeting on 11 February 1998 on
Scope of Government Audit in the
Hong Kong Special Administrative Region -
'Value for Money Audits'**

SCOPE OF WORK

1. The Director of Audit may carry out examinations into the economy, efficiency and effectiveness with which any bureau, department, agency, other public body, public office, or audited organisation has discharged its functions.
2. The term "audited organisation" shall include -
 - (i) any person, body corporate or other body whose accounts the Director of Audit is empowered under any Ordinance to audit;
 - (ii) any organisation which receives more than half its income from public moneys (this should not preclude the Director from carrying out similar examinations in any organisation which receives less than half its income from public moneys by virtue of an agreement made as a condition of subvention); and
 - (iii) any organisation the accounts and records of which the Director is authorised in writing by the Chief Executive to audit in the public interest under section 15 of the Audit Ordinance (Cap. 122).
3. This definition of scope of work shall not be construed as entitling the Director of Audit to question the merits of the policy objectives of any bureau, department, agency, other public body, public office, or audited organisation in respect of which an examination is being carried out or, subject to the following Guidelines, the methods by which such policy objectives have been sought, but he may question the economy, efficiency and effectiveness of the means used to achieve them.

GUIDELINES

4. The Director of Audit should have great freedom in presenting his reports to the Legislative Council. He may draw attention to any circumstance which comes to his knowledge in the course of audit, and point out its financial implications. Subject to these Guidelines, he will not comment on policy decisions of the Executive Council and the Legislative Council, save from the point of view of their effect on the public purse.

5. In the event that the Director of Audit, during the course of carrying out an examination into the implementation of policy objectives, reasonably believes that at the time policy objectives were set and decisions made there may have been a lack of sufficient, relevant and reliable financial and other data available upon which to set such policy objectives or to make such decisions, and that critical underlying assumptions may not have been made explicit, he may carry out an investigation as to whether that belief is well founded. If it appears to be so, he should bring the matter to the attention of the Legislative Council with a view to further inquiry by the Public Accounts Committee. As such an investigation may involve consideration of the methods by which policy objectives have been sought, the Director should, in his report to the Legislative Council on the matter in question, not make any judgement on the issue, but rather present facts upon which the Public Accounts Committee may make inquiry.

6. The Director of Audit may also -

- (i) consider as to whether policy objectives have been determined, and policy decisions taken, with appropriate authority;
- (ii) consider whether there are satisfactory arrangements for considering alternative options in the implementation of policy, including the identification, selection and evaluation of such options;
- (iii) consider as to whether established policy aims and objectives have been clearly set out; whether subsequent decisions on the implementation of policy are consistent with the approved aims and objectives, and have been taken with proper authority at the appropriate level; and whether the resultant instructions to staff accord with the approved policy aims and decisions and are clearly understood by those concerned;

- (iv) consider as to whether there is conflict or potential conflict between different policy aims or objectives, or between the means chosen to implement them;
- (v) consider how far, and how effectively, policy aims and objectives have been translated into operational targets and measures of performance and whether the costs of alternative levels of service and other relevant factors have been considered, and are reviewed as costs change; and
- (vi) be entitled to exercise the powers given to him under section 9 of the Audit Ordinance (Cap. 122).

PROCEDURES

7. The Director of Audit shall report his findings on value for money audits in the Legislative Council twice each year. The first report shall be submitted to the President of the Legislative Council within seven months of the end of the financial year, or such longer period as the Chief Executive may determine. Within one month, or such longer period as the President may determine, copies shall be laid before the Legislative Council. The second report shall be submitted to the President of the Legislative Council by the 7th of April each year, or such date as the Chief Executive may determine. By the 30th April, or such date as the President may determine, copies shall be laid before the Legislative Council.

8. The Director's report shall be referred to the Public Accounts Committee for consideration when it is laid on the table of the Legislative Council. The Public Accounts Committee shall follow the rules governing the procedures of the Legislative Council in considering the Director's reports.

9. A Government minute commenting on the action Government proposes to take in respect of the Public Accounts Committee's report shall be laid on the table of the Legislative Council within three months of the laying of the report of the Committee to which it relates.

10. In this paper, reference to the Legislative Council shall, during the existence of the Provisional Legislative Council, be construed as the Provisional Legislative Council.

**Witnesses who appeared before the Committee
(in order of appearance)**

Mr TSANG Tak-sing	Secretary for Home Affairs
Mr CHENG Yan-chee	Deputy Secretary for Home Affairs (1)
Ms Kitty YU Wing-lun	Principal Assistant Secretary (Civic Affairs) ¹ Home Affairs Bureau
Mr Tony WONG Kau-nin	Chief Executive Officer (1), Civic Affairs Division (1) Home Affairs Bureau
Mrs LAM CHENG Yuet-ngor	Secretary for Development
Ms Gracie FOO Siu-wai	Deputy Secretary for Development (Planning and Lands) ¹
Miss Annie TAM Kam-lan	Director of Lands
Ms Karen CHAN Pui-yee	Assistant Director (Estate Management) Lands Department
Mr Albert CHEUNG Ka-lok	District Lands Officer (District Lands Office, Yuen Long) Lands Department
Mr Alan WONG Chi-kong	Director of Agriculture, Fisheries and Conservation
Mr Joseph SHAM Chun-hung	Assistant Director (Country and Marine Parks) Agriculture, Fisheries and Conservation Department
Ms CHU Lan-ying	Assistant Director (Operations) 3 Food and Environmental Hygiene Department
Mr Adrian NG Kwok-kee	Acting Director of Civil Engineering and Development

**Introductory Remarks by the
Chairman of the Public Accounts Committee,
Dr Hon Philip WONG Yu-hong, GBS,
at the First Public Hearing of the Committee
in respect of the Director of Audit's Report No. 58
on Monday, 30 April 2012**

Good afternoon, ladies and gentlemen. Welcome to the Public Accounts Committee's public hearing relating to Report No. 58 of the Director of Audit on the results of value for money audits, which was tabled in the Legislative Council on 18 April 2012.

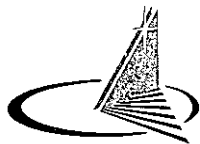
2. The Public Accounts Committee is a standing committee of the Legislative Council. It plays the role of a watchdog over public expenditure through consideration of the reports of the Director of Audit laid before the Council on the Government's accounts and the results of value for money audits of the Government and those organisations which receive funding from the Government. The consideration by the Committee of the Director's reports involves gathering evidence relevant to the facts contained in the Director's reports, so that the Committee may draw conclusions and make recommendations in a constructive spirit and forward-looking manner. I also wish to stress that the objective of the whole exercise is such that the lessons learned from past experience and our comments on the performance of the public officers or other personnel concerned will enable the Government to improve its control over the expenditure of public funds, with due regard to economy, efficiency and effectiveness.

3. The consideration of the Director's reports follows an established process of public hearings where necessary, internal deliberations and publication of the Committee's report. The Committee has an established procedure for ensuring that the parties concerned have a reasonable opportunity to be heard. After the Committee is satisfied that it has ascertained the relevant facts, it will proceed to form its views on those facts, followed by a process of formulating its conclusions and recommendations to be included in its report. In accordance with Rule 72 of the Rules of Procedure of the Legislative Council, the Committee is required to make its report on the Director's report to the Legislative Council within three months of the date at which the Director's report is laid on the Table of the Council. Before then, we will not, as a committee or individually, be making any public comments.

4. Following a preliminary study of Report No. 58, the Committee has decided, in respect of two chapters in the Report, to invite the relevant public officers to appear before the Committee and answer our questions. We have, apart from this hearing, also set aside 5 May 2012 for public hearing on the other chapter.

5. The public hearing today is on Chapter 8 of Report No. 58 on the subject of "Youth Square". The witnesses are: Mr TSANG Tak-sing (Secretary for Home Affairs), Mr CHENG Yan-chee (Deputy Secretary for Home Affairs), and Ms Kitty YU Wing-lun (Principal Assistant Secretary (Civic Affairs)) and Mr Tony WONG Kau-nin (Chief Executive Officer (Civic Affairs Division)) of the Home Affairs Bureau.

6. I now invite members to ask questions.



香港學術及職業資歷評審局
Hong Kong Council for Accreditation of
Academic & Vocational Qualifications

APPENDIX 5

主席 廖長江 太平紳士
Chairman Mr. Martin C. K. Liao, JP
副主席 陳兆根博士工程師
Vice-Chairman Ir. Dr. Alex S. K. Chan
總幹事 范耀鈞教授 太平紳士
Executive Director Prof. Yiu-Kwan Fan, BBS, JP

本局檔號 Our Ref
來函檔號 Your Ref

(By fax and post)

5 June 2012

Ms. Miranda Hon
Clerk
Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms. Hon,

The Director of Audit's Report on the results of value for money audits
(Report No. 58)
Hong Kong Council for Accreditation of Academic and Vocational
Qualifications ("HKCAAVQ") (Chapter 2)

I refer to your letter dated 30 May 2012, and am pleased to provide the answers to your questions as follows.

Questions

- (a) whether the HKCAAVQ has made it a mandatory requirement under its revised guidelines that specialists having conflicts of interest with the operators must not be appointed as panel members, and that all panel members must submit a declaration form on conflicts of interest to HKCAAVQ. Please also provide a copy of the revised guidelines to the Committee; and
- (b) if the requirements mentioned in (a) above are not mandatory, how the HKCAAVQ can ensure that the situation of non-submission of declaration forms and appointment of panel members having conflicts of interest (referred to in paragraphs 3.13 and 3.14 of the Director of Audit's Report) will not occur again.

Response

The declaration of conflict of interests by panel chairpersons and members of a HKCAAVQ accreditation panel is a mandatory requirement under the Code of Conduct for Panels (attachment) and practice of the HKCAAVQ.

HKCAAVQ will not appoint specialists with conflict of interests as panel chairpersons or members. The appointment of all panels is approved by the Deputy Executive Director. Before formal appointment, the HKCAAVQ requires prospective panel chairpersons and members to complete declaration forms, declaring that they do not foresee any potential conflict of interests in engaging in the accreditation exercise and have read the HKCAAVQ Code of Conduct for Panels. Prospective panel chairpersons and members must return the declaration forms to HKCAAVQ before their appointment. Staff of HKCAAVQ will follow up on whether they have returned the declaration forms properly and on time. During the pre-accreditation exercise briefing, the Secretary of the Panel, a staff of the HKCAAVQ, will also ensure that the declaration forms are in place as a matter of practice. HKCAAVQ has good reasons to suspect that the situation of non-submission of declaration forms occurred mainly as a result of misplaced documentation or filing errors relating to the declaration forms in the subject instances mentioned in the Director of Audit's Report. HKCAAVQ assures that, in the future, there will be proper documentation on all matters related to declarations of conflict of interests.

Under the current Code of Conduct for Panels, panel chairpersons and members are required to inform HKCAAVQ of any possible conflict of interests which may arise either before, during or following the accreditation activity, and make full disclosure of their interests to HKCAAVQ at the earliest available opportunity. If a conflict of interests issue is identified in the course of an accreditation exercise, the panel chairperson or member involved must immediately place such issue before the panel and seek instruction. Depending on the circumstance, he/she may be required by the panel to withdraw from the exercise or be excused from the discussion and decision-making of a particular subject matter where the conflict of interests lies. In some cases, where the conflict is considered to be slight or only tangibly possible, the panel chairperson or member involved may be allowed to continue in the panel's work.

HKCAAVQ is revising the code to give more specific advice to enhance staff's understanding of what constitutes conflict of interests. Examples will be developed into a database for reference. HKCAAVQ expects that the revision will be completed by September 2012.

Yours sincerely,



Prof. Yiu-Kwan Fan
Executive Director

Enclosure

YK/RL/dl

c.c. Mr. Martin Liao, Chairman, HKCAAVQ

Mr. Michael Suen, Secretary for Education, Education Bureau

Ms. Michelle Li, Deputy Secretary for Education (1), Education Bureau



Hong Kong Council for Accreditation of Academic and Vocational Qualifications

Code of Conduct for Panels

Preamble

1. This document sets out general guiding principles for the chairpersons and members of HKCAAVQ panels conducting accreditation, audit, review or other assessment activities (hereafter referred to generally as accreditation activity) regarding possible conflict of interests and the duty of confidentiality.

Conflict of Interests

General Principles

2. HKCAAVQ panel chairpersons and members (hereafter referred to generally as panel members) may experience conflict of interests between their role(s) with the HKCAAVQ and their other professional activities.
3. Panel members should advise the HKCAAVQ of any possible conflict of interests which may arise either before, during or following the accreditation activity, and make full disclosure of their interests to the HKCAAVQ at the earliest available opportunity.

4. If the conflict of interests issue is only identified in the course of their engagement in the accreditation activity, the panel member should immediately place such matter before the respective panel and seek instructions. Depending on the circumstance, he/she might be required by the panel to withdraw from the exercise or be excused from the discussion or decision-making of a particular subject matter. In some cases, where the conflict is slight or only perceivedly possible, the panel member may be allowed to continue in the panel's work but both the declaration and the reason for the special treatment must be on record.
5. It is however not intended that a panel member should make a declaration of interest simply because he or she has particular knowledge or experience on a subject matter.

Potential Conflict of Interest Situations

6. For illustration, the following are examples of potential conflict of interests:
 - (a) The panel member was/is serving, with or without pay, as an adviser, examiner, consultant to the client organisation concerned; or if he/she has recently been an applicant for a position (irrespective of whether the outcome is known to the applicant), or is a current applicant or intending applicant for a position in the client organisation.
 - (b) The panel member has any other close association/partnership with the client organisation concerned. Examples of such could include any joint commercial or professional activity carried out by the panel member in a personal capacity in conjunction with staff member(s) in the client organisation concerned and who are closely associated with the accreditation activity in question, or any potential involvement of a similar nature.
 - (c) The panel member who, as a barrister, solicitor, accountant or other professional adviser, has personally or otherwise advised or represented or had frequent dealings with the client organisation concerned, or any person or body closely connected with the client organisation.

- (d) Pecuniary interests in a matter under consideration by the HKCAAVQ, held either by the panel member or by any close relative of his/hers.
 - (e) Kinship or some friendship which might be so close as to warrant declaration in order to avoid situation where an objective observer might believe that an advice from the panel member could have been influenced by the closeness of the association.
 - (f) Personal conflicts could also include animosity or any interest likely to lead an objective observer to believe that the panel member's advice might have been motivated by personal interest rather than a duty to give impartial advice.
7. Where the panel member is working in a client organisation that is in competition with one which is subject to the accreditation activity by the HKCAAVQ, such situation will normally not be considered as to constitute a potential for conflict of interest, as long as the connection is known to the HKCAAVQ, the Panel and the client organisation concerned.
8. In order to avoid a conflict-of-interests situation arising, panel members are advised to abstain from accepting or negotiating consultancies or performing other services for the client organisation which is subject to the accreditation activity by the HKCAAVQ, and to abstain from accepting hospitality from the organisation concerned, before, during and immediately after the accreditation activity when the relevant report has been issued.

Confidentiality of Documents

General Principles

9. All documents generated through the HKCAAVQ accreditation activities are confidential information and should be used solely for the purpose of the exercise concerned.

10. Panel chairpersons or members shall treat as proprietary and confidential any information or material made available to them either through the HKCAAVQ or the client organisation in question for the purpose of conducting the exercise concerned.
11. Panel members have a right to ask for (and receive) through the HKCAAVQ any information and explanation they need in order to discharge their roles in the context of the accreditation activity. However, these privileges and rights must not be abused and must be exercised with care and integrity so that requests for personal or commercial information of a sensitive nature would be kept to the essential minimum.
12. The materials collected from the client organisation subject to the accreditation activity or the report produced by the HKCAAVQ for the purpose of the exercise, and the copyright therein shall be and shall remain the exclusive property of the HKCAAVQ or the client organisation concerned, as the case may be.
13. Panel members may make notes during the course of exercise in order to help them understand the issues being discussed and to facilitate the performance of their roles in the exercise as required by the HKCAAVQ. These notes should not be divulged to any other party unrelated to the accreditation activity.
14. Panel members shall not communicate, or make known, any information or documents collected in the exercise or views expressed by another member or any person met in the course of the accreditation activity at any time without prior approval by the HKCAAVQ.
15. Upon the completion of the exercise with the issuance by the HKCAAVQ accreditation report, panel members are expected to destroy all information gathered for the exercise, except for any information which is in the public domain.

HKCAAVQ

May 2008



香港學術及職業資歷評審局
Hong Kong Council for Accreditation of
Academic & Vocational Qualifications

APPENDIX 6

主席 廖長江 太平紳士
Chairman Mr. Martin C. K. Liao, JP
副主席 陳兆根博士工程師
Vice-Chairman Ir. Dr. Alex S. K. Chan
總幹事 范耀鈞教授 太平紳士
Executive Director Prof. Yiu-Kwan Fan, BBS, JP

本局檔號 Our Ref
來函檔號 Your Ref

(By fax and post)

17 May 2012

Ms. Miranda Hon
Clerk
Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms. Hon,

**The Director of Audit's Report on the results of value for money audits
(Report No. 58) – Hong Kong Council for Accreditation of Academic and
Vocational Qualifications ("HKCAAVQ") (Chapter 2)**

I refer to your letter dated 3 May 2012, and am pleased to provide the answers to your questions as follows. As requested, the Chinese translation of our response is also enclosed for your reference.

Question

- (a) It was stated in paragraph 4.8 of the Audit Report that the Audit Commission ("Audit") reviewed 10 notifications assessed by the HKCAAVQ in the period 2008-09 to 2011-12 (up to Oct 2011), and found that for 3 cases, there were delays by the operators in notifying the Education Bureau of the changes in the course registration details, with the delay ranging from 4 months to 8 years. The Committee would like to know whether students who had enrolled in those registered courses had been affected, including the number of students affected and details of the impact on them.

Response

In response to (a), we wish to clarify that, under the current system, a non-local course to be offered and taught in Hong Kong is required to be

registered on the Non-Local Higher and Professional Education Course Register maintained by the Registrar of Non-local Higher and Professional Education Courses (“Registrar”) of the Education Bureau. Before such a non-local course is registered, the Registrar will usually seek advice from the HKCAAVQ which would assess whether the course has met the registration criteria under the Non-local Higher and Professional Education (Regulation) Ordinance (Cap 493) (“the Ordinance”). Amongst such criteria, one important aspect is that the non-local course offered and taught in Hong Kong must be of comparable standard as that in the home course offered and taught by the overseas institution. After registration, the operator is required under Section 19 of the Ordinance to notify the Registrar within one month about any change in the course. Upon such notification, the HKCAAVQ is normally requested to advise the Registrar whether the change affects the meeting of the registration criteria of the course. The Registrar is the ultimate authority to determine whether the change affects the meeting of registration criteria of the course.

The changes at issue were initiated by the overseas institutions offering the non-local courses in Hong Kong. When the HKCAAVQ conducted assessments and asked the institutions about the changes, the institutions provided documentary evidence to confirm that the same changes took place in the comparable home courses. As a result, the Registrar was advised by the HKCAAVQ that the changes would not affect the meeting of the registration criteria of the courses in all the three cases. According to our information, 221 students were involved in the three cases.

Question

- (b) Audit found that out of the 327 assessments completed by the HKCAAVQ on CEF courses in the period April 2008 to August 2011, 131 assessments had taken more than 8 weeks to complete, and the average delay was about 6 weeks. The Committee would like to know whether students who had enrolled in the CEF courses concerned had been affected, including the number of students affected and details of the impact on them.

Response

In response to (b), we would like to clarify that a course provider cannot promote its course as registered under Continuing Education Fund (“CEF”) or enroll students who seek to obtain CEF subsidy before the course has gone through the assessment of HKCAAVQ and received the approval of the Labour and Welfare Bureau for CEF registration. Therefore, the time

required by HKCAAVQ for course assessment will not directly affect any enrolled CEF learners.

That said, in order to benefit the potential CEF learners who seek to enroll in CEF reimbursable courses with wider choices, HKCAAVQ has in fact streamlined the assessment process, substantially shortening the average assessment time to 6.7 weeks for the course applications received during the period between April 2011 and mid-January 2012 as mentioned in our response to the audit recommendation.

Yours sincerely,



Prof. Yiu-Kwan Fan
Executive Director

Enclosure

YK/DL/dl

c.c. Mr. Martin Liao, Chairman, HKCAAVQ
Mr. Michael Suen, Secretary for Education, Education Bureau
Ms. Michelle Li, Deputy Secretary (Ed) 1, Further and Higher
Education Branch, Education Bureau



地政總署
鄉村改善及契約執行/
土地管制組
Village Improvement & Lease
Enforcement /
Land Control Section
LANDS DEPARTMENT

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本署檔號 **Our Ref.:** (1) in LDC 1/1030/07 V
來函檔號 **Your Ref.:** CB(4)/PAC/R58
覆函時請註明本函檔號

我們矢志努力不懈，提供盡善盡美的土地行政服務。
We strive to achieve excellence in land administration.

香港北角渣華道三三三號北角政府合署二十二樓
22/F., NORTH POINT GOVERNMENT OFFICES
333 JAVA ROAD, NORTH POINT, HONG KONG

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Please quote our reference in response to this letter

25 May 2012

(By Fax 2840 0716 and post)

Ms Miranda HON
Clerk
Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms HON,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Unlawful occupation of government land (Chapter 7)

Thank you for your two letters dated 10 and 21 May 2012 respectively.

As requested, I would like to provide the relevant information as follows:

(a) Self-detected cases in 2007 - 2011

In the past five years (2007 - 2011), there were a total of 538 cases of unlawful occupation of Government land which were identified by the Lands Department ("Lands D") during patrols, i.e. the self-detected cases. 291 of these cases were related to land in the New Territories while the remaining 247 involved land in the urban areas. Such cases mainly involved dumping on Government land, erection of structures and fencings, etc. In processing these cases, the relevant District Lands Offices ("DLOs") posted notices under Section 6(1) of the Land (Miscellaneous Provisions)

Ordinance (Cap. 28). Some occupiers ceased the unlawful occupation before expiry of the notice period, but for some other cases, DLOs needed to take further land control actions to clear the unlawfully occupied land through demolition/clearance by contractors or joint operations with the Government departments concerned. Clearance actions have been completed in regard to all 538 self-detected cases of unlawful occupation of Government land. Tables showing details of these cases in the New Territories and the urban areas are at Appendix I for your reference.

(b) **Cases in which Lands D staff were assaulted in 2011**

In 2011, there were 20 cases in which Lands D staff were assaulted during the course of inspections or land control actions. Please see details of these cases at Appendix II. Besides, there were 102 cases in 2011 in which Lands D staff needed to seek the assistance of the Police or the concerned District Offices of the Home Affairs Department in order to gain access to the unlawfully occupied Government land. Details of these cases are at Appendix III.

(c) **Guidelines for the control of structures held under surveyed numbers and/or Government Land Licences**

Some structures erected on Government land are governed by Government Land Licences (GLLs) issued by the Government in earlier years and also are temporarily tolerated because they comply with the 1982 Squatter Survey records of the Housing Department. Case 3 in the Audit report is an example of such cases. A Technical Memorandum was issued by LandsD in May this year to provide guidelines on how Squatter Control Unit (SCU) staff should deal with situations where squatter structures are surrounded by illegal fences/gates or entry is refused for inspection and on ways to further improve the existing inspection procedures. A copy of the Memorandum is at Appendix IV. As regards GLLs, a memo to elaborate on the enhancement of the management and control of Government land and GLLs was issued by LandsD to DLOs in May this year. A copy of the memo is at Appendix V. To enhance coordination of the two systems, instructions are given in paragraphs 6-9 of the memo at Appendix V.

(d) **Land Control Information System records on cases pending outcome of Short Term Tenancy applications**

In relation to Case 4 in the Audit Report, the District Lands Office/Yuen Long ("DLO/YL") is now examining past records in the Land Control Information System ("LCIS") to ensure that there is no case of similar nature in the system. DLO/YL has also revised the working procedures to ensure that land control records should be created first before follow-up action is taken by the land control team. An internal circular to this effect has been issued. Additionally, Lands D Headquarters has issued a memo to all DLOs

and the New Territories Action Team providing guidelines on the arrangement for data input of the LCIS with respect to those cases pending the outcome of the STT applications. In brief, upon receipt of a STT application, the corresponding land control case will be recorded in the LCIS as “**Withhold**”. The record can only be updated as “**Case Completed**” if the offer of the STT application is accepted with the settlement of rentals and fees etc. Otherwise, appropriate land control action should be resumed and the case will then be recorded as “**In Progress**”.

(e) **Interim measures pending implementation of the new Land Control Information System**

At present, Lands D is able to obtain the necessary information in relation to the progress of land control cases through the existing LCIS. Nevertheless, DLOs and the New Territories Action Team have been reminded to input data to the LCIS timely and accurately. Lands D will continue to prepare analyses and case reports manually on regular and ad-hoc basis if required.

(f) **Four-month target for Category I cases**

For the four-month target for completing Category I cases, Lands D is examining the situation of DLOs. A review will be conducted jointly with DLOs to revise such time target in light of the actual circumstances.

(g) **Setting time targets for dealing with Category II and Category III cases**

Setting time targets for Category II and Category III cases is, to a certain extent, difficult and by no means practicable as the time taken for dealing with such cases may vary from one to another. Nevertheless, instructions have been given to DLOs advising that except for special reasons, such as safety concern or the need to cope with the actions of other departments, land control actions should be taken against these cases principally according to the seriousness of the case of unlawful occupation and the priority order of dates of receipt of the relevant complaints and referrals.

(h) **An update on the progress of Case 4**

(i) **Unlawful occupation of Government land inside the Tai Lam Country Park**

Concerning the 17 structures erected on the Government land inside the Tai Lam Country Park, the operator of the Tai Tong Lychee Valley ("the Valley") had applied to DLO/YL for a Short Term Tenancy to regularise the existence of these structures. Due to the objection of the Agriculture, Fisheries and Conservation Department ("AFCD"), DLO/YL rejected the application and posted a notice on

site requiring the occupier to cease occupying the concerned Government land before 29 April 2012.

On 29 April 2012, DLO/YL inspected the Government land in question and found that the occupier had removed 11 structures. The other structures still remaining on site included an office straddled over private land and Government land, a rope course, three animal metal cages, and a suspension bridge erected on Government land. DLO/YL immediately arranged to start clearing the remaining structures on 30 April 2012.

On the first day of the clearance operation (i.e. 30 April), dozens of villagers sat at the entrance to the Valley. Some of them were holding bamboo sticks and metal spades in their hands to prevent DLO/YL staff from carrying out the operation. DLO/YL staff nevertheless carried out surveying work outside the Valley with the Police staying guard on site. Subsequently, the villagers left on their own volition. Workers then entered the Valley, erected Lands D's notice board marking the relevant Government land, and started clearing the remaining structures. The clearance operation was completed on 4 May 2012.

The concerned Government land within the Tai Lam Country Park is under the management of AFCD in accordance with the Country Parks Ordinance (Cap. 208).

(ii) Unlawful occupation of Government land outside the Tai Lam Country Park

Concerning the several structures erected on the Government land outside the Tai Lam Country Park, the Valley operator had applied to DLO/YL for a Short Term Tenancy. However, due to the objection of AFCD, DLO/YL rejected the application and posted a notice requiring the occupier to cease occupying the Government land before 19 May 2012.

DLO/YL inspected the concerned Government land upon expiry of the said notice, and found that some of the structures erected on the Government land remained on site. They included porches straddling over private land and Government land, and a Pai Lau, a toilet and a refrigerated container on Government land. DLO/YL immediately arranged to begin clearance operation on 21 May 2012.

On the first day of the clearance operation (i.e. 21 May), DLO/YL and its contractor's workers were met with furious resistance. Subsequently, the staff concerned escorted by Police officers, arrived at the Government land inside the Valley, conducted survey of the

structures which straddled over private land and Government land, in preparation for the subsequent demolition of the concerned structures.

Escorted by more than 100 police officers, DLO/YL and the contractor's workers continued with the clearance operation on the second day (i.e. 22 May) against the structures occupying the Government land outside the Tai Lam Country Park. The clearance of the Pai Lau and toilet on Government land and some porches straddling over private land and Government land was completed on that day. The refrigerated container on Government land was also removed.

DLO/YL and its contractor's workers continued with the operation on the third day (i.e. 23 May) with the remaining porches straddling over private land and Government land in the Valley removed. The whole operation was completed on the same day.

The site in question has been included in the "black spots" inspection programme. DLO/YL will arrange regular patrol to deter recurrence of unlawful occupation of the site in the future.

The above operation has been extensively reported by the media. You may wish to refer to the relevant media reports for reference.

Yours sincerely,



(Ms. Karen P.Y. CHAN)
for Director of Lands

- c.c. Secretary for Development (fax no. 2151 5303)
Director of Agriculture, Fisheries and Conservation (fax no. 2735 3695)
Director of Food and Environmental Hygiene (fax no. 2524 1977)
Director of Civil Engineering and Development (fax no. 2246 8708)
Secretary of Financial Services and the Treasury (fax no. 2147 5239)
Director of Audit (fax no. 2583 9063)

**Self-detected cases in which District Lands Offices (DLOs) had taken enforcement actions
to clear unlawful occupation of government land in 2007 - 2011**

分區地政處自行巡察並已完成清理不合法佔用政府土地的個案(2007 - 2011)

Table 1 表一: New Territories DLOs 新界分區地政處

DLOs 分區地政處	Categories of Unlawful Occupation of government land 不合法佔用政府土地分類							Clearance Action 清理行動			
	dumping 傾倒廢物	erection of structure 豎立構築物	erection of fencing 豎立圍網	bicycle parking 停泊單車	Skip 貨斗	Others 其他 (e.g. Open storage 露天貯存, cultivation 耕種)	Total 總數	Self-rectified 自行糾正	cleared by DLOs 由地政 處清理	cleared by Joint Operation 聯合行動	Total 總數
Islands 離島	3	6	4	0	1	2	16	10	5	1	16
North 北區	1	3	5	0	0	4	13	8	5	0	13
Sai Kung 西貢	5	2	27	0	1	44	79	26	53	0	79
Shatin 沙田	8	3	8	1	6	30	56	28	24	4	56
Tai Po 大埔	2	4	5	0	0	6	17	10	7	0	17
Tsuen Wan & Kwai Tsing 荃灣葵青	4	1	3	0	0	15	23	0	23	0	23
Tuen Mun 屯門	15	6	2	2	0	24	49	9	38	2	49
Yuen Long 元朗	7	4	2	0	0	25	38	0	37	1	38
Total 總數	45	29	56	3	8	150	291	91	192	8	291

Table 2 表二: Urban DLOs 市區分區地政處

DLOs 分區地政處	Categories of Unlawful Occupation of government land 不合法佔用政府土地分類							Clearance Action 清理行動			
	dumping 傾倒廢物	erection of structure 豎立構築物	erection of fencing 豎立圍網	bicycle parking 停泊單車	Skip 貨斗	Others 其他 (e.g. Open storage 露天貯存, cultivation 耕種)	Total 總數	Self-rectified 自行糾正	cleared by DLOs 由地政處 清理	cleared by Joint Operation 聯合行動	Total 總數
HK East 港島東	1	2	0	6	165	8	182	175	6	1	182
HK West & South 港島西及南區	7	6	2	3	12	21	51	21	29	1	51
Kowloon East 九龍東	0	1	0	0	0	2	3	1	2	0	3
Kowloon West 九龍西	1	3	1	1	2	3	11	5	5	1	11
Total 總數	9	12	3	10	179	34	247	202	42	3	247

Table 3 表三

	Categories of Unlawful Occupation of government land 不合法佔用政府土地分類							Clearance Action 清理行動			
	dumping 傾倒廢物	erection of structure 豎立構築物	erection of fencing 豎立圍網	bicycle parking 停泊單車	Skip 貨斗	Others 其他 (e.g. Open storage 露天貯存, cultivation 耕種)	Total 總數	Self-rectified 自行糾正	cleared by DLOs 由地政 處清理	cleared by Joint Operation 聯合行動	Total 總數
NT DLOs 新界分區地政處	45	29	56	3	8	150	291	91	192	8	291
Urban DLOs 市區分區地政處	9	12	3	10	179	34	247	202	42	3	247
Total 總數	54	41	59	13	187	184	538	293	234	11	538

Appendix II

Staff of LandsD were assaulted during conducting
site inspections or taking enforcement actions in 2011

District	Number of case	Type of assault	Result
Tai Po	1	An officer was threatened by the occupier during clearance operation by pouring diesel onto him.	The occupier was arrested and subsequently convicted of ‘attempt arson (企圖縱火)’ in October 2011.
Tsuen Wan	1	During a site inspection, 3 staff of the office were attacked by a person with a stick tied with a sickle.	The person was convicted of two charges of ‘common assault (普通襲擊)’ in September 2011.
Tuen Mun	1	In the course of taking land control action, staff of the office were splashed with water by a person. Also an office digital camera was damaged by the splashing water.	The person was convicted of two charges - ‘common assault (普通襲擊)’ and ‘criminal damage (刑事毀壞)’ offences in September 2011.
Yuen Long	17	Criminal intimidation (刑事恐嚇) to staff who were in the course of inspection or taking land control actions.	The cases were reported to Police for investigations.
Total	20		

Appendix III

Assistance of the Police and/or the concerned District Offices of the Home Affairs
Department was sought by Lands D staff for
gaining access to unlawfully occupied government land in 2011

Districts	Number of case	Type of resistance to access	Result
Tai Po	1	During site inspection in a land control case, staff of the office were resisted to enter the village.	With the assistance of Police and DO(TP), the staff concerned successfully proceeded with the land control actions.
Tuen Mun	3	During site inspection, staff of the office were resisted to gain access to a site which was unlawfully occupied by a fisherman.	With the Police's assistance, required inspection and clearance actions were successfully conducted.
Yuen Long	16	In the course of carrying out inspections to land control cases and clearance of ex-licensed structures, staff of the office met resistance for gaining access to the site in question.	With the assistance of Police and DO/YL, DLO/YL inspected the site and took the required land control actions.
Hong Kong Island	82	Staff of the office often encountered resistance in the course of carrying out clearance actions.	With the assistance of Police and DO, clearance operations were successfully conducted.
Total	102		

Estate Management Section, Lands Department
Squatter Control Unit Technical Memorandum No. 27

Guidelines to Enhance Existing Inspection Procedures

I. Purpose

This Technical Memorandum (TM) seeks to enhance the existing inspection procedures with a view to detecting irregularities at an early stage for taking appropriate SC actions.

II. Background

2. All along, fences/gates erected on undeveloped and unleased Government land (UUGL) and leased land have not been covered by any SC surveys conducted by the Housing Department. In practice, they have not attracted and will probably not attract compensation of any kind upon clearance. They will either enclose a piece of Government land (GL) for private exclusive use or block up a strip of common access walkway in front of some squatter structures, depriving the public from access to these squatter structures. Worst still, these illegal fences/gates or refused entry will deprive SCOs of the access to conduct site inspections and hut-to-hut checks to the concerned squatter structures. This will hinder SC Officers (SqCOs) from accomplishing their inspection tasks to all the surveyed structures within the hut-to-hut check cycles, i.e. 12 months for those patrol areas with surveyed structures below 2,500, 18 months for those patrol areas with surveyed structures between 2,501 and 4,000, and 24 months for those patrol areas with surveyed structures over 4,000. As a result, the irregularities will persist for a long time, and rectification will be difficult to achieve. To tackle this problem, SCOs should get rid of these hindrances in the first instance once discovered.

III. Guidelines to Enhance Existing Inspection Procedures

3. If site inspections and hut-to-hut checks to the concerned squatter structures is hindered by any enclosing fences and gates, priority should be accorded to remove them instead of putting aside the concerned site inspections and hut-to-hut checks. Hence, to enhance the vigorousness and effectiveness of the existing inspection programme in detecting irregularities in squatter structures, i.e. change of materials, change of use, change of dimension, etc, SCO staff should strictly comply with the following guidelines: -

- (a) During daily routine patrol, SqCOs should pay attention to spot out any fences/gates that will hinder their inspections and hut-to-hut checks and should take prompt actions to get rid of these hindrances. It is important to ensure that the public access to all squatter structures is not denied by any hindrances.

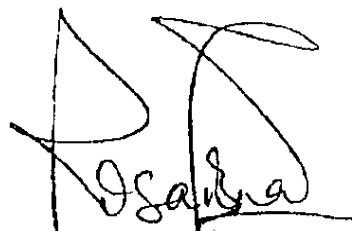
- (b) For simple and straightforward cases, such as fences/gates on UUGL, SCO staff should issue Cap. 28 S6 (1) notice for removal of the enclosing fences/gates. SCOs should inform DLOs of this action. For substantial and complex cases, such as wall/hindrances erected on Private Agricultural Lot (PAL)/straddled on PAL and GL, SCO staff should refer these cases to DLOs for taking actions/joint actions to dismantle them. In order to expedite early completion of the joint action cases, the cases can be put up to District Case Steering Conference (DCSC) for early settlement.
- (c) If nobody answer the fences/gates when they are knocked, repeated “turn-up” notices and letters should be served to the owner(s)/occupier(s) accordingly. If the structures are suspected vacant, the procedures to deal with the deserted/vacant structures in TM No. 25 can be applied.
- (d) The aerial photos provided by Survey and Mapping Office (SMO) can be adopted as preliminary evidence to facilitate Squatter Control actions. Staff in SCOs are required to check with SMO for relevant aerial photos if inspections are denied. If the photos demonstrate suspected illegal extension of existing surveyed structures or erection of new unauthorized structures, prompt SC action by SCOs or land control action by DLOs should be carried out.

IV. Implementation

- 4. This TM takes immediate effect.

V. Enquiry

- 5. For enquiry, please contact AM/SC (HQ) at 2231 3045.



(Ms. Rosanna TSE)

Chief Estate Surveyor/Estate Management

17 May 2012

Distribution

All SCU officers

c.c. AD/EM
CEO/LAO
SEO/EM
SES/TI

**MEMO**

From Assistant Director/Estate Management
Ref. (65) *in* LD 83/4020/99 Pt. 2
Tel. No. 2231 3030
Fax No. 2868 4707
Date 17.5.2012

To NTDLOs
(Attn.:)
Your Ref.: () *in*
dated *Fax No.*
Total Pages

**Management of Government Land Licences
and Reinforcement of Land Control Action**

The criteria for determining land control priorities are laid down in LAO Instructions Section G-1L(ii). Based on such criteria, the District Lands Offices (DLOs) will easily identify the need to take a high priority for cases where the concerned Government Departments/Offices consider and advise that the cases will likely cause imminent danger to life or serious property loss, serious pollution, health hazard, jeopardize the interests and well-being of the public-at-large, etc. However, for taking actions on the rest of the cases, the criteria for determining whether a medium or a low priority should be taken for a particular case nowadays may be blurred and difficult to follow. In the circumstances and taking into account the fact that time to complete low priority cases would be lengthy and may not be acceptable to the general public, it is now considered not necessary to categorise the rest of the cases into medium or low priorities. DLOs should take prompt action for these cases basically following the respective dates of receipt of the relevant complaints/referrals. Should the case officers have difficulties about the approach in handling the cases, they should seek advice and directives from their supervisors without delay. It is of paramount importance to nip the problem in the bud such that the damage generated, if any, could be kept to a minimum. In any event, District Review Board should regularly review all the cases in hand with a view to expediting/commencing land control actions having regard to the situations. The above arrangement will be reviewed in due course.

Government Land Licence

2. Referring to the temporary uses of Government land held under Government Land Licences (GLLs) issued long time ago, such “temporary” uses seem to become “permanent” due to their existence over a number of years, and removal of such “temporary becoming permanent” uses needs to go through a gradual process. Arising from the Ombudsman cases, this Department has been advised to step up actions on improper and illegal

occupation of Government land in the New Territories resulting from the inefficient management of GLLs. The guidelines elaborated in paragraphs 3 to 9 below supplement the LAO Instructions for GLLs in Section C-3.

Transfer of Government Land Licence (LAOI C-3A para. 10)

3. The general conditions of a GLL provide that the licence is not transferable. Therefore, upon the death of the licensee, the GLL will lapse, unless the immediate family members (including spouses and children of the licensee) apply to the relevant District Lands Office (DLO) for a change of the licensee and such application is approved. DLO should in no circumstances initiate to ask the immediate family members to apply for a cancel and re-issue of the licence concerned.

4. DLO should not drag on to deal with such cases. To expedite the processing of application for such transfer, breaches of the conditions of the licence should be dealt with separately. A disclaimer clause according to LAO Instructions Section C Appendix LVIII should be indicated in the approval/notification letter.

Cancellation of Government Land Licence

5. DLO would proceed with the cancellation of GLL in accordance with the licence conditions in the case where (i) the death of the Licensee is made known to DLO (unless there is an application for the transfer of licence received from the immediate family members); (ii) the occupier is a thirty party not relating to the licensee whose whereabouts cannot be traced; or (iii) there is a breach of the licence conditions. A notice for termination should be affixed on site for a period of one month. Thereafter, the GLL will be cancelled after three months from the expiry date of the notice. A sample notice is at L.I. C Appendix XLV.

Structures allowed to remain

6. Before cancellation of the GLL, DLO should check with the Squatters Control Unit (SCU) on whether the existing structure on site (if applicable) is a tolerated squatter structure registered in the 1982 Squatter Control Survey (SCS) with a Squatter Control Number. If the structure matches the SCU record, the structure remains tolerated after cancellation of the GLL. If not, appropriate squatter control actions will follow.

7. If it is considered that the existing structure/building might have some economic or historical values, the DLO may consult the relevant departments whether it could remain. If such is the case, it must be properly fenced off before demolition or taken up by other department or bodies. This arrangement also applies to Modification of Tenancy (MOT), Short Term Waiver (STW), etc.

Demolition of Structures

8. After the cancellation of the GLL and confirmation that the ex-GLL structure is not covered by squatter control number, land control action should be taken without delay. DLO should cause a statutory notice to be posted under section 6(1) of Chapter 28, requiring the occupier to cease unlawful occupation within a reasonable period having regard to the urgency, nature and scale of the unlawful occupation. If the unlawful occupation does not cease upon expiry of notice, clearance action should be taken. In the event that the ex-licensee is deceased, the site should be cleared at the cost of the Government as the licensee's family members or relatives are not liable to reimburse the Government any costs incurred. After clearance of the Government land concerned, such land should be fenced up and alternative use of the land should then be explored and followed up according to the existing practices and procedures e.g. letting the land by way of ATS/direct grant of a STT at market rent; including it in the list of sites available for temporary uses, etc, before the site is put to permanent use.

9. Pending implementation of the alternative temporary or permanent use of the land, SCU and/or DLO should closely monitor the land to avoid unlawful occupation of the Government land concerned. Consideration of including the land in DLO's Blackspot Patrol Programme should also be given.

Modification of Tenancy and Short Term Waiver

10. As a related issue, I also take this opportunity to advise that for MOTs and STWs, if the original intention is to allow residential use in connection with farming activities, DLO should seriously consider whether the MOT/STW holders are genuine farmers. If there is substantial deviation from the original intention or spirit, DLO should arrange to cancel such MOTs and STWs if they have been converted to pure residential use (with no farming activities) or other use such as for the use as a columbarium.

11. This memo will be circulated at regular intervals until its contents have been incorporated into the LAO Instructions as appropriate.



(Ms Karen P. Y. CHAN)
Assistant Director/Estate Management

c.c.

DD/S
DD/G
AD/NT
AD/HK
AD/K
DLO/HKS&W
DLO/HKE
DLO/KW
DLO/KE
CES/EM
SES/TI
SES/SC
PLE/VI&C
PLE/SC
PLE/NTAT
CLE/C
CLE/VI

漁農自然護理署

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BY HAND

17 May 2012

Ms Miranda HON
Public Accounts Committee
Legislative Council
Legislative Council Complex
Hong Kong

Dear Ms HON,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Unlawful occupation of government land (Chapter 7)

I refer to your letter dated 9 May 2012 concerning the captioned subject.

The chronology of the events and actions taken by the Government before the designation of Tai Lam Country Park in 1970s is enclosed. The minutes and other supporting documents are also enclosed as annexes.

Yours sincerely,

(Joseph SHAM)
for Director of Agriculture, Fisheries and Conservation

Encls.

***Note by Clerk, PAC: Annexes not attached.**

Designation of Tai Lam Country Park — Chronology

Date	Event
12 th May 1978	Representative of the then AFD attended the Rural Committee Chairman's Meeting held at Yuen Long District Office. Representatives of a number of Rural Committees, including the chairman and vice-chairmen of Shap Pat Heung Rural Committee, also attended the meeting. During the meeting, AFD's representative briefed the attendees about the proposed Tai Lam Country Park, Tai Mo Shan Country Park and Lam Tsuen Country Park (see page 3 of Annex 1).
25 th August 1978	A notice in respect of the draft map of the proposed Tai Lam Country Park was published in the Government Gazette (Annex 2), and in one English and two Chinese newspapers (a newspaper cutting is at Annex 3). The draft map of the proposed Tai Lam Country Park was also available to the public at a number of District Offices, including Yuen Long District Office (i.e. 元朗理民府), for public inspection and raise objection within 60 days (Annexes 2 & 4).
25 th October 1978	<p>During the public inspection, the Country Parks Authority (the Authority) received only one public objection (from the Tsuen Wan Rural Committee) to the draft map of the Tai Lam Country Park (Annex 5). Details of the objection are summarized as follows:</p> <ul style="list-style-type: none"> a) Private land at Tsing Fai Tong, Sheung Tong, Ha Fa Shan and Sheung Fa Shan should be excised; and b) Traditional burial grounds at Tsing Fai Tong, Sham Tseng and Tsing Lung Tau should be excised.
16 th November 1978	The then Country Parks Board held a meeting to hear objections to the draft map of Tai Lam Country Park and draft maps of other proposed country parks including Tai Mo Shan and Lam Tsuen Country Parks in Central Government Offices. The Country Parks Board considered various objections to the proposed Tai Lam Country Park, and advised that appropriate amendments should be made to the proposed boundary of Tai Lam Country Park (Annex 6).

Date	Event
20 th December 1978	A few other minor amendment requests in respect of Tai Lam Country Park were received after the closing date for objections and they were considered by the Country Parks Board (Annex 7). No amendment request from Tai Tong Tsuen or the village representatives from Shap Pat Heung was received.
23 rd January 1979	The then Governor-in-Council approved the draft map of Tai Lam Country Park. A copy of the approved map of Tai Lam Country Park is at Annex 8.

Translation

Opening Statement by SHA**At meeting of Public Accounts Committee on 30 April 2012
on discussion of Chapter 8 “Youth Square”
of Director of Audit’s Report No. 58**

Mr. Chairman,

Thanks for making arrangement on the timing of this meeting. I would first like to talk briefly on the policy aspects concerning the Youth Square. My colleagues will then respond to questions raised by Committee Members on the detailed operation of the Square.

2. Youth development work is an investment. To nurture young people for the future of Hong Kong has always been the policy direction of the SAR Government. For instance, in the Budget approved by the Legislative Council for this financial year, a provision of nearly \$60 billion has been earmarked for recurrent expenditure on education for young people. Yet, the education of young people is not confined to classrooms. The Home Affairs Bureau (HAB) is responsible for implementing a multitude of youth development activities outside schools, including leadership training, civic education, character building, artistic pursuits, social skills, etc. An amount of about \$190 million is devoted to such purposes every year. On top of the above, a substantial amount of resources are spent on supporting youth by social welfare establishments.

3. The subject matter at issue today, the Youth Square, is a project launched with a long-term perspective. The whole project, starting from planning, construction to completion and operation, has spanned over three terms of Administration. From documentary information of the Legislative Council (LegCo), we can see that the first term of Administration decided to construct a youth development centre upon the advice of the Commission on Youth (COY). At that time, the Chairman of the COY, who was also a member of LegCo, pointed out that the lack of venues and facilities for youth development activities had forced youth organizations to rent commercial venues for youth or exchange activities. Hence, there was a need to build a modern youth centre. In 2001, the Finance Committee of the LegCo approved some \$55 million for the construction work of the project on the premise that a limited company would be set up to run the composite facility on a

self-financing basis. With the economic downturn, the HAB hired another consultant to conduct a study, and had sought the views of youth organizations and the LegCo Panel on Home Affairs. The Administration decided to give up the idea of operating the youth centre by a limited company on a self-financing basis, and informed the Finance Committee of the LegCo that the HAB would cover the operating deficit with public funds.

4. The current term of the Administration took over the completed composite centre by end 2008, renamed it “Youth Square” and set up a Management Advisory Committee with multi-parties participation. As its name suggests, the Youth Square should be operated for the sake of youth development to achieve the goal on youth policy of the HAB. The resources injected by the HAB should be in step with the overall consideration of the Government and not without restraint. The Youth Square should make the best effort to increase its revenue and save costs so as to achieve cost-effectiveness. The facilities of the Youth Square should first and foremost be made available for use by youth service bodies and organizations. Nevertheless, if the facilities are not hired by youth organizations, the Youth Square, as a public venue, should also rent its facilities to non-target organizations to increase revenue.

5. The Youth Square went into full operation in March 2010 and has hosted a wide variety of youth development activities since then. In 2011-12, over 730 youth activities were held, including World Dance Day and Crafts Mart organized by the Youth Square; Youth Workshops of HAB; Project Dance of the Hong Kong Federation of Youth Groups; Young Envoys Programme of the UNICEF; Youth Progressive Programme Promotion Campaign of the Hong Kong Red Cross; dance training programme of the Methodist Centre; and Cantonese opera training of the Eastern District Arts Council. The Youth Square has gradually become a platform for territory-wide youth activities and at the same time catering to the needs of local residents of Chai Wan.

6. It is noteworthy that the Youth Square has been fully operational for two years only and is still at a developing phase. Like any new facilities, the Youth Square takes time to build up its brand, usage rate and visitor flow. We are glad to see that more and more organizations are hiring Youth Square venues for their activities. The following figures indicate a steady upward trend:

- The youth hostel registers an annual occupancy rate of 80%¹ on average;
- Occupancy rate of office space reaches 100%;
- Occupancy rate of retail shop reaches 98%;
- Major performance venues, ie. the Y-Theatre and the Y-Studio register an utilization rate of 84% and 74%² respectively; and
- Over half (55%) of the events (i.e. about 730³) held in the Youth Square are youth activities, representing a substantial increase over the figures of about 80 in 2009-10 and 430 in 2010-11.

7. We will continue our efforts in improving the operation of the Youth Square, especially those specified facilities with low utilization rate, such as the Recording Studio and the Fashion and Design Studio. These facilities are provided in response to the views of various parties at the preparation and design stage of the Youth Square. Since these facilities have not been in operation for long, we will try to boost utilization by further fine-tuning the hiring policy, stepping up publicity and enhancing cooperation with strategic partners. If all these efforts fail to achieve the desired results, we will then change the use of these facilities.

8. Our work direction is to further boost usage by young people. HAB and the Youth Square Management Advisory Committee (YSMAC) are well aware that the present usage by the youth is yet to reach the desired level. Non-youth programmes are accepted because we wish to popularise the Youth Square to bring in more visitor flow at the initial stage of its operation. Our primary objective is, after all, to promote youth development. To this end, we will continue to consult YSMAC to draw up qualitative and quantitative performance targets to measure the effectiveness of the Youth Square in promoting youth development.

¹ The occupancy rate for hostel (78%) shown as a Category A facility in Table 6 of the Director of Audit's Report only reflects the position of the contract year up to January 2012.

² The usage rate of the performance venues shown as Category C facility in Table 6 of the Director of Audit's Report has also included that of the Y-Platform. The average usage rate for the three facilities is 72%.

³ The actual number of youth activities: 83 in 2009-10; 431 in 2010-11; 726 in 2011-12 (up to March 2012) and is expected to reach nearly 800 for the whole year.

9. We will review the management and mode of operation of the Youth Square in 2013, i.e. three years after its formal commencement of operation. We will actively follow up the recommendations of the Audit Report and the views of Committee Members as well as relevant stakeholders so that the Youth Square can better achieve its function in promoting youth development. I must reiterate that youth development is a long-term and sustained investment which cannot be expected to yield swift and immediate return. I think the contributions of the Youth Square in the promotion of youth development will go beyond what can be measured on monetary terms.

10. My colleague and I are very happy to take any questions by Committee Members. Thank you, Mr. Chairman.

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民政事務局

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HOME AFFAIRS BUREAU

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HONG KONG.

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30 April 2012

(Urgent by fax 2840 0716)

Ms Miranda Hon
Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Hon,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Youth Square (Chapter 8)

I refer to your letter of 23 April 2012 requesting information for the public hearing on the captioned Audit Report. Our replies to Questions No. 2, 4, 5, 9 and 12 are attached at Annex for your reference.

In addition, there is a typo in the reply to Question No. 3 enclosed in my letter dated 27 April 2012 to you. The first sentence should read : “Y旅舍共有148間房間，包括138間雙人房、8間三人房、1間六人房及1間4人複式房。”，instead of “130”. My apologies.

***Note by Clerk, PAC:**

**The Annex in Appendix 12 replaced by
a corrected version.**

Yours sincerely,

(Ms Kitty YU)

for Secretary for Home Affairs

Encl.

c.c. Secretary for Financial Services and the Treasury (Fax no. 2147 5239)
Director of Audit (Fax no. 2583 9063)

**Response to Questions on
Chapter 8 of Director of Audit's Report No. 58 on Youth Square
raised by the Public Accounts Committee on 23 April 2012**

Partial Response

Q2. Have there been any international exchange activities held in the Youth Square? If so, please provide the dates, names, brief contents, names of key overseas guests (e.g. speakers) and numbers of overseas participants of the activities.

A2. During the contract years of 2010-11 and 2011-12 (up to March 2012), international exchange activities hosted at the Youth Square include:

Date	Activity
July 2010	International Summer Dance Camp
December 2010	Asia Pacific Red Cross and Red Crescent Youth Leaders' Forum 2010
February 2011	Hong Kong Model United Nations Conference 2011
May 2011	International Dance Camp 2011
July 2011	Hong Kong Secondary School Model United Nations Conference 2011
August 2011	The 1 st Asian Grand Prix (International Ballet Competition)
September 2011	Imperial College PASS Society Annual Charity Concert
October 2011	The 2 nd Asian Youth Piano Festival 2011
February 2012	Hong Kong Model United Nations Conference 2012

We do not have any information about the names of overseas guests and the numbers of overseas participants of these activities.

Q4. Please list the organizations that had hired the following venues, details of activities, numbers of activity participants and admission fees of the activities in the past year:

- (a) **Y-Platform (exhibition area);**
- (b) **Y-Studio;**
- (c) **Conference room;**
- (d) **Multi-purpose rooms;**

- (e) Dance room;
- (f) Hostel (in terms of organizations, no need to list individual visitors);
- (g) Offices;
- (h) Y-Theatre;
- (i) Recording studio;
- (j) Fashion and design studio;
- (k) Video shooting studio and video editing workstations;
- (l) Photographic room;
- (m) Band room;

For items 4(b) to (e), please list the rentals of the facilities in comparison to those of related facilities at community halls of the Leisure and Cultural Services Department (LCSD).

A4. We need some time to compile the relevant information and will provide a reply as soon as possible.

Q5. (Regarding paragraph 2.40 of the Director of Audit's Report) How much is the management service fee per square metre? Has the Youth Square conducted any carbon audits and adopted any effective energy-saving measures? What are the annual power usage and tariff figures?

A5. The Youth Square's management services fee per square metre is about \$1,315 per year.

The Youth Square actively supports environmental protection. While no carbon audit has been conducted yet, the Youth Square has already participated in a number of environmental protection programmes, such as the "Wastewi\$e Label" and the "IAQwi\$e Label"¹, and has also compiled an energy efficiency audit report pursuant to the Buildings Energy Efficiency Ordinance (Cap 610). In addition, the Youth Square has adopted the following energy-saving measures:

- Adjusting the service hours of outdoor lighting facilities according to the availability of daylight -

¹ The "Wastewi\$e Label" and the "IAQwi\$e Label" are two categories under the Hong Kong Awards for Environmental Excellence jointly established by the Environmental Campaign Committee and the Environmental Protection Department in conjunction with nine organizations in 2008. Regarding the "Wastewi\$e Label", the Youth Square has attained the "Class of Good" Label in January 2012, while testing for the "IAQwi\$e Label" is underway and a "Class of Good" Label is expected to be awarded in mid-2012.

Summer: 6:30 pm to 6:00 am

Winter: 5:30 pm to 7:00 am;

- Turning off air-conditioning when a venue is closed and activating ventilation facilities when necessary;
- Switching to emergency lighting on certain floors during non-peak hours;
- Using LED lamps of low power consumption at exterior signboards and advertising lightboxes;
- Using lighting facilities of low power consumption at public corridors and staircases;
- Inclusion of the idle mode for all escalators at the Main Block; and
- Adjusting the provision of lift service at the Main Block as appropriate after 12:00 midnight.

The level of power usage and tariff of Youth Square in the past contract years are as follows:

Contract Year	Power Usage (Unit)	Power Tariff
2009-10	3,347,461	\$4,096,101
2010-11	5,664,507	\$6,798,399
2011-12 (up to 31 March 2012)	5,286,465	\$6,888,600

Q9. How many organizations have leased the hostel rooms and for how many days? Have these organizations also conducted activities at the Youth Square while they were leasing the hostel rooms? What kind of activities were they?

A9. 65 organizations leased 7,651 room nights and 111 organizations² leased 12,817 room nights in the contract years of 2010-11 and 2011-12 (up to March 2012) respectively at Y-loft. Some of these organizations had conducted activities such as music, dancing, conferences, exhibitions, ceremonies, training, workshops, etc at the Youth Square while leasing the hostel rooms.

² Any group leasing hostel rooms on more than one occasion in the same contract year is counted once only.

Q12. Please provide a copy of the management and operation services contract signed between the Home Affairs Bureau and the contractor.

A12. We are currently studying the legal opinions of the Department of Justice regarding your request for the service contract signed with the contractor; a reply will be provided as soon as possible.

**Home Affairs Bureau
Civic Affairs Division (1)
30 April 2012**

政府總部
民政事務局

香港金鐘添美道二號
政府總部西翼十二樓



GOVERNMENT SECRETARIAT
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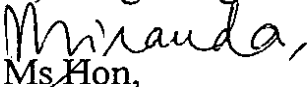
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BY HAND

8 May 2012

Ms Miranda Hon
Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong


Dear Ms Hon,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Youth Square (Chapter 8)

I refer to your letter of 23 April 2012 requesting information for the public hearing on the captioned Audit Report. Our replies to Questions No. 4 and 12 are attached at **Annex** for your reference.

Please feel free to contact my colleague, Ms Anna So at 3509 8035 or 2505 0159 for assistance in relation to this submission.

Yours sincerely,



(Ms Kitty YU)

for Secretary for Home Affairs

Encl.

c.c. Secretary for Financial Services and the Treasury
Director of Audit – (w/o Encl. 4 & 5 to Annex)

**Response to Questions on
Chapter 8 of Director of Audit's Report No. 58 on Youth Square
raised by the Public Accounts Committee on 23 April 2012**

Partial Response

Q4 : Please list the organizations that had hired the following venues, details of activities, numbers of activity participants and admission fees of the activities in the past year:

- (a) Y-Platform (exhibition area);**
- (b) Y-Studio;**
- (c) Conference room;**
- (d) Multi-purpose rooms;**
- (e) Dance room;**
- (f) Hostel (in terms of organizations, no need to list individual visitors);**
- (g) Offices;**
- (h) Y-Theatre;**
- (i) Recording studio;**
- (j) Fashion and design studio;**
- (k) Video shooting studio and video editing workstations;**
- (l) Photographic room;**
- (m) Band room.**

For items 4(b) to (e), please list the rentals of the facilities in comparison to those of related facilities at community halls of the Leisure and Cultural Services Department (LCSD).

A4: Please see Annex 1 for information on organizations and individuals hiring venues (a) to (e) and (h) to (m) of the Youth Square, names of activities, numbers of activity participants and whether the activities were fee-charging in the contract year of 2011-12 (up to March 2012). Lists of organizations renting Y Loft and offices during the period are at Annex 2 and Annex 3 respectively.

Basic rentals of items 4(b) to (e) and similar facilities of the LCSD are listed below:

Y Studio

Venue	Years of Operation	Basic Rental (Per 4 hours)
Y-Studio, Youth Square (224 seats)	2 years	\$4,800
Studio Theatre, Hong Kong Cultural Centre (303-496 seats)	23 years	\$5,400
Black Box Theatre, Kwai Tsing Theatre (130-160 seats)	13 years	\$2,250
Cultural Activities Hall, Sha Tin Town Hall (300 seats)	25 years	\$2,690

Conference Room

Venue	Years of Operation	Basic Rental (Per hour)
Conference Room, Youth Square (160 square metres/53 persons)	2 years	\$440
Committee Rooms, Hong Kong City Hall (40 persons)	50 years	\$430*
Function Rooms, Hong Kong Cultural Centre (118-126 square metres)	23 years	\$330*
Lecture Room, Kwai Tsing Theatre (100 square metres)	13 years	\$360*
Conference Room, Sha Tin Town Hall (50 persons)	25 years	\$400*

* For a minimum of 2 hours

Function Rooms

(Note: Fitted with full-length wall mirrors and sprung flooring suitable for practice and other purposes, the venues listed below are comparable with the large-scale multi-purpose rooms of the Youth Square in terms of facilities and function.)

Venue	Years of Operation	Basic Rental (Per hour)
Youth Square (a) Large-scale multi-purpose room (100 square metres) (b) Several medium-sized multi-purpose rooms (30-65 square metres) (c) Interest group rooms (14 square metres)	2 years	(a) \$315 (b) \$100-\$185 (c) \$45
Rehearsal Hall, Sheung Wan Civic Centre (224 square metres)	23 years	\$220 - \$370
Hong Kong Cultural Centre (a) Dance and drama rehearsal/practice rooms (223-331 square metres) (b) Practice rooms (fitted with piano) (26-88 square metres) (c) Practice rooms (performing arts related activities) (16-17 square metres)	23 years	(a) \$460-\$570* (b) \$97-\$170 (c) \$75
Rehearsal Room, Kwai Tsing Theatre (226 square metres)	13 years	\$390*
Music Studio, Sha Tin Town Hall (240 square metres)	25 years	\$430*

* For a minimum of 2 hours

Dance Studio

(Note: The Dance Studio and large-scale multi-purpose rooms of the Youth Square are fitted with full-length wall mirrors and sprung flooring as well as dance bars. Owing to flooring quality, only activities not detrimental to the flooring are allowed in the Dance Studio.)

Venue	Years of Operation	Basic Rental (Per hour)
Dance Studio, Youth Square (110 square metres)	2 years	\$310
Dance Practice Room, Sheung Wan Civic Centre (70 square metres)	23 years	\$110 - \$170
Rehearsal/practice rooms, Hong Kong Cultural Centre (223-300 square metres)	23 years	\$460 - \$570*
Dance Studio, Kwai Tsing Theatre (200 square metres)	13 years	\$390*
Dance Studio, Sha Tin Town Hall (285 square metres)	25 years	\$430*

* For a minimum of 2 hours

Q12 : Please provide the management and operation services contract signed between the Home Affairs Bureau and the contractor.

A12 : Having sought the advice of the Department of Justice, the relevant service contract (English version only) with personal data deleted in accordance with the Personal Data (Privacy) Ordinance is at Annex 4.

The contractor amended its Memorandum of Association and Articles of Association to become a non-profit-making organization in March 2011. The relevant amendment resolutions are at Annex 5.

**Home Affairs Bureau
Civic Affairs Division (1)
7 May 2012**

***Note by Clerk, PAC:** *Annexes 1, 2 and 3 not attached.
Clauses other than 49.6 to 49.8, 50.1 to 50.5, and
21.1 to 21.5 in Annex 4 not attached.*

Part III and it shall remain unchanged for the first twelve (12) months from the commencement date of the Contract Term. The First Review Date of the Annual Basic Management Fee shall be on the first anniversary of the commencement date of the Contract Term. The Annual Basic Management Fee will be reviewed at the First Review Date and every anniversary of the First Review Date according to the percentage increase/decrease of the Composite Consumer Price Index ("CCPI") compiled and released by the Government for the relevant twelve (12) months period in accordance with the formula set out in Paragraph 2 of Schedule 4 of Part III.

- 49.5 For the avoidance of doubt, if it becomes impossible to calculate the Basic Management Fee for any period during the term of the Contract by reference to the CCPI because of any change in the methods used to compile the CCPI after the date of this Contract or for any other reason whatever or if any dispute of question whatever arises between the parties as to the amount or the calculation of the Basic Management Fee or the construction or effect of this Clause and Schedule 4 of Part III, then either party may refer the dispute or question for arbitration in accordance with Clause 65 of this Part.

Incentive Management Fee

- 49.6 The Government shall pay the Contractor the Incentive Management Fee on annual basis starting from the beginning of the 3rd year of the Contract Term of CYD, provided that all the performance targets mentioned under Schedule 4 of Part III shall be achieved in full. The formula for calculation of the Incentive Management Fee shall be :

Annual Incentive Management Fee =
Percentage for calculating the Incentive Management Fee x (Annual Basic Management Fee)

where the percentage for calculating the Incentive Management Fee shall be calculated according to the following table:

<u>Achievement over and above the performance targets under Schedule 4 of Part III</u>	<u>Percentage for calculating the Incentive Management Fee</u>
(a) Just over and above all performance targets	4%

- | | |
|---|----|
| (b) 2% or more over and above the performance targets for items (a), (c)(i), (c)(ii) and (c)(iii), and over and above the rest of the performance targets | 5% |
| (c) 4% or more over and above the performance targets for items (a), (c)(i), (c)(ii) and (c)(iii), and over and above the rest of the performance targets | 6% |

- 49.7 Together with the auditor's report for the CYD at the end of each Fiscal Year in accordance with Clause 44, the Contractor shall submit to the Government Representative, an Annual Performance Report as stipulated in Clause 17.3.2(a) and Annex 4 of Part VI to show the achievements in performance measures and an invoice showing calculation of the Incentive Management Fee for the same Fiscal Year. The Incentive Management Fee will be paid within twenty-one (21) days after the date of Government acceptance of satisfactory completion of performance or the date of invoice and all relevant supporting documents received, whichever is the latest.
- 49.8 The Incentive Management Fee for any given year shall stand alone and shall not be subject to revision based on the results of prior or subsequent Fiscal Years.

50. Deduction of Management Fee

- 50.1 The Government shall be entitled to withhold compensation for administration cost or deduct from the Management Fee a reasonable amount for any part of the Services which has not been duly completed to the satisfaction of the Government Representative.
- 50.2 The Contractor shall ensure that the actual performance levels of the key performance indicators for any given Fiscal Year are not less than the performance targets as agreed in the corresponding Annual Plan and as stipulated in Clause 21.3 of Part VI – Service Specifications. The nine key performance indicators as per Clause 21.3 of Part VI are:
- (a) the satisfaction level of the youth participants who have used the venues and/or facilities;
 - (b) the number of venue promotional programmes organised and the number of

youth participants;

- (c)(i) the occupancy rate of the Hostel;
- (c)(ii) the usage rate of the studios, retail shops and youth activity areas;
- (c)(iii) the usage rate of auditorium and exhibition platform;
- (d) the service availability of major electrical and mechanical systems;
- (e) the compliance with all statutory requirements in managing and maintaining the CYD;
- (f) the availability of security guards to provide security service and emergency support; and
- (g) the provision of regular cleansing services according to the work schedule as per **Sub-clause 15.3.21** and **Appendices 9(a)** and **9(b)** of Part VI – Service Specifications.

50.3 Where the Contractor has not achieved 90% of the agreed target of any one of the key performance indicators as mentioned in **Clause 21.3** of Part VI, the Government shall have the right to deduct the Annual Basic Management Fee on annual basis according to the following formula:

Achieved Level of Key Performance Indicators

- | | |
|------------------------------------|---|
| (a) 80% or above but less than 90% | 0.3% for each key performance indicator |
| (b) Less than 80% | 0.5% for each key performance indicator |

[Example: The achieved levels of the three key performance indicators are 82%, 85% and 78% respectively.

% Deduction from the Annual Basic Management Fee =
 $0.3\% + 0.3\% + 0.5\% = 1.1\%$]

50.4 Any deduction from the Basic Management Fee pursuant to **Sub-clause 50.3** above will be made annually by adjusting the forthcoming quarterly payment of the Basic Management Fee payable to the Contractor.

50.5 The Government will not be entitled to exercise its right under **Sub-clause 50.3** if the Contractor can demonstrate to the Government's reasonable satisfaction that the Contractor's failure to meet the performance targets is due to Force Majeure Event beyond the control of the Contractor.

Contractor shall also pay the rental costs to the Government in the event that the promotional activities will generate income to the Contractor.

- 20.3.2 The Contractor shall co-operate with recognized educational or vocational training institutes in Hong Kong for the provision of the training programmes as directed by the Government Representative. The educational or vocational training institutes involved shall be approved by the Government Representative.

21. Annual Business Plan

- 21.1 The Contractor shall submit to the Government Representative for approval, not later than 30 days prior to the beginning of each Fiscal Year a proposed business plan (the "Proposed Annual Business Plan"), which shall become the approved Annual Plan (the "Annual Business Plan") once the same has been approved by the Government Representative. The Proposed Annual Business Plan should generally be consistent with the benchmarks, key performance indicators and assumptions contained in the Business Plan, Development Service Plan, Maintenance Plan and other relevant plans submitted under Schedule 3 of Part III.
- 21.2 The Government Representative shall notify the Contractor of its approval or its disapproval of the Proposed Annual Business Plan not later than 21 days after receipt thereof. The Government Representative shall furnish the Contractor at the time of notice of such disapproval with reasons for its objections to the Proposed Annual Business Plan and the Contractor shall, within 21 days after notice of disapproval has been given, revise the Proposed Annual Business Plan to the satisfaction of the Government Representative.
- 21.3 The Annual Business Plan shall include, but not limited to, the following:

Key performance indicators and expected basic performance targets

- 21.3.1 To set the expected minimum performance targets for the following key performance indicators:

<i>Key Performance Indicators</i>	<i>Minimum Performance Targets</i>
<p>(a) <u>Satisfaction level of youth participants</u></p> <p>The percentage of respondents of customer survey rank '4' or above in a 6-unit scale (where '1' denotes extremely dissatisfied and '6' denotes extremely satisfied)</p> <p>(Customer satisfaction survey for at least 1,000 youth participants shall be organised every year.)</p>	<p>The performance targets for rank '4' or above for each service item and the overall performance for the first and second years shall not be less than 65%. The same performance targets shall not be less than 70% for the third year and onwards.</p>
<p>(b) <u>Number of Venue Promotional Programmes Organised</u></p> <p>No. of venue promotional programmes organised and no. of youth participants</p>	<ul style="list-style-type: none"> At least 12 venue promotional programmes organised per annum with over 300 youths participated per programme.
<p>(c) <u>Occupancy and Usage</u></p> <p>(i) Occupancy rate for Hostel</p> <p>(ii) Usage rate of retail shops, studios and youth activity areas</p> <p>(iii) Usage rate of auditorium and exhibition platform</p>	<ul style="list-style-type: none"> The occupancy rate shall not be less than 70%. The usage rate shall not be less than 70%. The usage rate shall not be less than 65%.
<p>(d) <u>Service availability of major electrical and mechanical systems</u></p> <ul style="list-style-type: none"> Electricity supply installation Air-conditioning installation Lift and escalator installation Fire services installation 	<ul style="list-style-type: none"> 95% availability 95% availability 95% availability 95% availability
<p>(e) <u>General Operational Services</u></p> <ul style="list-style-type: none"> Compliance with all statutory requirements in managing and maintaining the CYD and the facilities therein 	<ul style="list-style-type: none"> 100% of all the time

<i>Key Performance Indicators</i>	<i>Minimum Performance Targets</i>
<p>(f) <u>Security</u></p> <ul style="list-style-type: none"> • Availability of Security Guard(s) to provide security service and emergency support 	<ul style="list-style-type: none"> • 100% of all the time (24 hours x 7 days per week)
<p>(g) <u>Cleansing</u></p> <ul style="list-style-type: none"> • Provision of regular cleansing services according to the work schedule as per Sub-clause 15.3.21 and Appendix 9(a) 	<ul style="list-style-type: none"> • At least 90% of the time

Marketing and sales plan

- 21.3.2 To set out the marketing strategy, sales and pricing strategy of the CYD including plan for the venue promotional programmes. To propose a minimum number of promotional programmes including the nature, objectives, no. of target participants involved.

Human resources Plan

- 21.3.3 To set out the staff structure, organization chart of the workforce, recruitment criteria, distribution of works among staff, training programmes, performance assessment, discipline and staff management issues.

Estimate of revenue and operating expenditure

- 21.3.4 To set out the estimate of revenue and operating expenditure for the coming year of operation.

Development service plan

- 21.3.5 To set out the strategies and proposals in achieving the development objective for training of the Contractor's inhouse staff including management and supervisory staff.

Others

- 21.3.6 The Contractor shall set out the maintenance equipment, vehicles, specialized tools and instruments required to ensure smooth operation of the

CYD. The Contractor is encouraged to include an alteration plan at its own cost to propose revisions to the internal furnishing of CYD, suggestion to improve work efficiency and maintenance plan.

- 21.4 The Contractor shall perform in accordance with the targets and work schedule as contained in the Annual Business Plan once the Plan has been approved by the Government Representative.
- 21.5 The Contractor shall advise and seek agreement from the Government Representative for proposed adjustment to the approved Plan if situation warrants the adjustment.

22. Performance Assessment

- 22.1 The Contractor shall carry out appropriate quality assurance procedures in accordance with the Quality Assurance Plan submitted under **Schedule 3** of Part III to regularly inspect and monitor its Services to ensure that the Services meet with the specified requirements and standards, in particular, the performance standards as specified under **Sub-clauses 9.4, 10.4, 13.4, 14.4, 15.4, 16.4, 17.4, 18.4 and 21.3** of Part VI. The Government Representative shall also carry out planned inspection and surprise checks as necessary throughout the Contract Term to ascertain the standards of Services.
- 22.2 The Contractor shall regularly review the operation of the CYD for constant improvement to the quality of Services provided. The Contractor's Representative and the Government Representative shall meet monthly and the Management Advisory Committee shall meet at least once every six months as per **Clause 12** of Part II – Conditions of Contract, or at such interval as the Government Representative shall request, to review the performance of the Services and resolve any contractual, leasing, management, performance and youth development activity planning and organisation issues.
- 22.3 Upon the request of the Government Representative, other management information, financial and statistical records kept by the Contractor in relation to the operation and management of the CYD shall be made available promptly throughout the Contract Term.

NEW WORLD FACILITIES MANAGEMENT COMPANY LIMITED
新世界設施管理有限公司

Special Resolution of all Shareholder(s) of the Company passed on the 23rd day
of March, 2011

AMENDMENT OF MEMORANDUM OF ASSOCIATION AND ARTICLES OF ASSOCIATION
IT WAS RESOLVED THAT

- (1) The Article 116(a) of the Company's Articles of Association shall be replaced by the following:-

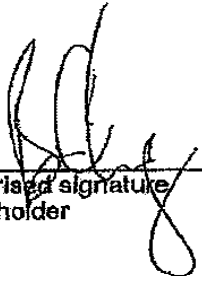
"The Company shall not declare any dividend to its members and the Company shall donate all its profits to charitable organizations only. In case there is any inconsistency between this Article 116(a) and other Articles, this Article 116(a) shall prevail."

- (2) The Article 141 of the Company's Articles of Association shall be replaced by the following:-

"If the Company shall be wound up, the surplus assets remaining after payment to all creditors shall be fully donated to charitable organizations."

- (3) The clause 3(39) of the Company's Memorandum of Association and Articles 117, 119, 121, 122, 123, 124, 126, 127 and 128 of the Company's Articles of Association shall be deleted in its entirety. There shall be consequential amendment to the order of the clause number and article number of the Company's Memorandum of Association and the remaining clause shall, in case the order is not in sequence, be re-numbered in sequence.

For and on behalf of
NEW WORLD DEVELOPMENT COMPANY LIMITED



Authorized signature
Shareholder

政府總部
民政事務局

香港金鐘添美道二號
政府總部西翼十二樓



GOVERNMENT SECRETARIAT
HOME AFFAIRS BUREAU

12TH FLOOR, WEST WING,
CENTRAL GOVERNMENT OFFICES,
2 TIM MEI AVENUE,
ADMIRALTY,
HONG KONG.

本署檔號 OUR REF. : HAB CR/4-35/1/1 C
來函檔號 YOUR REF : CB(4)/PAC/R58
電話 TEL NO. : 3509 8118
圖文傳真 FAXLINE : 2591 6002

27 April 2012

(Urgent by fax 2840 0716)

Ms Miranda Hon
Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Ms Miranda,
Dear Ms Hon,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Youth Square (Chapter 8)

I refer to your letter of 23 April 2012 requesting information for the public hearing on the captioned Audit Report. Our replies to Questions No. 3, 6, 7, 8, 10 and 11 in your appendix are attached at Annex for your reference. We would provide you with the other information requested separately as soon as possible.

Yours sincerely,

Kitty Yu
(Ms Kitty YU)

for Secretary for Home Affairs

Encl.

c.c. Secretary for Financial Services and the Treasury (Fax no. 2147 5239)
Director of Audit (Fax no. 2583 9063)

**Response to Questions on
Chapter 8 of Director of Audit's Report No. 58 on Youth Square
raised by the Public Accounts Committee on 23 April 2012**

Partial Response

Q3. What are the numbers of target and non-target users of the Y-Loft in the low seasons (February to June and October to mid-December) and peak seasons (mid-December to January and July to September) respectively?

A3. Y-Loft provides 148 hostel rooms, comprising 138 twin rooms, 8 triple rooms, 1 six-person room and 1 four-person duplex room. As the occupancy rate of Y-Loft is calculated on the basis of room-nights, the number of users is not available. Y-Loft has set a target mix of 40% for target users¹. The number of room-nights and percentages of target and non-target users for the contract years² 2010-11 and 2011-12 (up to March 2012) are as follows:

Month	Target Users		Non-target Users	
	Room nights	Percentage	Room nights	Percentage
May 2010	289	8%	3,477	92%
June 2010	89	3%	2,818	97%
July 2010	822	24%	2,683	76%
August 2010	1,943	51%	1,892	49%
September 2010	681	21%	2,643	79%
October 2010	283	8%	3,505	92%
November 2010	930	23%	2,972	77%
December 2010	1,161	29%	2,842	71%
January 2011	498	14%	3,138	86%
February 2011	573	18%	2,635	82%
March 2011	169	5%	3,208	95%
April 2011	216	6%	3,423	94%
May 2011	458	13%	3,036	87%
June 2011	762	23%	2,589	77%
July 2011	1,506	39%	2,376	61%
August 2011	2,291	63%	1,364	37%
September 2011	740	25%	2,193	75%
October 2011	1,276	37%	2,145	63%

¹ Target users include youth organizations and their members, and organizations conducting youth programmes at the Youth Square.

² The contract year starts from May and ends in April of the following year.

Month	Target Users		Non-target Users	
	Room nights	Percentage	Room nights	Percentage
November 2011	1,479	42%	2,011	58%
December 2011	1,498	41%	2,178	59%
January 2012	868	23%	2,912	77%
February 2012	1,315	35%	2,456	65%
March 2012	632	15%	3,670	85%

Q6. Please provide the membership list and minutes of meetings of the Management Advisory Committee.

A6. Please refer to **Annex I** (minutes of meeting are available in Chinese only).

Q7. Paragraph 4.3 of the Director of Audit's Report mentioned that the Audit Commission had interviewed five organizations involving in youth development work. Please provide the names of these organizations.

A7. According to the Audit Commission, it conducted interviews in December 2011 with five organizations which were actively engaged in youth development to collect their views on improving the management and operation of the Youth Square. During the interviews, the Audit Commission indicated to the organizations that their names would not be disclosed and the organizations agreed to be interviewed on this understanding. Therefore, the Audit Commission cannot provide the names of the five organizations concerned.

Q8 What is the relationship between the Management Advisory Committee and the management and operation services contractor? Which party is responsible for the selection of tenants? Which party is responsible for marketing?

A8. The Youth Square Management Advisory Committee (MAC) advises the Government on the operation of the Youth Square, including the overall strategy and objectives; themes and contents of youth development programmes; and the use, allocation, rental and fees of facilities. The MAC also assesses the effectiveness of youth development programmes of the Youth Square and monitors the performance of the contractor. The contractor is required to report regularly to the MAC on its operation strategy and work results.

All applications for leasing offices and retail shops in the Youth Square are vetted by the Rental Vetting Committee under the MAC according to the leasing policy adopted by the MAC. The meeting of the Rental Vetting Committee is chaired by a representative of Home Affairs Bureau, with members drawn from the MAC.

The management services contractor is responsible for the marketing of offices and retail shops.

Q10. Please provide the number of staff for the Youth Square.

A10. As at March 2012, there are 198 full-time employees working in the Youth Square, including 127 outsourced service employees.

Q11. Please provide the terms for leasing offices and retail shops.

A11. Please refer to **Annex II** (the terms of tenancy are available in English only).

**Home Affairs Bureau
Civic Affairs Division (1)
27 April 2012**

***Note by Clerk, PAC:** *The minutes of meetings of the Management Advisory Committee in Annex I and the standard tenancy agreements for the Youth Square's offices and retail shops in Annex II not attached.*

Youth Square Management Advisory Committee
Member List
(w.e.f. 1.1.2012)

Chairman	Permanent Secretary for Home Affairs
Ex-officio Members	<p>Chairman, Commission on Youth</p> <ul style="list-style-type: none">• Mr. Bunny CHAN Chung-bun (陳振彬) <p>Chairman, Committee on the Promotion of Civic Education</p> <ul style="list-style-type: none">• Dr. Joseph LEE Chung-tak (李宗德) <p>Representative of Eastern District Council</p> <ul style="list-style-type: none">• Mr. KUNG Pak-cheung (龔栢祥) <p>Representative of the Board of Management of the Chinese Permanent Cemeteries</p> <ul style="list-style-type: none">• Mr. NG Kwok-tung (伍國棟)
Members	<p>Ms Anna CHAN Chung-ying (陳頌瑛)</p> <p>Ms Bonnie CHAN Jo-ying (陳祖楹)</p> <p>Mr. CHAN Kai-ming (陳啟明)</p> <p>Mr. Tony CHENG Chung-fo (鄭重科)</p> <p>Dr. Edmond CHENG Kam-wah (鄭錦華)</p> <p>Ms. Amy FUNG Dun-mi (馮丹媚)</p> <p>Dr. Eddie HO Kang-wai (何鏡煒)</p> <p>Mr. Witman HUNG Wai-man (洪為民)</p> <p>Mr. KO Tin-lung (古天農)</p> <p>Ms Amy LEUNG Oi-mui (梁愛梅)</p> <p>Mr. PAU Shiu-hung (鮑紹雄)</p> <p>Mr. Eric TANG Sze-kin (鄧仕堅)</p> <p>Ms Alice YEUNG Kai-yan (楊啟恩)</p> <p>Mr. Adrian YIP Chun-to (葉振都)</p> <p>Ms YUNG Sau-mui (翁秀梅)</p>
Representatives from Government Departments	<p>Deputy Secretary for Home Affairs (1), HAB</p> <p>Principal Assistant Secretary (Civic Affairs)1, HAB (Secretary)</p> <p>Representative of Education Bureau</p> <p>Representative of Leisure and Cultural Services Department</p>

政府總部
民政事務局

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政府總部西翼十二樓



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圖文傳真 FAXLINE : 2591 6002

16 May 2012

(Urgent by fax 2840 0716)

Ms Miranda Hon
Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Hon,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Youth Square (Chapter 8)

Thank you for your letter of 8 May 2012. Further to our email of 8 May 2012 advising you of the relevant clauses in the management and operation contract for the Youth Square as requested in para. 2(a) of your letter, I append at Annex our response to the part of the supplementary information requested by the Committee in the Appendix of your letter. We endeavour to provide you with the rest of the information as soon as possible.

Yours sincerely,

(Ms Kitty YU)

for Secretary for Home Affairs

Encl.

c.c. Secretary for Financial Services and the Treasury (Fax no. 2147 5239)
Director of Audit (Fax no. 2583 9063)

Information Sought for the Follow-up of the Youth Square

1. The invitation to tender for the management and operation services of the Youth Square.

- Please refer to **Annex 1** for the invitation to tender.

2. Papers and minutes of the Steering Committee's discussions on the tender exercise.

- As mentioned in the Director of Audit's Report, the Steering Committee on the Centre for Youth Development (the Steering Committee) had no further meeting convened after September 2004. As a result, no paper and minutes of the Steering Committee's discussions on the tender exercise are available.

6. Had members of the Steering Committee made any declaration of interests regarding the tender or the granting of contract? Did they abstain or vote after making such declarations?

- The tender exercise was deliberated by the "Tender Assessment Panel". The "Tender Assessment Panel" was composed of representatives of the Home Affairs Bureau, the Education Bureau, the Social Welfare Department and the Leisure and Cultural Services Department. Before assessing the tenders, all members were required to make declaration of interests pursuant to the Government's Stores and Procurement Regulations. According to records, there was no conflict of interest among panel members that required declaration.

8. What was the rationale of only requiring a 70% usage rate without setting a performance target for the number of target users? Please provide the relevant papers and minutes of the Steering Committee on this issue.

- Besides the utilisation rates of venue facilities and the hostel, the performance targets stipulated in the contract also include surveys on young people's satisfaction level with Youth Square's facilities/management conducted by the contractor, the number of venue promotional programmes targeting at young people, the service availability rates of major electrical and mechanical systems, provision of security services and emergency support within a specified time, provision of regular cleansing services according to the work schedule, ensuring the management and maintenance of Youth Square and its facilities comply with all relevant statutory requirements, and so forth.
- As the Steering Committee had no further meeting convened after September 2004, no paper and minutes of the committee's discussions on the tender exercise (including the setting of performance targets) are available.

10. Presently 198 people are employed by the Youth Square. Please list their respective rank and annual salary.

- Please refer to **Annex 2** for the relevant information.

11. Presently the management and operation services company charges \$53 million per year. Please provide the auditors' reports for the past 2 years, together with the expenditure breakdown for the \$53 million management fee. How much manager's remuneration did the management and operation services company receive?

- The Youth Square's expenditures in the past two contract years are as follows:

Expenditure Item	2010-11 Contract Year (\$)	2011-12 ¹ Contract Year (\$)
1. Payment to the management and operation services contractor ²	53,530,000	56,144,000
2. Expenses on power tariff, water charges and other public utilities	7,067,000	7,642,000
3. Expenses on maintenance and improvement works charged by Architectural Services Department	4,766,000	3,496,000
4. Administrative and miscellaneous expenses	615,000	130,000
Total expenditure	65,978,000	67,412,000

***Note by Clerk, PAC:** *Annex 1 not attached.*

¹ The figures quoted are estimates for the 2011-12 contract year. Actual figures are pending verification.

² The total value of the 7-year contract is \$371 million (i.e. \$53 million per year). This is the annual basic management fee and the fee is subject to upward/downward adjustment according to the consumer price index (CPI) every year.

(Translation)

Annex 2

Rank and Salary of Staff Employed by Youth Square

I. Staff employed directly by the Management and Operation Services Contractor

Rank	No. of staff	Annualized Salary Range
Executive Director	1	1,500,000 - 1,700,000 ^{Note}
Director	4	720,000 – 1,080,000
Manager	13	312,000 – 569,000
Assistant Manager	7	229,000 – 311,000
General Staff	46	108,000 – 324,000
Total no. of staff	71	

II. Staff employed by Sub-contractors

Staff	No. of staff	Annualized Salary Range
Manager	2	180,000 – 216,000
Gondola/High Platform Technician	10	144,000 – 192,000
Senior Technician/Supervisor	6	132,000 – 216,000
Senior Security & Customer Services Officer/Security & Customer Services Officer	30	113,000 – 201,000
Property Officer/Assistant Property Officer	2	120,000 – 192,000
Technician	8	114,000 – 180,000
Customer Services Officer	11	102,000 – 144,000
Operator	9	96,000 – 144,000
Cleaner	49	52,000 – 133,000
Total no. of staff	127	

^{Note} On account of protection of personal data, the salary information will be indicated in the form of annualized salary range.

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4 June 2012

(Urgent by fax 2840 0716)

Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn.: Ms Cindy Chan)

Dear Ms  Chan,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Youth Square (Chapter 8)

I refer to your letter of 30 May 2012. The additional information requested is set out below –

- (a) According to Clause 50 of Part II “Conditions of Contract” of the tender document, when the Contractor fails to achieve 90% of the agreed targets of any one of the Key Performance Indicators (KPI) set out in Clause 21.3 of Part VI “Service Specifications”, the Government has the right to deduct the annual basic management fee according to the following formula –

<u>Level of KPI achieved</u>	<u>Extent of deduction for each KPI (% of the annual management fee for the year)</u>
(a) More than 80% but less than 90%	0.3%
(b) Less than 80%	0.5%

In the 2009-10 contract year, the Contractor failed to meet the following two performance targets –

- (i) for the usage rate of retail shops, studios and youth activity areas where the minimum performance target was 70%, the Contractor could only achieve a usage rate of 49.1% (i.e. less than 80% of the minimum performance level); and
- (ii) for the usage rate of auditorium and exhibition platform where the minimum performance target was 65%, the Contractor could only achieve a usage rate of 56.2% (i.e. more than 80% but less than 90% of the minimum performance level).

As a result, and given the annual basic management fee for 2009-10 was \$53,000,000, a total of \$424,000 (i.e. an aggregate of 0.8%) had been deducted.

- (b) As far as we know, payment of an incentive management fee to a government contractor under certain conditions is not unique to the management services contract for Youth Square.

Yours sincerely,



(Ms Kitty YU)

for Secretary for Home Affairs

c.c. Secretary for Financial Services and the Treasury (Fax no. 2147 5239)
Director of Audit (Fax no. 2583 9063)

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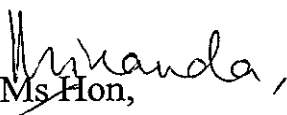
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本署檔號 OUR REF. : HAB CR/4-35/1/1 C
來函檔號 YOUR REF : CB(4)/PAC/R58
電話 TEL NO. : 3509 8118
圖文傳真 FAXLINE : 2591 6002

18 May 2012

(Urgent by fax 2840 0716)

Ms Miranda Hon
Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear  Ms Hon,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Youth Square (Chapter 8)

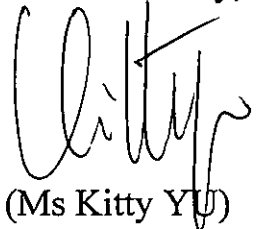
I refer to your letter of 8 May 2012 and attach at **Annex A** our replies to Questions No. 3, 4, 5, 7 and 9 set out in the Appendix of your letter.

Regarding your enquiry at paragraph 2(b) of your letter, please be advised that the Administration has not prepared any action checklist setting out the actions that have to be taken after each meeting of the Management Advisory Committee ("MAC"). This notwithstanding, close working contacts through telephone, email and discussion meetings are maintained between representatives of the Home Affairs Bureau and core management members of the Contractor to follow up on the views/suggestions made by the MAC. In

addition, a “Matters arising” section is also provided in the notes of MAC Meeting to ensure that the MAC’s views/suggestions are properly followed up.

In addition, I refer to our reply to you dated 16 May 2012. As discussed, some typo has been detected. Please find at **Annex B** pages for your replacement. My apologies for the inconvenience caused.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kitty YU', with a stylized flourish at the end.

(Ms Kitty YU)

for Secretary for Home Affairs

Encl.

c.c. Secretary for Financial Services and the Treasury (Fax no. 2147 5239)
Director of Audit (Fax no. 2583 9063)

***Note by Clerk, PAC:** *Annex 2 in Appendix 13 replaced by a corrected version.
Annex B not attached.*

Information Sought for the Follow-up of the Youth Square

3. For the tender deemed technically non-conforming, what were the details of its non-conforming items?

- The tender was deemed technically non-conforming because it had failed to meet two “mandatory requirements” stated in the tender document:

(i) Tenderers and/or their Sub-contractors should, during the past 10 years before the tender closing date, possess at least three years of experience in managing, marketing and leasing at least an auditorium (with over 300 seats throughout the period); and

(ii) Tenderers and/or their Sub-contractors should, during the past 10 years before the tender closing date, have provided repair and maintenance of building services and electrical and mechanical installations for at least one multi-activities complex (of over 10,000 m² gross floor area in total throughout the period with retail shops, cafeteria and offices), or at least an auditorium (of over 300 seats throughout the period), or at least a hotel/hostel (with over 100 guest rooms throughout the period).

4. With only one conforming tender, what were the deliberations of the Steering Committee? Had the Steering Committee considered re-tendering the contract? If not, why? How did the decision not to re-tender was made?

5. Who decided to enter the service contract with the only conforming tenderer? Had the committee responsible for handling Government tenders in the Financial Services and the Treasury Bureau discussed the matter? Please provide the relevant papers and meeting minutes.

- Pursuant to the Government's Stores and Procurement Regulations, tender evaluation shall only be conducted by government officials. In compliance with this requirement, the Home Affairs Bureau (HAB) had formed a tender assessment panel to assess the tenders received for the management and operation services of the Youth Square.
- Two tenders were received by the closing date of the open tender exercise, with only one of them fully meeting the tender requirements.
- Having assessed the tenders for the service contract, the tender assessment panel submitted the tender report (including the recommended tender) to the Central Tender Board for approval. In considering the tender report, the Central Tender Board noticed that the tender price of the recommended tender was significantly higher than HAB's pre-tender estimate. Accordingly, the Central Tender Board requested further information from HAB to help assess whether the price of the recommended tender was reasonable, and advised HAB to negotiate with the tenderer of the recommended tender to obtain a better price. HAB subsequently replied to the Central Tender Board that after negotiating with the concerned tenderer, the tenderer agreed to lower the tender price from the original \$385 million to \$371 million. At the same time, HAB also informed the Central Tender Board that by accepting the tender price, the operating expenses would still be lower than those of other similar venues. In addition, HAB stated that it would shoulder the increase in the tender price through internal redeployment of resources and other methods. The Central Tender Board ultimately approved the tender report.

7. Had the Financial Services and the Treasury Bureau proposed additional terms to the contract granted to the only conforming tenderer? Have such terms been materialized?

- The terms and requirements of service contracts are normally determined by the procuring department having regard to the nature

of its required services, operational requirements and relevant policy needs. In addition, the terms and requirements of service contracts are normally stated in the tender document. Under normal circumstances, regardless of the number of conforming tenderers, the Administration would not alter/add or delete the contract terms and requirements stated in the tender document while granting contracts, so as to avoid unfairness to tenderers.

9. The annual management fee charged by the only conforming tenderer exceeded the Administration's estimate by more than \$30 million. Has the Administration followed up and assessed whether the huge discrepancy was reasonable? What was the management fee stated by the other technically non-conforming tenderer?

- In an enclosure to the Discussion Paper No. FCR (2004-05)50 of the Finance Committee of the Legislative Council in March 2005, it was stated that the "Management Fees for Service Contracts (except Hostel)" and the "Management Fees and Operating Expenses for Hostel" amounted to \$16,770,000. Subsequently, in an information paper ((CB(2)1870/07-08(01)) of the Panel on Home Affairs of the Legislative Council in May 2008, it was stated that "due to rising construction cost for the civil works, it is estimated that no more than \$50 million out of the \$750 million budget would remain for the fitting-out/interior design work from 3/F to 9/F of the Main Block and the procurement of Furniture and Equipment (F&E) for the hostel and 3/F to 9/F of the Main Block. We will have to identify alternatives in funding such procurement/fitting-out works should the actual remaining balance have proven to be inadequate." As mentioned in the Audit Report, the contract fee of the management and operation services contract has already included an amount of about \$70 million for the fitting-out works/interior design for 3/F to 9/F and the procurement of F&E for the hostels and 3/F to 9/F of the Main Block.
- As the other tender did not comply with two mandatory requirements specified in the tender document, the tender assessment panel did not need to further consider the content and price of the tender concerned.

Also, given that the management fee proposed by the non-conforming tenderer was intended for tender assessment purpose only, we are asking the tenderer if he agrees to disclose his tender price for the management and operation services contract of the Youth Square. We will revert to the Public Accounts Committee once we receive the reply of the tenderer concerned.

政府總部
民政事務局

香港添馬添美道二號
政府總部西翼十二樓



GOVERNMENT SECRETARIAT
HOME AFFAIRS BUREAU

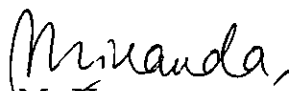
12TH FLOOR, WEST WING,
CENTRAL GOVERNMENT OFFICES,
2 TIM MEI AVENUE,
TAMAR,
HONG KONG.

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25 May 2012

(Urgent by fax 2840 0716)

Ms Miranda Hon
Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong


Dear Ms Hon,

**The Director of Audit's Report on the
results of value for money audits (Report No. 58)**

Youth Square (Chapter 8)

I refer to your letter of 8 May 2012 and attach at **Annex** our reply to the second part of Question No. 9 set out in the Appendix of your letter for your reference.

Yours sincerely,


(Ms Kitty YU)

for Secretary for Home Affairs

Encl.

c.c. Secretary for Financial Services and the Treasury (Fax no. 2147 5239)
Director of Audit (Fax no. 2583 9063)

(Translation)

Annex

Information Sought for the Follow-up of the Youth Square

9. What was the management fee stated by the other technically non-conforming tenderer?

- We have obtained the consent of the concerned tenderer to disclose his tender price for the management and operation services contract of Youth Square to the Public Accounts Committee without disclosing his identity. The tender price was \$ 619.92 million.

ACRONYMS AND ABBREVIATIONS

AFCD	Agriculture, Fisheries and Conservation Department
Audit	Audit Commission
CEF	Continuing Education Fund
CPO	Country Parks Ordinance
DLO	District Lands Office
DoJ	Department of Justice
EDB	Education Bureau
FC	Finance Committee
FSTB	Financial Services and the Treasury Bureau
GLLs	Government Land Licences
HAB	Home Affairs Bureau
HAD	Home Affairs Department
HKCAAVQ	Hong Kong Council for Accreditation of Academic and Vocational Qualifications
KPI	Key Performance Indicators
Lands D	Lands Department
LCIS	Land Control Information System
LegCo	Legislative Council
LMPO	Land (Miscellaneous Provisions) Ordinance
MAC	Management Advisory Committee
NGOs	Non-governmental organisations
STT	Short-term tenancy
TLCP	Tai Lam Country Park
TTLV	Tai Tong Lychee Valley