

政府總部
發展局
規劃地政科



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Planning and Lands Branch
Development Bureau
Government Secretariat

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(English Translation)

5 September 2014

Ms Sharon Chung
Chief Council Secretary
Panel on Development
Room 1018, Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Chung,

Your emails of 11 August 2014 and 26 August 2014 enclosing respectively Hon Gary FAN Kwok-wai's letter and Hon LEUNG Che-cheung's letter to Dr Hon LAU Wong-fat, Chairman of the Panel on Development, are duly received.

The Administration understands that the land purchase in Yuen Long by the Assistant Director of the Lands Department (LandsD), Ms Anita LAM Ka-fun, has aroused widespread concern in the community. On 6 August and 7 August 2014, LandsD issued press releases and responded to media enquiries, which include the details of the declaration of the land purchase made by the officer concerned earlier, how LandsD handled the declaration and the applications for redevelopment of the site in question, and the comments made by LandsD on the two planning applications in respect of the site in 2009 and 2014 respectively. Attached please find the relevant press releases for reference.

LandsD will follow up in accordance with the established mechanism the complaints over the officer concerned on possible violation of the Government regulations and the possible failure of the Department in handling the declaration properly. There is a well-established system in the Government in governing declarations of civil servants' interest and avoiding any conflict of interest. The relevant departments will handle the matter in an objective and impartial manner. The Administration is also aware that the law enforcement agency has been requested to investigate the incident. It is not appropriate for the Development Bureau and the LandsD to comment on the incident, lest affecting the relevant follow-up actions or investigations.

At the same time, LandsD is reviewing the regulations applicable to its staff's declaration of investments, including how to avoid possibly causing negative public perception. As soon as LandsD completes the review, the Administration will report to the Panel on Development.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'LAW Kin-wai', written in a cursive style.

(LAW Kin-wai)

for Secretary for Development

Encl.

Press Releases

Lands Department responds to media enquiries

In response to media enquiries about the land purchase in Yuen Long by the Assistant Director/Regional 3 of the Lands Department (LandsD), Ms Anita Lam Ka-fun, a spokesman for LandsD gave the following remarks today (August 6):

"On declaration of private investment by civil servants, it is the Government's policy to strike the right balance between protecting their right to make private investment and their privacy and maintaining the impartiality and accountability of the civil service to the public. In general, as long as the investment does not constitute any conflict of interest with their official duties, civil servants may make private investment. However, in any circumstances, they must not use confidential/market-sensitive information obtained in their official position or in the course of their official duties to make private investment or engage in related activities for their personal or any other persons' benefit.

Generally speaking, the civil servants working with LandsD have the right to make private investment, including property and land transactions, but they must comply with the applicable declaration requirements and avoid any conflict of interest between their investments and official duties.

Ms Lam made a written declaration of a land purchase to the department in April 2012 within seven days of purchase in accordance with the declaration requirements applicable to civil servants of directorate grade. She reported that she and her spouse had bought a site in DD112 Yuen Long at \$18 800 000 for their own use and leasing out. She also recorded this investment in the declaration form submitted every two years. In view of her declaration, the department issued a written instruction to Ms Lam requesting her to refrain from taking part in the discussion or decision-making in connection with the government's actions or recommendations on the above-mentioned land. If any conflict of interest situation arises when she is discharging her duties, Ms Lam is required to report to her supervisor.

According to the above arrangement and the department's instruction, Ms Lam has not handled and cannot handle the application for redevelopment of New Territories exempted houses (NTEHs) which she submitted through her agent to Yuen Long District Office in October 2012. The application is now being processed by the New Territories Action Team, which is under the purview of another Assistant Director of Lands. When the application is submitted in future to Yuen Long District Lands Office for approval according to the established procedure, the department will put in place alternative arrangements to ensure that the applicant's direct subordinate, i.e. Yuen Long District Lands Officer, will not chair the meeting or make the decision concerning the application.

The land use review for Kam Tin South and Pat Heung is conducted by the Planning Department. LandsD is mainly involved in providing comments via its Yuen Long District Lands Office and Railway Development Section. The land purchased by Ms Lam is neither within the scope of the review nor involved in any

approved or proposed land resumption plans. The fact that part of the site contains "house" status is not any internal information. According to the existing arrangements, land owners and their representatives can access the cadastral record, "A" Book, at District Lands Offices. When Ms Lam purchased the land, such information had already been stated in the planning application submitted by the former owner in 2009 and the relevant paper is open to public inspection. There is so far no evidence indicating that Ms Lam made use of any internal information in this land transaction.

We understand that even though our colleague has complied with the declaration requirements and the department has made follow-up arrangements on the declaration, the investment may still raise public concern. We will review whether there is a need to improve the current declaration system, including how to refrain from situations possibly causing negative public perception.

The department examines all applications submitted to it for approval in a fair and impartial manner. Even if Ms Lam's planning application is approved by the Town Planning Board, she is still required to obtain LandsD's approval for the redevelopment. When processing applications for redevelopment of NTEHs, the department will examine the relevant information before deciding whether the application should be approved and the scale of redevelopment to be permitted under the approval."

Ends/Wednesday, August 6, 2014
Issued at HKT 21:37

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Press Releases

Lands Department responds to enquiries

In response to media enquiries, the Lands Department (LandsD) said today (August 7) that regarding the applications submitted to LandsD for rebuilding New Territories Exempted Houses on the lots in question in DD 112, Yuen Long, no approval had been given to the application submitted by either the former owner or the current owner (Assistant Director/Regional 3, Ms Anita Lam and her spouse). There is no question of applying double standards in approving the applications. For the application submitted by the former owner, there was no need for the District Lands Office/Yuen Long (DLO/YL) to continue to process it because of the change of the ownership. The current application is being processed by the New Territories Action Team of LandsD, which is under Assistant Director/Estate Management.

As regards the applications for planning permission in respect of the same lots submitted by the former owner and the current owner respectively, LandsD's comments were stated under "Land Administration" in the main body of the Rural and New Town Planning Committee (RNTPC) papers. It was stated in paragraph 8.1.1(c) of the RNTPC paper no. A/YL-SK/148 of 2009 that for the development parameters for the "house" portion of the lots concerned, in the event that no evidence could be established to prove the development restrictions for the "house" portion, DLO/YL might not adopt the development parameters as specified in GN 364 of 1934 (i.e. two storeys and site coverage 66.6%) taking into account that the lease itself does not stipulate such restrictions.

Similarly, it was stated in paragraph 8.1.1(b) of the RNTPC paper no. A/YL-SK/201 of 2014 that the development parameters of the application lots might be up to three storeys and 100% site coverage for the "house" portion. But paragraph 8.1.1(c) of that paper at the same time indicated that the development parameters of the proposed houses were subject to LandsD's decision.

It can be seen from what was stated in the two papers about LandsD's comments on the planning applications provided to the Planning Department that it does not rule out rebuilding up to three storeys and 100% site coverage on the "house" portion of the lots in question. In other words, the comments provided by LandsD to the Town Planning Board, as far as the permissible development scale under the lease of the lots is concerned, are not conflicting. LandsD also indicated in the two planning papers that the application for rebuilding and the permissible scale were still subject to LandsD's approval even though the planning application was approved.

As for Ms Lam's case, the department has received complaints alleging that violation of the relevant Civil Service Code might have been involved and querying whether the department had handled Ms Lam's declaration properly. The department will handle the complaints objectively and impartially in accordance with the established mechanism. Although the department has already issued a written instruction to Ms Lam and made internal arrangements to refrain Ms Lam from taking part in any matters relating to the land concerned, the department will arrange staff movement

shortly, so that Ms Lam will no longer be involved in the land administration work of Yuen Long district.

Ends/Thursday, August 7, 2014
Issued at HKT 23:15

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