

立法會
Legislative Council

LC Paper No. CB(3) 679/14-15

Ref : CB(3)/P/2/OL

Tel : 3919 3300

Date : 14 May 2015

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 20 May 2015

**Application for special leave of the Council to give evidence
of Council proceedings**

Acting for the three defendants in *HKSAR v Fong Kwok Shan, Christine, Cheung Mei Hung and Fong Yu Ching* (ESCC3792/2014), Y.S. LAU & Partners has submitted a request (**Appendix I**) for special leave of the Council under section 7 of the Legislative Council (Powers and Privileges) Ordinance (Cap 382) (**Appendix II**) for three prosecution witnesses who are officers of the Legislative Council to give evidence in the court case (“the Request”).

2. In accordance with Rule 90(2) of the Rules of Procedure, the President has directed that the Request be placed on the Agenda for the Council meeting of 20 May 2015.

3. Members are invited to note that under Rule 90(2), unless on a motion which may be moved without notice at the above meeting by any Member the Council determines that such leave shall be refused, the Council shall be deemed to have ordered that such leave be granted.

(Odelia LEUNG)
for Clerk to the Legislative Council

Encl.

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

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Our Ref.: 09947/2014/YSL/L

Your Ref.:

Date: 6th May 2015

The Clerk to the Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

By Email Only

Dear Sirs,

Re: ESCC3792/2014 – HKSAR v Fong Kwok Shan, Christine, Cheung Mei Hung and Fong Yu Ching

We act for Ms. Fong Kwok Shan, Christine, Mr. Cheung Mei Hung and Mr. Fong Yu Ching, the 1st to 3rd Defendants respectively under the captioned criminal proceedings.

We write to seek leave from the esteemed Legislative Council under s.7(1), Legislative Council (Power and Privileges) Ordinance (Cap.382) to permit the following prosecution witnesses (particulars whereof are set out below), who are officers of the Legislative Council and will be called, to give evidence in the captioned criminal proceedings relating to the events happened in the public gallery before the Public Works Sub-committee of Legislative Council Finance Committee on 7th May 2014 and 13th May 2014:-

- (1) Ms. Li Yuk-wah (李玉華), Security Assistant I;
- (2) Mr. Liu Kam-wo (廖錦和), Security Officer; and
- (3) Ms. Chak Man-yuet (翟民悅), Security Assistant II.

Given they are prosecution witnesses, the basis why the prosecution is not required to seek leave is because the Defendants are able to agree to matter like, e.g. what the Chairman said during the meetings.

The prosecution has indicated to the Court that they do not oppose our application and agreed that given the width of s.7, the cross examinations of one or more of the above prosecution witnesses may touch on matters covered or arguably covered by s.7.

Please also be informed that the Court ordered the parties to report the progress of this application on 8th June 2015. The adjourned trial and cross examination of the .../P.2

PRINCIPALS

Lau Yue Sum LL.B (Hons) 劉汝琛律師
Lung Man On LL.B (Hons) 龍文安律師

CONSULTANTS

Yau Man Fai LL.B (Hons)
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ASSISTANT SOLICITOR

游文輝律師 Li Chun Tak LL.B (Hons) 李駿德律師
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Y. S. LAU & PARTNERS
SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

Our Ref.: 09947/2014/YSL/L

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witnesses will take place on 29th and 30th June 2015 at Court 3, Eastern Magistrates' Courts. We shall therefore be grateful if we can have your reply at your earliest convenience.

Should you have any queries, please do not hesitate to contact our Mr. Y.S. Lau or our Mr. Adam Li at 2110 1899.

Yours faithfully,



Y.S. Lau & Partners
c.c. client

第 382 章 立法會(權力及特權)條例

7. 未經許可不得就立法會或任何
委員會的會議程序作證

(1) 如未經立法會特別許可，任何議員或立法會人員，以及受僱在立法會或任何委員會會議席上錄取會議紀要或保存證據紀錄的人，不得就上述會議紀要或證據紀錄的內容、或就提交立法會或任何委員會的文件內容(視屬何情況而定)、或就立法會或任何委員會所進行的會議程序或訊問(視屬何情況而定)，在其他地方作證。

(2) 在立法會休會或押後會議期間，第(1)款所提述的特別許可，可由主席給予；如主席因不在香港或喪失履行職務能力以致不能行事者，則可按照議事規則給予。

(由 2000 年第 71 號第 3 條修訂)

CAP. 382 *Legislative Council (Powers and Privileges)*

7. **Evidence of proceedings in the Council or any
committee not to be given without leave**

(1) No member or officer of the Council, and no person employed to take minutes or keep any record of evidence before the Council or a committee, shall give evidence elsewhere in respect of the contents of such minutes or record of evidence, or of the contents of any document laid before the Council or committee, as the case may be, or in respect of any proceedings or examination held before the Council or committee, as the case may be, without the special leave of the Council.

(2) During a recess or adjournment of the Council, the special leave referred to in subsection (1) may be given by the President or, if the President is unable to act owing to his absence from Hong Kong or incapacity, in accordance with the Rules of Procedure. (*Amended 71 of 2000 s. 3*)