

民政事務總署
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14 December 2018

Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road,
Central, Hong Kong
(Attn: Ms Joanne MAK)

Dear Ms MAK,

**Panel on Constitutional Affairs
Letter from Hon Claudia MO**

I refer to your letter dated 6 December 2018 to the Secretary for Constitutional and Mainland Affairs regarding the captioned subject. Since this department is responsible for the conduct of 2019 Rural Ordinary Election, we have prepared our response on this subject for Members' reference.

Article 26 of the Basic Law stipulates that "Permanent residents of the Hong Kong Special Administrative Region ("HKSAR") shall have the right to vote and the right to stand for election in accordance with law". The HKSAR Government all along respects and safeguards the rights enjoyed by Hong Kong residents according to the law, including the aforesaid rights to vote and to stand for election. At the same time, the HKSAR Government has a duty to implement and uphold the Basic Law and to ensure that all elections will be conducted in accordance with the Basic Law and relevant electoral laws.

Section 24 of the Rural Representative Election Ordinance (Cap 576) ("RREO") stipulates that "a person is not validly nominated as a candidate for an election for a Rural Area unless the nomination form includes or is accompanied by a declaration, signed by the person, to the effect that the person will uphold

the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region”. In addition, as required under section 10(2) of the Electoral Procedure (Rural Representative Election) Regulation (Cap 541L) (“the Regulation”), in deciding the validity of a nomination, the Returning Officer (“RO”) shall be satisfied that the candidate has complied with section 24 of the RREO. Section 7(3) of the Regulation also stipulates that “the Returning Officer may require a person who is nominated as a candidate to furnish such information which is not covered by the nomination form as that Officer considers necessary in order to be satisfied (a) that the person is eligible to be nominated; or (b) as to the validity of the nomination”.

The ROs for the 2019 Rural Ordinary Election have made decisions on the validity of nomination of candidates with regard to the actual circumstances of individual cases, the legal requirements and relevant procedures. The ROs have the duty as well as power to make those decisions according to the relevant electoral laws. All the decisions made by the ROs aim to ensure that the Rural Election is held in an open, honest and fair manner in accordance with the relevant laws. There is no question of any political censorship, restriction of the freedom of speech or deprivation of the right to stand for elections as alleged by some members of the community.

Candidates who question the decision of the RO on the validity of nomination may seek the court’s judgement through the election petition mechanism in accordance with the law.

Yours sincerely,



(Rachel YIU)
for Director of Home Affairs