

(Translation)

**香港特別行政區政府
The Government of the Hong Kong Special Administrative Region**

運輸及房屋局
香港九龍何文田
佛光街 33 號



Transport and Housing Bureau
33 Fat Kwong Street, Homantin,
Kowloon, Hong Kong

本局檔號 Our Ref. (12) in HD4-2/PS2/1-55/1/4 X
來函檔號 Your Ref.

電話 Tel No. 2761 5049
圖文傳真 Fax No. 2761 7445

25 April 2019

Mr Derek LO
Clerk to Panel on Housing
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr Lo,

Late wage payment at the site of Ying Tung Estate, Tung Chung

Regarding the letter from the Hon Fernando Cheung to the Chairman of the Legislative Council (LegCo) Panel on Housing (the Panel) on 27 March 2019, I set out the reply as below –

2. The Secretary for Transport and Housing has, in his written reply to Hon Cheung's LegCo question on 17 April 2019, explained the matter mentioned in the letter¹. As mentioned in the Government's reply, the Hong Kong Housing Authority (HA) has always required its works contractors to effect timely wage payments to their workers, and closely monitored the situation of wage payments to workers during the contractual construction period. If HA is aware of any late or outstanding wage payment, it will follow up with the contractors, and refer such cases as necessary to the Labour Department (LD) for their further investigation and enforcement under the Employment Ordinance.

¹ <https://www.info.gov.hk/gia/general/201904/17/P2019041700439.htm>

3. HA will continue to monitor various aspects of the contractors' performance through the Performance Assessment Scoring System (PASS), including the Wage Monitoring System (WMS). The relevant assessment scores will affect the contractors' eligibility for tendering and chance of contract awarding. HA will also take direct regulatory actions against contractors with unsatisfactory performance. HA has been reviewing the implementation of WMS and PASS, and would, during this process, invite representatives of the construction industry to attend working meetings and collect their views.

4. In 2017 and 2018, there were several cases of late wage payment by the Hsin Chong Construction Company Limited (HCCCL). Whenever HA was aware of any such cases, HA, according to the established mechanism, took proactive follow-up actions, including issuing multiple letters to remind, warn and urge HCCCL to take actions to settle the relevant problems, and conducting meetings with the project management team of HCCCL. With HA's intervention, HCCCL has already settled all late wage payment in or before September 2018.

5. Since the proceedings on petition for winding-up of HCCCL was commenced in August 2018, the relevant matters have to be dealt with in accordance with the statutory procedures and instructions of the provisional liquidators. Although the relevant construction contract has provisions allowing HA to pay, under specified conditions, the wages in arrears out of any money due to HCCCL under the contract, payment of the wages in arrears may be considered void under the Companies (Winding Up and Miscellaneous Provisions) Ordinance in the present circumstance where the winding up petition has been presented against HCCCL. HA has proactively contacted the provisional liquidators to explore and discuss the possibility of implementing the provisions on payment of wages in arrears so as to offer help to the unpaid employees. HA has also made a number of appeals to the workers through the workers' union to provide HA with the details of the decision of the Labour Tribunal and proofs of their employment under the Ying Tung Estate Development Project in Tung Chung, including (but not limited to) their employment contracts, on-site working records, etc. in order to facilitate HA's follow-up with the provisional liquidators.

6. Furthermore, LD has been offering appropriate assistance to the affected workers. The workers involved had filed their claims at LD and requested for recovery from HCCCL. LD has arranged conciliation meetings between the two parties and requested HCCCL to take prompt actions to pay the wages in arrears. As HCCCL did not turn up at the relevant conciliation meetings, LD had transferred the cases to the Labour Tribunal as per the workers' requests. Since HCCCL still could not settle the outstanding wages, including the payment in lieu of notice for termination of employment, etc. after the

judgement of the Labour Tribunal being issued, LD has assisted the workers involved to apply for ex-gratia payments from the Protection of Wages on Insolvency Fund for wages in arrears and related statutory entitlements as specified in the Protection of Wages on Insolvency Ordinance. HA also suggests assisting the affected workers by contacting the Social Welfare Department, such that they could be provided with suitable follow-up in accordance with their welfare needs.

7. As the proceedings on petition for winding-up of HCCCL has already commenced, the Government does not recommend discussing the relevant matter at the Panel. HA and LD will continue to closely liaise with the provisional liquidators of HCCCL, and will spare no effort in assisting the affected workers.

Yours sincerely,

(Original Signed)

(Rayson H S CHAN)

for Secretary for Transport and Housing