

Press Statement by Winston Ka-Sun Chu

**Panel on Development Meeting on Tuesday, 28th September 2021
In Defence of the Protection of the Harbour Ordinance (the “PHO”)**

**Public Response To Legislative Council Brief
Proposed Member’s Bill to amend the
Protection of the Harbour Ordinance (Cap. 531)**

I refer to the Legislative Council Brief from the Honourable Alice Mak which is surprisingly not an objective document as one would expect but is completely one-sided. It contains serious factual mistakes and grave mis-statements of the law. Thus it is mis-leading both to the Legislative Council and to the public.

The Honourable Legco members in the Legco meeting tomorrow should not accept the contents of the Brief at face value. To be fair to the Hong Kong people, before taking away from them such an important legal right enshrined in the Ordinance, the public should be given the chance to submit their views. The Honourable Members have a duty to hear both sides and to find out the true facts about the Ordinance before coming to any opinion or a decision.

Paragraph 5 is clearly a mis-statement of the law. The PHO by the “Presumption Against Reclamation” clearly only restricts reclamation. There is not a single word in the Ordinance that restricts anything else.

The allegation in Paragraph 5 shows a basic mis-understanding of the Ordinance:

“ However, the present PHO restricts not only reclamation, but almost all possibility of well using of the harbour and thus is not in line with the original intention ”

The Court of Final Appeal (“CFA”) Judgment also clearly pronounces the present law: Reclamation is only lawful if there is an overriding public need. The Judgment confirms that the Ordinance is only concerned with reclamation and nothing else. Works which do not require any reclamation are completely outside the scope of the Ordinance and not controlled by it.

Therefore Paragraph 5 is a pure invention. It is not what the Ordinance sets out. There is no such provision in the Ordinance, not a single word. Legco and the public should not be mis-led by such a clear mis-statement of the law.

Paragraph 6

The reference to the 2017 Report of the Working Group on the PHO of the Harbourfront Commission is misleading. The Report actually supported the Ordinance and discussed questions relating to its application. It did not criticise the Ordinance nor did it recommend any amendment, certainly not the amendment now being proposed.

To ensure accuracy and to avoid bias and to be fair to the Hong Kong community, the Report should be placed before this Panel.

Paragraph 7

Again this Paragraph 7 just shows the bias based upon a misunderstanding of the Ordinance and the CFA Judgment. The law is clear. Only projects that require reclamation need to comply with the Ordinance.

Paragraphs 8, 9, 10 and 11

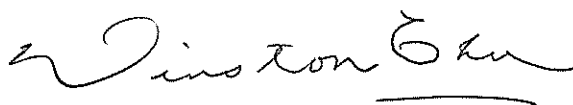
These are pure misrepresentation of the facts based upon insufficient research into the history and background of these four projects. The allegations are entirely unsubstantiated by any evidence nor have any details in support been given.

If allowed to do so, I shall be pleased to submit a Paper to Legco with details and supporting documentation to put on record the factual background which spans more than 20 years. Such a Paper is too lengthy to be covered in this Press Conference.

Conclusion

The whole concept of the present proposed amendment seems to have been based upon a fundamental misunderstanding of the Ordinance as mentioned above. If so, the proposed amendment is totally mis-conceived.

The Ordinance has been working well. The proposed amendment is completely unnecessary. The harbour and harbourfront have been greatly improved since the enactment of the Ordinance. Thanks to the protection of the Ordinance, Hong Kong still has a wide and beautiful Victoria Harbour.



Winston Ka-Sun Chu

27th September 2021