

### **LEGCO QUESTION NO. 17 (Written Reply)**

Asked by: The Hon LI Wah-ming

Date of meeting: 9 July 2003

Replied by: Secretary for Housing,  
Planning and Lands

#### **Question:**

It is learnt that the land lease of Galaxia at Diamond Hill requires the construction of a public bus terminal, a public toilet and Exit C of the MTR Diamond Hill Station by the developer at the ground level of the development project, while the Deed of Mutual Covenant of the project stipulates that the land interest for such facilities is vested in the Government, but other property owners of the development project are required to share the responsibility for maintaining such facilities. In this connection, will the Government inform this Council:

- (a) of the Government's policy on matters relating to the terms of land leases which require developers to develop public facilities, and the changes to the policy over the past ten years;
- (b) of the justifications for requiring other property owners of the above project to shoulder the maintenance responsibility for public facilities owned by the Government, and of the occupied residential projects and those that are being constructed in the territory to which similar terms of land leases are applicable; and
- (c) as the owners have neither the land title and management right of these public facilities, nor the right to approve the maintenance expenses of the facilities in advance, whether the Government will consider assuming the maintenance responsibility; if not, of the justifications for that?

Reply:

President,

My reply to the three parts of the question is as follows:

- (a) Developers are required to provide public facilities under appropriate circumstances. This is based on the general principle that developers should provide such facilities to serve the population brought about by their private development. For example, provisions of open space is required to meet the need of the increased population arising from the development. Generally, if the public facilities are intended to serve the wider community needs, Government will normally reimburse developers for the costs of these facilities, e.g. public bus terminus. For the past ten years, no change has been made to this policy.
  
- (b) Galaxia (New Kowloon Inland Lot no. 6160) is located at 3 Lung Poon Street, Diamond Hill, Kowloon. It was sold by public auction in February 1993. The public transport terminal (PTT), the public toilet and the Mass Transit Railway (MTR) Diamond Hill Station Exit C fall within the site boundary of the development. They were constructed by the developers with costs reimbursed by Government. Ownership of the PTT and the public toilet has been subsequently assigned to the Government; and the MTR station exit to the MTR Corporation subject to the conditions set out in sub-paragraphs (i) to (iv) below.

Under the lease conditions, the developer (or subsequent owners of the development) of Galaxia is responsible for the maintenance of the

following :

- (i) the structure and finishes of all walls, roof slab and columns within the PTT and the public toilet, and the structural slabs and the drainage system under them;
- (ii) all lifts, staircases and escalators linking the PTT and the public toilet with other floors of the buildings erected on the lot;
- (iii) fire service installation equipment for the PTT; and
- (iv) the common facilities serving the PTT and the public toilet.

The aforementioned items are either part or the ancillary components of the overall structure of Galaxia e.g. the structure and finishes of the walls within the PTT; or they have the effect of facilitating accesses to the development e.g. the lifts, staircases linking the PTT and the buildings erected on the lot. The Government has taken over maintenance responsibilities for other related installations such as all elevated walkways which form a separate structure from the development.

There are six existing residential developments in Hong Kong which contain PTT with similar maintenance responsibilities. Two residential developments which are under construction are in similar circumstances.

- (c) In the case of Galaxia, Government is responsible for the maintenance costs relating to the operation of the PTT, the public toilet and the associated installations. As for the maintenance costs of the public

facilities listed in paragraphs (b)(i) – (b)(iv) above, such requirements should have been made known to the flat purchasers by their solicitors during the property conveyancing process. The flat purchase price should also have reflected, among other market and development conditions, these maintenance requirements. There is no question of Government taking over the maintenance of the aforesaid items. In this respect, the developer's responsibility has been set out in the land lease executed, as a binding contract, between the developer and Government.