

(Translation)

LEGCO QUESTION NO. 5

(Oral Reply)

Asked by: the Hon Ronny Tong

Date of meeting: 23 February 2005

Replied by: Secretary for Housing,
Planning and Lands

Question

In its reply to me on 31st December last year, the Administration said that a lease modification to allow for redevelopment was in principle acceptable on the basis that if the scheme proposed accorded with the planning intention. However, if the developers of Hunghom Peninsula applied for a modification to allow for redevelopment, the Administration might consider rejecting the application. In this connection, will the Government inform this Council of:

- (a) the time when the Government was legally advised that it had the right to reject the application by the developers of Hunghom Peninsula for a lease modification to allow for redevelopment; if the advice was received before 5th July of last year, why did the Administration still write on that day to remind the developer that if any redevelopment of the lot did not accord with the Master Layout Plans and the Approved Landscaping Proposals, an application for lease modification had to be made to the District Lands Officer, Kowloon West; if the advice was received after 5th July, why had the Administration not sought legal advice earlier;
- (b) the time at which it was confirmed that the Administration had the right to reject the application from the developers of Hunghom Peninsula for a lease modification to allow for redevelopment; why did the Administration not inform the developer right away; and
- (c) the time when the Administration decided not to accept the developer's application for lease modification and the grounds for the decision?

Reply

President,

All the leases under the Private Sector Participation Scheme contain standard conditions to ensure that in case buildings constructed under the Scheme are demolished or redeveloped if needed in future, they are carried out in accordance with the lease conditions. The lease conditions of Hunghom Peninsula concerning demolition or redevelopment are no exception.

2. According to the lease of Hunghom Peninsula:

- (a) Special Condition (11)(a) provides that the lot shall not be developed or redeveloped except in accordance with the Lease Conditions, the Master Layout Plans and the Approved Landscaping Proposals, and no building which is not shown on the Master Layout Plans and the Approved Landscaping Proposals shall be constructed.
- (b) General Condition (7)(a) provides that the Purchaser shall maintain all buildings in accordance with the approved building plan without variation or modification thereto. General Condition (7)(b) stipulates that in the event of the demolition of any building then standing on the lot, the Purchaser shall replace the same either by -
 - (1) building or buildings of the same type and of no less gross floor area; or

- (2) building or buildings of such type and value as shall be approved by the Director of Lands (the Director).

In the event of demolition, according to General Condition (7)(b), the Purchaser shall within the stipulated timeframe apply to the Director for consent to carry out redevelopment, and shall commence redevelopment work within the stipulated timeframe and complete the said redevelopment to the satisfaction of and within such time limit as laid down by the Director.

3. The Director of Lands has the authority to examine and approve applications for lease modification. Applications vary from case to case. Each application will have to be considered having regard to its details and the prevailing land policy. Hence, it is not possible to generalize on the outcome. As Government indicated in the reply of 31 December 2004 to the Hon Ronny Tong : “A lease modification to allow for redevelopment was, in principle, acceptable on the basis that if the scheme proposed accorded with the planning intention, it would have been entirely within land administration policy to have processed it. Subsequently, the Administration took the view that consideration should be given, in the event of an application from the developer for a modification to allow for redevelopment of Hunghom Peninsula, to not agreeing to such a modification.”

4. My reply to the three-part question is as follows:

- (a) The Director of Lands has the authority to examine and approve applications for lease modification. The Legal Advisory and

Conveyancing Office provides legal advice in respect of lease conditions. The need to seek legal advice from outside the Lands Department has not arisen. In the light of some press reports that the developers of Hunghom Peninsula had yet to take a final view on its redevelopment proposals, the Legal Advisory and Conveyancing Office sent a letter to the developers on 5 July 2004, mentioning that “should the developers wish to proceed with any redevelopment which does not accord with the Master Layout Plans or the Approved Landscaping Proposals, an application for lease modification should be made to the District Lands Officer, Kowloon West”. It would only be prudent for Government to do so. The letter does not constitute any agreement or otherwise to such an application on the part of Government.

- (b) The Director of Lands has the authority to examine and approve applications for lease modification and to decide whether or not to agree to a lease modification. Therefore, there is no need to seek legal advice on this. Also, it does not bring into question a need to inform the developers.
- (c) For the sake of clarity, Government has so far not received any application for lease modification from the developers of Hunghom Peninsula for carrying out redevelopment. Therefore, there is no question of Government agreeing or not agreeing to a lease modification from the developers concerned.

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