

Minutes of the 12th Meeting of
the Commerce, Industry and Housing Committee of
the Tuen Mun District Council

Date: 9 October 2017 (Monday)

Time: 9:30 a.m.

Venue: Tuen Mun District Council (TMDC) Conference Room

<u>Present :</u>		<u>Time of Arrival</u>	<u>Time of Departure</u>
Ms CHING Chi-hung (Chairman)	TMDC Member	9:30 a.m.	End of meeting
Mr LEUNG Kin-man, BBS, MH, JP	TMDC Chairman	9:30 a.m.	End of meeting
Mr LEE Hung-sham, Lothar, BBS, MH	TMDC Vice-chairman	9:30 a.m.	End of meeting
Mr TO Sheck-yuen, MH	TMDC Member	9:30 a.m.	End of meeting
Ms KONG Fung-yi	TMDC Member	9:30 a.m.	End of meeting
Mr NG Koon-hung	TMDC Member	9:30 a.m.	10:44 a.m.
Ms WONG Lai-sheung, Catherine	TMDC Member	9:33 a.m.	End of meeting
Mr AU Chi-yuen	TMDC Member	9:30 a.m.	End of meeting
Ms HO Hang-mui	TMDC Member	9:30 a.m.	End of meeting
Mr LAM Chung-hoi	TMDC Member	9:30 a.m.	End of meeting
Mr TSUI Fan, MH	TMDC Member	9:30 a.m.	End of meeting
Ms LUNG Shui-hing, MH	TMDC Member	9:30 a.m.	End of meeting
Mr CHAN Man-wah, MH	TMDC Member	9:30 a.m.	End of meeting
Mr CHEUNG Hang-fai	TMDC Member	9:30 a.m.	10:20 a.m.
The Hon HO Kwan-yiu, JP	TMDC Member	9:30 a.m.	End of meeting
Ms CHU Shun-nga, Beatrice	TMDC Member	9:30 a.m.	End of meeting
Mr TSANG Hin-hong	TMDC Member	9:42 a.m.	End of meeting
Ms SO Ka-man	TMDC Member	9:30 a.m.	End of meeting
Mr KAM Man-fung	TMDC Member	9:30 a.m.	End of meeting
Mr MO Shing-fung	TMDC Member	10:12 a.m.	End of meeting
Mr YEUNG Chi-hang	TMDC Member	9:30 a.m.	End of meeting
Mr YAN Siu-nam	TMDC Member	9:30 a.m.	End of meeting
Mr TAM Chun-yin	TMDC Member	9:30 a.m.	End of meeting
Ms MA LO Kam-wah, Virginia	Co-opted Member	9:30 a.m.	End of meeting
Mr FUNG Pui-yin	Co-opted Member	9:33 a.m.	End of meeting
Mr NG Ka-ho, Andrew	Co-opted Member	9:30 a.m.	End of meeting
Mr CHAN Tsim-heng	Co-opted Member	9:30 a.m.	End of meeting
Mr TSOI Shing-hin	Co-opted Member	9:30 a.m.	End of meeting
Mr HO Chui-wan, Ida (Secretary)	Executive Officer (District Council) 1, Tuen Mun District Office, Home Affairs Department		

Absent with Apologies :

Mr CHAN Manwell, Leo (Vice-chairman)	TMDC Member
Mr NG Kwok-yan, Akina	Co-opted Member

In Invitation :

Mr PAK Wai-hung, Bryan	Labour Officer(Labour Relations)(Policy Support)1, Labour Department
Mr Anthony NG	CEO, Financial Dispute Resolution Centre
Mr Ernest MOK	Communications Officer, Financial Dispute Resolution Centre

In Attendance :

Ms KOO Kit-ye, Angie	Senior Liaison Officer (1), Tuen Mun District Office, Home Affairs Department
Ms Rene CHAK	Liaison Officer i/c Building Management & Town Centre, Tuen Mun District Office, Home Affairs Department
Mr CHOI Chi-man, Michael	Senior Building Surveyor/E5, Buildings Department
Ms WA Lei-chun, Winnie	Senior Community Relations Officer /ICAC Regional Office (NTNW), Independent Commission Against Corruption
Mr HO Chik-tung, Dennis	Labour Officer (Workplace Consultation Promotion), Labour Department
Mr MOK Hing-cheung	Administrative Assistant/Lands, District Lands Office, Tuen Mun, Lands Department
Ms CHENG Chui-king, Christine	Housing Manager/Tuen Mun 4, Housing Department

I. Opening Remarks

The Chairlady welcomed all to the 12th meeting of the Commerce, Industry and Housing Committee (“CIHC”).

2. The Chairlady reminded Members that any Member who was aware of a personal interest in a discussion item should declare the interest before the discussion. She would, in accordance with Order 39(12) of the Tuen Mun District Council (TMDC) Standing Orders, decide whether the Member who had declared an interest might speak or vote on the matter, might remain in the meeting as an observer, or should withdraw from the meeting. All cases of declaration of interests would be recorded in the minutes of the meeting.

II. Absence from Meeting

3. The Secretariat received no applications from Members for leave of absence.

III. Confirmation of Minutes of The Last Meeting

4. As Members had not proposed any amendment to the minutes of the 11th meeting of the CIHC (2016-2017), the Chairlady announced that the minutes were confirmed.

IV. Matters Arising

(A) **Proposal to Retrofit Ramps and Safety Facilities on Both Sides of the Zebra Crossing between Ting Lung House and the Shopping Centre (CIHC Paper No. 10/2017) (Paragraphs 26-33 of the Minutes of the 10th CIHC Meeting and Paragraphs 6-9 of the Minutes of the 11th CIHC Meeting)**

5. The Chairlady said in the last meeting, the Housing Department (“HD”) indicated that it was drafting a plan for the captioned proposal and would consult with the relevant departments and stakeholders about the feasibility of the plan. She requested the representative of the HD to report on the progress of the work.

6. Ms CHENG Chui-king, Christine, of Housing Department responded that the department had completed the design drawing and would submit it to the Independent Checking Unit for approval in October. The department had consulted with the District Councillors of the relevant constituencies and the Estate Management Advisory Committee about the design drawing.

7. The Chairlady requested the HD to follow up on the remaining works, she also requested the Members concerned to keep liaison with the department and keep watch on the progress of the works.

V. Discussion Items**(A) Enquire about the Progress of the Abolition of the Mandatory Provident Fund Offsetting Arrangement**
(CIHC Paper No. 20/2017)
(Reply from Labour Department)

8. The Chairlady welcomed Mr. PAK Wai Hung, Bryan, Labour Officer (Labour Relations) (Policy Support) of Labour Department (“LD”) to the meeting.

9. The first proposer of the paper said the objectives for creating severance and long service payments were different from those of the Mandatory Provident Fund (“MPF”). The MPF contributions should not be used by the employers to offset those two payments. The offsetting mechanism would greatly weaken the role of the MPF as a pillar of retirement protection. He said in the years 2001-2016, as much as over 32 billion of MPF contributions had been offset, which had greatly weakened the retirement protection of the employees. He urged the LD to abolish the MPF offsetting mechanism as soon as possible, to conduct an overall review of the MPF system and to strengthen the retirement protection for employees.

10. Mr PAK of the LD said the Government was aware of the diverse opinions existing in the community about the abolition of the MPF Offsetting Mechanism and the scheme proposed by the previous term of Government. The abolition of the MPF Offsetting Mechanism was interrelated with the retirement protection for over 3 million employees in Hong Kong. The current-term Government had made clear its stance that the “offsetting” arrangement should be abolished and was willing to increase its financial commitment to mitigate the impact of the abolition on enterprises, in particular micro, small and medium enterprises. The Government hoped to put forward a proposal in the coming few months.

11. Members’ comments and enquiries are summarised as follows:

- (i) A Member welcomed the positive response from the Government. He said as the current-term Government had taken office for a few months already, he requested the department to provide the exact progress of the matter to avoid further delays;
- (ii) A Member reckoned that abolition of the MPF Offsetting Mechanism was a territory-wide issue which involved legislative procedures, she hoped that Members who were also members of the Legislative Council would help raise the issue at the Legislative Council; and
- (iii) A Member pointed out that the LD hoped to mitigate the impact of the abolition on small and medium enterprises; in this regard, some people in the community had proposed

reducing the proportion of the offsetting amount, some suggested the Government to inject capital for establishing funds. He enquired whether the department had drafted any details in respect of the implementation of the captioned proposal, or had any progress on the direction of the discussion.

12. Mr PAK of the LD responded that the current-term Government had been proactively discussing with the commercial sector and the labour sector about the abolition of the MPF Offsetting Mechanism since July this year, in a bid to exploring feasible plans. The Government hoped to introduce a plan which might take care of the interests of both the employers and employees in the coming few months.

13. The Chairlady requested the representative of the LD to reflect Members' opinions to the LD and to promptly report the latest progress of the captioned issue to CIHC.

VI. Reporting Items

(A) Briefing of Service Enhancement in Relation to the Financial Dispute Resolution Scheme **(CIHC Paper No. 21/2017)**

14. The Chairlady welcomed Mr Anthony NG, Chief Executive Officer, and Mr Ernest Mok, Communications Officer, of the Financial Dispute Resolution Centre ("the FDRC") to the meeting.

15. Mr NG of the FDRC introduced the captioned scheme by powerpoint (annex 1).

16. Members' enquiries are summarised as follows:

- (i) A Member enquired whether the claimant must be a financial institution, whether the dispute must be of a monetary nature and the consequences if one of the parties refused to perform the reached agreement after mediation;
- (ii) A Member said the service fee paid by a financial institution was five times higher than an eligible claimant; if the resolution was unsuccessful and the case was referred to the court, whether the financial institution could counter-claim the claimant for the fee it had already paid;
- (iii) A Member enquired the number of cases involving amounts below \$1 million that had been handled by the FDRC since its operation in 2012; and
- (iv) A Member enquired if there was any change in the information to be reported to the

regulators after the service of the FDRC was enhanced.

17. Mr NG of the FDRC responded that at present, all the disputes handled by the FDRC were financial disputes, particularly those arising between financial institutions licensed by the Securities and Futures Commission and Hong Kong Monetary Authority (the regulators) and their clients, the FDRC would not deal with non-monetary disputes. All the process and result of mediation would be kept confidential; even if one party resorted to legal proceedings after failing the resolution means, the details of the mediation could not be disclosed. As to whether the mediation fee could be recovered by a party, it would be decided by the court case by case.

18. Mr NG of the FDRC said further that between 2012 and 2016, the FDRC handled 142 cases in total, each of which involved an amount below \$500,000. The service enhancement would enlarge the scope of service of the FDRC to cover more citizens. Department of Justice, which had been consulted, also encouraged resolving financial disputes through mediation first. At present, the FDRC provided monthly reports on an anonymous basis to the regulators about the number and types of disputes handled by the FDRC (“Monthly Reports”), as well as information on individual cases such as FDRS application forms, copies of agreements to mediate, mediation certificates or notices to arbitrate, as well as any consequent mediated settlement agreements or arbitral awards. After the amendment of the service, the FDRC would no longer submit information of individual cases to the regulators but would continue to submit monthly reports about systemic issues and suspected serious misconduct.

19. Members had another round of discussion and enquiries, the details of which are summarised below:

- (i) A Member enquired if it would cause prejudice to a party without the representation of a lawyer, should the other party instruct a lawyer to join the FDRC mediation;
- (ii) A Member said the main reason for financial institutions to take part in mediation was their contemplation of their slim chances of winning in court trials. If a financial institution was allowed to make counter-claim to recover its mediation fee through legal proceedings, it would be unfair to the citizens; it was suggested that the FDRC should consult with the Department of Justice to eliminate the aforesaid possibility;
- (iii) A Member enquired whether manpower had been increased for the captioned service enhancement, and if there was a list of the participating enterprises in the scheme; and
- (iv) A Member enquired about the number of successful cases amongst the 142 ones handled by the FDRC and the reasons why the FDRC no longer reported information of individual cases to the regulators (he reckoned that this would weaken the regulatory

function).

20. Mr NG of the FDRC responded that according to the practice direction issued by the Department of Justice, if the court allowed lawyers to join the mediation, the FDRC would obey the court's decision. In a mediation case, both parties must bear the costs of mediation. The FDRC could not interfere with the court decision on whether or not to allow one of the parties to recover the mediation costs through legal proceedings, it had never come across such a case and would discourage a mediator from including the mediation costs as part of the amount involved in a dispute case. He estimated that even if the upper limit of a case was raised from \$500,000 to \$1 million, the number of cases would not increase significantly; however, the FDRC would aptly adjust the manpower and control expenditures. The FDRC would move from the existing office premise in Wanchai to the old Central Government Offices (West Wing) in 2019, the rental of which would be further reduced.

21. Mr NG of the FDRC said further that the FDRC was reaching out to various chambers of commerce, introducing to them the services provided by the FDRC and requested them to promote those services to their members (which included small and medium enterprises). The FDRC did not have a name list of participating enterprises in the scheme. Among the 142 cases handled by the FDRC, 80% was successful; some of the failed cases went through arbitration, which were conducted by experienced arbitrators possessing the relevant financial knowledge. The FDRC had always maintained independence and impartiality, and gained trust from the public and financial institutions, hence the success rate of mediation was quite high. As most of the claimants in the cases handled by the FDRC had submitted their complaints to the regulators beforehand, the regulatory function of the regulators would not be affected even though the FDRC no longer reported information of individual cases to them.

22. A Member enquired if the public could submit their insurance compensation disputes to the FDRC for mediation, if they might choose mediators to handle their cases, and the queueing time for the service. A Member viewed that mediation could solve disputes faster and less expensive than litigation, but pointed out that the public might not be familiar with the services offered by the FDRC; therefore, the Member enquired that when the clients of financial institutions sought advice from them, if they might introduce the services of the FDRC in priority to others, to enhance publicity for the FDRC.

23. Mr NG of the FDRC responded that the FDRC would not deal with cases related to insurance companies. In the mediation process, members of the public or financial institutions could list out their specific requirements for mediators, in response to which the FDRC would provide them with three mediators to choose from. Generally speaking, the FDRC would arrange a mediator to conduct a case within one month upon acceptance of a case and would complete the

mediation process in three to six months. The Government was now promoting the services of the FDRC through video playing and displaying publicity boards in different districts. The FDRC also introduced its services to the public through the promotional exhibitions organised by the investor education centre of the Securities and Futures Commission.

24. A Member said the FDRC could make use of the over 300 mediators trained by the Law Society of Hong Kong. In addition, he said the FDRC had dealt with a total of 142 cases each below \$500,000, making a total of around \$70 million; however, FDRC's administrative expenditure last year accounted for as high as \$14 million. He suggested to shorten the completion time for each mediation case to under 1 month.

25. Mr NG of the FDRC responded that the FDRC encouraged financial institutions to make negotiations with their clients first, and to resort to the services of the FDRC later. The FDRC received a lot of case enquiries every year, many of which were already settled at the enquiry stage, except for the 142 complicated cases previously handled by the FDRC.

26. A Member reckoned the difference between the cases that were settled at the enquiry stage and the cases actually going through the mediation process, and opined that there was still room for speeding up the mediation process.

27. The Chairlady thanked the representative of the FDRC for attending the meeting and briefing Members about the work of the FDRC.

(B) Report on the Removal of Restrictions on Entering the Public Estate

28. The Chairlady said in the last meeting, the HD reported to the CIHC that the department had suggested to provide infrared remote controls for the car owners using the Siu On Court Carpark as a replacement of the free toll cards, which suggestion was still pending for the replies of the Incorporated Owners of Siu On Court and the car owners renting the parking spaces on monthly basis. In addition, the department said it had converted the 17 parking spaces at the roundabout of Siu On Court into a flower bed back in 1984 and would provide the relevant works record to the CIHC. She requested the representative of the HD to report on the progress of the above two matters.

29. Ms CHENG of the HD responded that if the car owners using the Siu On Court car park wished to use the infrared remote controls as replacement for the free toll cards, they had to pay an annual fee of \$150. The department was still waiting for replies from the Incorporated Owners of Siu On Court and the car owners renting the parking spaces on monthly basis as to whether they accepted the fee or not. In addition, the department had replied to the Incorporated Owners of Siu On Court about the conversion of the 17 car parking spaces at the Siu On Court roundabout in

1984 and indicated that the residents living nearby were accustomed to the use of the existing facilities of Siu On Court. If the Incorporated Owners of Siu On Court wished to restore the flower bed into an open carpark, the department suggested it to consult with the residents and stakeholders first, and also consider the expenditure required for the works and the future management about road controls and illegally parking.

30. Members' comments and enquiries are summarised as follows:

- (i) A Member said the Incorporated Owners of Siu On Court had asked the HD to provide the Deed of Mutual Covenant and the papers relating to the conversion works. He/she pointed out that the conversion works could only be executed upon unanimous consent of the owners; however, at that time, Siu On Court was managed by the HD, and the HD had altered the land usage without consulting the owners, so he/she urged the HD to provide the relevant papers as soon as possible;
- (ii) A Member said Link Asset Management Limited (Link REIT) had installed a barrier gate at the entrance of Siu On Court without any prior consultation with the residents. The Incorporated Owners of Siu On Court requested to have the barrier gate moved back to the management office or to another location managed by Link REIT;
- (iii) A Member considered it unreasonable to pay an annual fee of \$150 for using infrared remote controls to enter a place in which one was residing and suggested to replace the fee with a deposit. He also enquired whether such arrangement had violated the terms in the Deed of Mutual Covenant and requested the department to explain the necessity in installing the barrier gate;
- (iv) A Member pointed out that On Ting Estate had also installed a barrier gate similar to the one at Siu On Court, but the problem of illegal parking remained unresolved; he considered the HD's stance of using the barrier gate to prevent illegal parking ill-founded. A Member said Yau Oi Estate had not installed any barrier gate, but illegal parking was not serious;
- (v) A Member reckoned the barrier gate as a proper parking alert to the car owners and drivers; if it was removed, illegal parking might worsen, and it was suggested that the HD must strengthen management;
- (vi) A Member enquired whether the paper lost by the HD was the Deed of Mutual Covenant of Siu On Court or the discussion paper concerning the conversion works;

- (vii) A Member pointed out that the carpark at Wu King Estate was installed with infrared barrier gate, whereas Butterfly Estate was not; he/she reckoned the public housing estates managed by the HD should provide the same facilities; and
- (viii) A Member pointed out that the income generated by the Siu On Court Carpark belonged to Link REIT, but the maintenance expenses were borne by the HD, which was not fair.

31. Ms CHENG of the HD responded that the department was still searching for the papers related to the conversion works of Siu On Court in 1984; she would seek assistance from the relevant housing manager or where necessary, from the headquarters. The income generated from the carparks of Siu On Court and On Ting Estate belonged to Link REIT. The HD and Link REIT would handle matters related to road maintenance and pay the relevant expenditures (in proportion) in accordance with the Deed of Mutual Covenant. Butterfly Estate was jointly managed by the HD and Link REIT, Wu King Estate was wholly managed by the HD; therefore, they had different car parking facilities.

32. A Member enquired whether the aforesaid annual fee of \$150 was paid to the HD or Link REIT and how it would be used. In addition, she said when the HD sold the carparks and shopping malls of the public housing estates to Link REIT, it had agreed with the Education Bureau and the primary and secondary school headmasters to provide 8 parking spaces to the secondary schools and 4 to the primary schools, but she learnt that some of the parking spaces assigned to the schools had been taken back by Link REIT in August this year.

33. Ms CHENG of the HD responded that a member of the district council constituency of Siu On Court had discussed with the housing manager of On Ting Estate and suggested to provide free coupons to the car owners of Siu On Court for passing the barrier gate; however, the car owners reflected that the coupons were not convenient and suggested to replace the free toll cards with infrared remote controls. Then, the carpark management company indicated that an annual fee of \$150 would be charged if infrared controls were used for entering/exiting the carpark. The fee was collected by Hong Kong Car Parking Company Limited.

34. A Member enquired that if a visitor's car was parked over-time in a parking space that did not belong to Link REIT, whether the fee belonged to the HD or to Link REIT.

35. Ms CHENG of the HD replied that the said fee should be an income of Link REIT.

36. The Chairlady requested the HD to clarify whether the income derived from the carparks belonged to the HD or to Link REIT, and in respect of the income that belonged to Link REIT, the grounds for its justification. She hoped to receive answers to the aforesaid issued from the Housing Department

TD in the next meeting. In addition, she suggested the department to keep frequent communication with the District Councillors of the relevant constituency in a bid to solve the captioned matter swiftly.

(C) **Work Reports by the Working Groups under the Commerce, Industry and Housing Committee**

(CIHC Paper No. 22/2017)

(i) Working Group on Occupational Safety and Health

37. Members noted the report of the above working group.

(ii) Working Group on Economic Development in Tuen Mun

38. Members noted the report of the above working group.

39. The convenor of the working group said the working group would continue to use the “Eco Shopping and Cultural Tour in Tuen Mun” mobile app to promote the industrial, commercial, gourmet and cultural activities of the district, and hoped to introduce an optimised version of the mobile app before March 2018.

(iii) Working Group on Building Management

40. Members noted the report of the above working group.

41. The Chairlady announced that the above three reports were endorsed.

(D) **Work Report on Private Building Management in the Tuen Mun District**
(CIHC Paper No. 23/2017)

42. Members noted the above work report.

(E) **Report by the BD**

(CIHC Paper No. 24/2017)

43. Members noted the contents of the above report.

VII. Any Other Business and Date of Next Meeting

44. There being no other business, the Chairlady closed the meeting at 11:16 a.m. The next meeting would be held on 4 December 2017.

Tuen Mun District Council Secretariat

Date: 20 November 2017

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