

Minutes of the 3<sup>rd</sup> Meeting of  
the Commerce, Industry and Housing Committee of  
the Tuen Mun District Council

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Date: 11 April 2016 (Monday)

Time: 9:34 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 CHAN Manwell, Leo (Vice-chairman)	TMDC Member	9:30 a.m.	End of meeting
Mr LEE Hung-sham, Lothar, MH	TMDC Vice-chairman	9:32 a.m.	End of meeting
Mr TO Sheck-yuen, MH	TMDC Member	9:30 a.m.	10:36 a.m.
Ms KONG Fung-yi	TMDC Member	9:30 a.m.	End of meeting
Ms WONG Lai-sheung, Catherine	TMDC Member	9:32 a.m.	End of meeting
Mr AU Chi-yuen	TMDC Member	9:38 a.m.	End of meeting
Ms HO Hang-mui	TMDC Member	9:36 a.m.	End of meeting
Mr LAM Chung-hoi	TMDC Member	9:30 a.m.	11:54 a.m.
Mr TSUI Fan	TMDC Member	9:30 a.m.	End of meeting
Ms LUNG Shui-hing	TMDC Member	9:40 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	9:31 a.m.	End of meeting
Mr HO Kwan-yiu	TMDC Member	9:35 a.m.	12:14 p.m.
Ms CHU Shun-nga, Beatrice	TMDC Member	9:30 a.m.	End of meeting
Mr TSANG Hin-hong	TMDC Member	9:44 a.m.	End of meeting
Ms SO Ka-man	TMDC Member	9:30 a.m.	End of meeting
Mr KAM Man-fung	TMDC Member	9:38 a.m.	End of meeting
Mr MO Shing-fung	TMDC Member	9:42 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
Mr FUNG Pui-yin	Co-opted Member	9:52 a.m.	11:28 a.m.
Mr NG Ka-ho, Andrew	Co-opted Member	9:30 a.m.	End of meeting
Mr NG Kwok-yan, Akina	Co-opted Member	9:35 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
Miss CHOI Nga-ling, Angela (Secretary)	Executive Officer (District Council) 1, Tuen Mun District Office, Home Affairs Department		

Absent with Apologies

Mr NG Koon-hung	TMDC Member
Ms MA LO Kam-wah, Virginia	Co-opted Member
Mr CHEUNG Wing-kai	Co-opted Member

By Invitation

Mr TSE Lai-chi	District Environmental Hygiene Superintendent (Tuen Mun), Food and Environmental Hygiene Department
Mr LEUNG Man-nin	Senior Health Inspector (Hawkers) Tuen Mun, Food and Environmental Hygiene Department
Mr Anthony NG	Chief Executive Officer, Financial Dispute Resolution Centre
Ms Virginia SIU	Communications Manager, Financial Dispute Resolution Centre
Ms Sophie SHEK	Communications Officer, Financial Dispute Resolution Centre

In Attendance

Mr YIP Man-pan	TMDC Member
Ms KOO Kit-ye, Angie	Senior Liaison Officer (1), Tuen Mun District Office, Home Affairs Department
Ms CHAK Man-ye, Rene	Liaison Officer i/c Building Management & Town Centre, Tuen Mun District Office, Home Affairs Department
Mr LO Yan-kit, Stephen	Building Surveyor/E5-4, Buildings Department
Mr CHOW Chiu-leung	Station Commander, Castle Peak Bay Fire Station, Fire Services Department
Ms CHENG Chui-king, Christine	Housing Manager/Tuen Mun 4, Housing Department
Mr CHAN Kwok-keung, Kelvin	Labour Officer (Workplace Consultation Promotion), Labour Department
Mr MOK Hing-cheung	Administrative Assistant/Lands, District Lands Office, Tuen Mun, Lands Department

**I. Opening Remarks**

The Chairman welcomed all present to the 3<sup>rd</sup> meeting of the Commerce, Industry and Housing Committee (“CIHC”).

2. The Chairman reminded Members that any Member who was aware of a personal interest in a discussion item should declare the interest before the discussion. The Chairman would, in accordance with Order 39(12) of the Tuen Mun District Council Standing Orders (“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 had received Ms Virginia MA’s application for sick leave together with a medical certificate. Pursuant to Order 42(1) of the Standing Orders, the CIHC approved her application for leave of absence.

**III. Confirmation of Minutes of the 2<sup>nd</sup> Meeting Held on 15 February 2016**

4. The above minutes were unanimously confirmed by the CIHC.

**IV. Matters Arising**

**(A) Issue of Hawker Management in Tenants Purchase Scheme Estate of Tuen Mun District**  
**(Paragraphs 57 to 88 of Minutes of Previous Meeting)**  
**(Paper No. 1 Distributed at Meeting)**  
**(Written Response from Hong Kong Police Force)**

5. The Chairman welcomed Mr TSE Lai-chi, District Environmental Hygiene Superintendent (Tuen Mun), and Mr LEUNG Man-nin, Senior Health Inspector (Hawkers) Tuen Mun, of the Food and Environmental Hygiene Department (“FEHD”) to the meeting.

6. The Chairman said the CIHC had decided at its previous meeting that the issue be passed to the District Facilities Management Committee (“DFMC”) for follow-ups and tabled for further discussion at CIHC meetings. Moreover, the CIHC had decided to write to the Police enquiring about matters concerning the caretakers and the Police’s enforcement. In this connection, the DFMC had discussed the issue at its meeting on 25 February 2016, and the Police had provided a written response. Furthermore, some Members had submitted a paper to raise the issue for discussion at the TMDC meeting

on 1 March. However, Order 13(4) of the Standing Orders stated that the Tuen Mun District Council (“TMDC”) and its committees should not discuss any matters that had been discussed within the previous six months. Therefore, the paper was passed to the CIHC for discussion together with other papers at the current meeting, and the Police had provided a written response on the paper.

7. A Member was concerned about the Police’s enforcement in the conflict involving hawkers in Leung King Estate, opining that the Police should not turn a blind eye to the fights. She called for the Police’s strict enforcement in the hope that no violent incident would happen again.

8. The Chairman indicated that the Police had reported on the hawkers-involved conflict in Leung King Estate at the TMDC meeting held on 1 March and had provided a written response for the CIHC, and it might report on any updates at the next TMDC meeting. She further said that the Housing Department (“HD”), the FEHD and the owners’ corporation (“OC”) of Leung King Estate had worked closely together on the hawking problem in Leung King Estate by taking joint actions while following the developments of the issue. The hawking problem was contained for the time being as no hawkers had been found in Leung King Estate since 1 April.

9. A Member was disappointed with the Police’s failure to send representatives to attend this meeting, and suggested leaving it to the TMDC to further discuss the issue.

10. Another Member reckoned that the CIHC could discuss the issue in the context of overall housing management. He noted that some hawkers lived in Leung King Estate and might produce food at home for sale. In view of this, he suggested that the HD should cooperate with the management company in invoking the marking scheme against any persons found producing food in their units for sale without a licence.

11. The Chairman said the FEHD, the HD and the management company were working on this issue, adding that tackling the hawking problem was not a main duty of the Police.

12. Mr TSE Lai-chi of the FEHD said that a food factory must obtain a licence, and the FEHD could take prosecution action if there was concrete evidence showing that any resident of a housing estate produced food at home for sale without a licence.

13. Ms Christine CHENG of the HD indicated that in view of the above, the HD had stepped up patrol in the housing estate, imposed control over households suspected

of using their units as food factories, and referred such cases to the relevant departments for follow-ups. If it was established that a tenant used a rental unit as a food factory, the HD would take corresponding actions under the tenancy or the marking scheme. At the meeting of the District Management Committee on 1 March this year, the HD had urged the OC to seriously address the problem of unlicensed hawkers and take effective, active steps on the problem. It had also been suggested that the OC should put up notices and posters at the lobbies of buildings, prominent locations and hawking-prone places in the estate, and should step up education and publicity efforts to advise residents not to patronise unlicensed hawkers. Moreover, the HD had removed the unattended wooden hawking carts kept in the public areas of the estate, while the OC had applied for injunction and warned unlicensed hawkers by issuing solicitor's letters to them on 17, 18 and 31 March. As hawkers had no longer been found in Leung King Estate since 1 April, the HD believed that the OC's control actions had started to take effect. The HD had also suggested the OC place obstacles at hawking-prone locations to eradicate hawking as long as the Fire Services Ordinance was complied with.

14. A Member said she had enquired about the Police's enforcement at the previous TMDC meeting, and the Police's representative had replied that in view of the ongoing judicial proceedings over the case, it was not appropriate to discuss its details at the meeting. She opined that if this issue was raised at the next TMDC meeting, the Police should no longer refuse to make responses on this issue on the grounds of the judicial proceedings. In her view, the Police should give an account of its enforcement on the hawkers-involved conflict in Leung King Estate.

15. While hoping that the HD and the FEHD would step up patrol, a Member believed that it was not difficult for the departments to identify hawkers and offending residents living in the estate. The Member hoped the above departments would report on this.

16. The Chairman asked the HD and the FEHD to tackle the hawking problem in Leung King Estate in a timely manner, and said that the problem was under control for the time being. Besides, she indicated that the Police had provided two written responses and the TMDC had no agenda item on the hawkers-involved conflict in Leung King Estate. She asked the Secretariat to record the comments Members made at this meeting and forward them to the Police. Secretariat

(Post-meeting note: The said letter was issued on 27 April 2016.)

**V. Discussion Items**

**(A) Matter Relating to Request for Removal of Restrictions on Entering Estate**

**(CIHC Paper No. 7/2016)**

**(Written Response from HD)**

17. A proposer of the paper said he had discussed the subject matter with the HD, but the HD had given no direct response, and this was why he brought it up at the CIHC. He enquired about the ownership of roads in On Ting Estate, the road toll, and the right and responsibility in respect of the maintenance fee for the roads. He further noted that the management company would claim compensation of \$10,000 from any motorist who damaged the gate bar. In his opinion, the compensation amount was too high, yet the HD ignored this, failing to meet its responsibility.

18. A Member supported the paper. She remarked that since the HD had installed gate bars in many public housing estates, road traffic should have been smooth if such gate bar installation had been a sound measure. But after the gate bar was installed, vehicles could not enter On Ting Estate and caused congestion whenever the gate bar was out of function. Therefore, she requested removal of the gate bar. She further pointed out that the HD ignored the fact that some goods vehicles entered the estate at mid-night for unloading. In her view, the HD should review the performance of the management company and should not confer on the management company the right in the roads.

19. Another Member pointed out that each housing estate or court had its own controls and respect should be given to the estate in deciding its own improvement measures. The Member further said that at present, the Estate Management Advisory Committee (“EMAC”) of the estate met regularly to discuss and deal with matters concerning enhancement of management quality.

20. Ms Christine CHENG of the HD responded that the HD was currently the manager of the Deed of Mutual Covenant of On Ting Estate, responsible for managing the common parts (including the restricted roads) of the estate. Regarding road control, such actions as immobilisation and issuance of warning letters would be taken against any unauthorised parking. A report on the matter concerning goods vehicles entering the estate at mid-night for unloading would be given at a meeting of the Working Group on Monitoring of Link.

21. The proposer of the paper opined that the HD representative had not responded to his questions and asked again about the current ownership of roads in On Ting

Estate, the road toll, and the right and responsibility in respect of the maintenance fee for the roads. Moreover, he remarked that the HD should not ignore the matter concerning the \$10,000 compensation for damaging the gate bar, which was unreasonable in his view. In addition, he enquired why the gate bar was installed and how it was managed. Furthermore, he requested removal of the gate bar.

22. Noting similar gate bars were installed in other estates, a Member asked on which basis - the land lease, the deed of mutual covenant or a contract - the management of the existing gate bar installed at the entrance/exit of On Ting Estate had been turned over to Link.

23. Ms Christine CHENG of the HD responded that as the manager of the Deed of Mutual Covenant of On Ting Estate, the HD was responsible for managing the restricted roads there, and the revenues from the hourly road tolls went to Link because the car park and the relevant facilities were owned by it and the parking spaces on the roads had been sold to it; whereas both Link and the HD were required to pay the management fee for the common parts (including the restricted roads). Matters concerning the gate bar would be referred to Link for feedback, and a response would be given afterwards.

24. A Member said that not until this meeting did she know the roads had been sold to Link. She further said that the HD had not provided any details on the terms for the TMDC's perusal when it sold the properties to Link. In her view, members of the Legislative Council ("LegCo") should also have the responsibility to read the terms carefully to protect residents from being affected.

25. The Vice-chairman reckoned that the pros and cons of the gate bar installation should be measured by the efficiency in road utilisation and road safety. He said a Member opined that the gate bar should be removed as it impaired vehicles' access to and from the estate and any person who damaged the gate bar was liable to pay compensation of \$10,000, while another Member had pointed out that some goods vehicles entered the estate at mid-night and that without the gate bar, the estate's residents would be affected as vehicles could enter or exit the estate round the clock. The Vice-chairman said that as a motorist, he considered that compared with the gate bar, the road maintenance works on Tuen Mun Heung Sze Wui Road posed an even bigger obstacle on the road, so he did not see the gate bar had any impacts. Yet, he agreed that it was open to discussion whether it was necessary to set back the gate bar.

26. The Chairman also said that not until this meeting did she know the roads had

been sold to Link. She suggested this issue be carried over to the next meeting as it could hardly be resolved at this meeting.

27. A Member, who was also a motorist, said there was an actual need to impose road controls to help ease the problem of unauthorised parking, though it would certainly be more convenient without them. He reckoned that the management company, Link or the HD should clarify how the \$10,000 compensation was determined and provide relevant information for Members' discussion.

28. A proposer of the paper said that residents of Siu On Court were inconvenienced by the gate bar on their way home, so he considered the gate bar installation unreasonable. In his view, it was also unreasonable that the duty of road maintenance fell on the HD while toll revenues went to Link. He further noted that similar arrangements existed in other estates.

29. Another Member indicated that the HD controlled vehicles by, for example, imposing restrictions on the time for heavy vehicles' access to and from the estate. She further said that the gate bar in On Ting Estate had already been installed before the maintenance works on Tuen Mun Heung Sze Wui Road and the EMAC had long been discussing the issue. She hoped that the gate bar in On Ting Estate could be removed on an exceptionally basis and the HD would give an account on the related matters.

30. The Chairman enquired whether the EMAC had discussed this issue.

31. The proposer of the paper said he was not a member of the EMAC.

32. A Member strongly opposed making exceptional arrangements for On Ting Estate as it would have implications on all estates in Hong Kong. The Member reckoned that the HD should explore solutions.

33. The Chairman suggested this agenda item be passed to the Working Group on Monitoring of Link for follow-ups before it was further discussed at the next CIHC meeting.

34. The Convenor of the Working Group on Monitoring of Link said that the working group had met on 18 March, but Link had sent no representatives to the meeting. In her view, the gate bar's impacts on Siu On Court residents could be addressed by technologies; for example, the HD could develop a smart card for residents' access to and from Siu On Court. She further pointed out that as the



problem of illegal parking was severe in Tuen Mun, the hasty removal of the gate bar would make road management more difficult. Therefore, she reckoned that at the next CIHC meeting the HD should put forward measures to facilitate residents' access to and from Siu On Court. Besides, she said she had called Link, inviting it to attend the meeting but to no avail. She therefore believed that the working group was unable to deal with this issue, but the HD and Link should work together to solve the problem.

35. The Chairman requested the HD to take the lead in exploring with Link solutions in regard to Members' comments and report on this issue at the next meeting.

36. Members' comments and enquiries in the first round of discussion are summarised as follows:

- (i) A Member doubted whether it was appropriate to submit a paper directly for discussion by the TMDC just because of motorists' complaints. He questioned whether the procedure for submitting the paper was appropriate. He said that given there were many housing estates in Tuen Mun, it was not appropriate to refer whatever problems in estate management to the TMDC for discussion. He said it was not that he did not care about this issue, but he reckoned that problems in estate management should be discussed by an EMAC first and the TMDC should not usurp the authority of the EMAC concerned. In his view, the issue involved not only management but ownership because the gate bar was managed by Link and the right in the roads had also been sold to it;
- (ii) A Member agreed that this issue be carried over to the next CIHC meeting, which should be attended by representatives from the HD, the District Lands Office ("DLO") and Link. Moreover, he suggested the Tuen Mun District Office ("TMDO") seek stakeholders' opinions and reckoned that it was not appropriate to remove the gate bar hastily. He asked whether the issue previously discussed by the EMAC was about the removal of the gate bar or about the management of the roads;
- (iii) A Member indicated that in the first place, the issue should be discussed by the three parties concerned, namely Link, the HD and the OC. The Member opined that Link must send representatives to the next CIHC meeting instead of just providing a written response; and

- (iv) A Member said that the proposer of the paper had tried to resolve the issue in vain and therefore, he submitted the paper to bring it up at the CIHC. The Member added that perhaps some Members had not heard the proposer's explanations and were thus not clear about the background of the issue. In the Member's view, it was unreasonable that toll revenues went to Link but the HD had to pay the maintenance fee. As the management power was shared by the HD and Link, responsibility remained with the HD even though the roads were sold.

37. The Chairman said Members might submit discussion papers that were consistent with their scope of authority.

38. Members' comments and enquiries in the second round of discussion are summarised as follows:

- (i) A Member opined that the CIHC would have not discussed this issue in depth if there had been no request for exceptional arrangements or removal of the gate bar. She said concern over the gate bar had been raised repeatedly at the EMAC, but it was not until this meeting did she know the roads had entirely been sold to Link;
- (ii) Noting that the written response merely mentioned that it was Link's duty to manage the gate bar, a Member asked who had the ownership of the gate bar and on which basis - the deed of mutual covenant, the land lease or a contract - the management of the gate bar had been turned over to Link. If it was based on a contract, amendments could be made after its expiry. He agreed that this issue be carried over to the next meeting, and hoped that the relevant departments would give clear explanations; and
- (iii) A Member said that if the CIHC was in an appropriate position to discuss this issue, more details such as the contents of the EMAC's discussion and the background for the gate bar installation should be provided in the paper to facilitate discussion. Besides, if it was free to discuss any paper, it followed that even a rise in estate management fee could be a matter tabled for discussion at the TMDC.

39. The Chairman indicated that it was up to Members to decide the contents of the papers they submitted, but whether the papers were accepted for discussion depended on whether their contents were consistent with the relevant scope of

authority. The Chairman further said that this issue was tabled for discussion at the CIHC only because the EMAC could not resolve it.

40. The proposer of the paper said that as he indicated in his first speech, he had followed up on the issue before submitting the paper. He also said he was not a member of the EMAC, and therefore could not attend EMAC meetings to voice his opinions, but as a District Council (“DC”) Member, he should not confine his role to the EMAC.

41. A Member hoped the relevant authorities would facilitate Members’ discussion by providing information on the EMAC’s discussion before the next meeting.

42. The Chairman would like the HD representative to provide the information concerned and invited Link and the DLO to attend the next CIHC meeting.

43. Ms Christine CHENG of the HD responded that although On Ting Commercial Complex and Market had been sold to Link (formerly known as “The Link”) and the revenues from roadside parking spaces there went to Link, the maintenance fee was not solely paid by the HD but shared by both the HD and Link on a proportionate basis in the form of a management fee used for the repair and maintenance of common parts in the estate. She indicated that the estate’s manager was lining up a meeting between representatives of Link and the OC of Siu On Court to discuss the issue. Besides, the HD would forward in writing Members’ views and questions to Link for its feedback.

44. The Chairman concluded by asking the HD to consult various parties about this issue, which would be further discussed at the next CIHC meeting. HD

**(B) Follow-ups on Change of Use of Siu Lun Commercial Centre**  
**(CIHC Paper No. 8/2016)**  
**(Written Response from DLO, Tuen Mun)**

45. Mr MOK Hing-cheung of the DLO indicated that as per the drawing for developed property, the utilised commercial use area of the subject land lot had reached the ceiling prescribed in the land lease. Moreover, as the land lease did not stipulate that the land lot should be used for social service purposes, the DLO had no right to request the owner to change its use and provide social services there. If the DLO received the owner’s application for a waiver or lease modification, it would seek advice from the relevant departments and consult the local community through the TMDO for further processing of the application.

46. A proposer of the paper worried that the owner would modify the lease as the commercial use area of the land lot had been fully utilised. She said residents hoped the subject property could be put to social service use, such as establishing an elderly centre or a library, and suggested more services be provided for residents through the Social Welfare Department. Furthermore, she hoped that if the owner applied for change of land use, the DLO would, via the TMDO, inform the TMDC and the relevant stakeholders about the application and launch a comprehensive consultation.

47. A TMDC Member in attendance at the meeting hoped the subject property, which had long been vacant, could be used for community purposes such as a library, a study room or an OC meeting room. He hoped the DLO could offer assistance by communicating with the owner to see whether the owner was still applying for change of land use. As the commercial use area of the subject land lot had been used up, he hoped the owner would consider using it for community purposes. Moreover, he noted that the subject property was originally owned by the HD, and subsequently sold to Link and then to a private company with its land lease unamended. In his view, if the land lease was no longer applicable after Link's sale of assets, the Government should negotiate with the new owner for better arrangements in light of the current circumstances and provide exemption or simplification for the application procedure.

48. The Chairman worried that Link had modified the land lease when it sold its assets one after another and that the subject property had been changed to commercial use in secret. She therefore reckoned that the DLO should inform the stakeholders when Link divested its commercial complexes and modified land uses.

49. A Member asked how long it would take from investigation to prosecution after DLO received a complaint about suspected violation of land lease. The Member worried that some business operators would sign up short-term leases during the administrative time gap in a bid to make profits.

50. Mr MOK Hing-cheung of the DLO responded that the ownership of the commercial complex concerned had been vested in the Housing Authority when Siu Lun Court was occupied and the land lease was prepared by the DLO and the HD according to the prevailing drawing of completed development. He added that if the current owner applied for change of land use and the application met the criteria, the DLO would initiate the procedure, in which it would seek advice from the relevant departments and consult district organisations about the change of land use via the TMDO. Besides, the DLO would request the owner not to take any unauthorised

actions before the application for waiver was approved, or else it would not process the application.

51. The proposer of the paper indicated that even if the department negotiated with the owner, the owner might not agree to use the land for social service purposes. Therefore, she hoped the DLO would conduct a comprehensive consultation through the TMDO to let residents know the owner's plan to change the land use and whether the plan was in compliance with regulations. In addition, she said any Members who held the shares of Link should not discuss Link-related matters.

52. The Chairman stated that she was not a shareholder of Link and reiterated that the DLO had agreed to inform district organisations and the TMDO after receiving the application for change of land use.

53. Ms Angie KOO of the TMDO indicated that upon receipt of another department's information and request for district consultation, the TMDO would, based on the information provided by the department, launch a consultation under a proven mechanism.

54. A Member said there was a lack of social welfare institutions and councillors' offices in Siu Lun Court and its neighbouring areas, which was inconvenient for residents there. Therefore, the Member suggested using the subject property for the purposes of social welfare institutions or councillors' offices.

55. A TMDC Member in attendance at the meeting said that as one of the DC Members of the consistency of Siu Lun Court, he wished to set up a councillor's office in the constituency. He had asked the management company of the commercial complex whether its shops could be rented as councillors' offices, but he had received no reply from the management company as yet because the commercial use area of the commercial complex had been fully utilised. In this connection, he asked the DLO whether a councillor's office fell under commercial use and if yes, he would be disappointed. He further said some residents had expressed the view that they would rather have the subject property used for normal commercial purposes than have it vacant. Moreover, he pointed out that the subject land lot had already been left vacant when it was managed by Link, and the reason for the new owner's change of the land use might be that it did not know the place could not be used for commercial purposes. He also remarked that the land lease was out-of-date and the departments should work in light of the actual circumstances so that the subject property would not keep vacant.

56. Mr MOK Hing-cheung of the DLO expressed understanding for the Member's difficulty in setting up an office in his constituency. He said that if the owner did not apply for a waiver or modification of the land lease for change of land use, the DLO could hardly do any follow-up work.

57. A Member opined that such an application for change of land use should be processed in accordance with the deed of mutual covenant, and it followed that the subject property could not be changed for commercial use. The Member suggested the place be put to social service use. Besides, she said the DLO and the TMDO should consult residents in Siu Lun Court.

58. The Chairman said the DLO and the TMDO had indicated that they would consult the local community, the TMDC and other stakeholders after receiving the application for change of land use, so the issue could be brought up at the CIHC in due course.

## **VI. Reporting Items**

### **(A) Briefing on Services of Financial Dispute Resolution Centre (CIHC Paper No. 9/2016)**

59. The Chairman welcomed Mr Anthony Ng, Chief Executive Officer, Ms Virginia SIU, Communications Manager, and Ms Sophie SHEK, Communications Officer, of the Financial Dispute Resolution Centre ("FDRC") to the meeting. She said FDRC representatives had attended a CIHC meeting to introduce its services in 2013.

60. Ms Virginia SIU of the FDRC gave a PowerPoint presentation (see Annex I) on the paper.

61. Mr Anthony Ng of the FDRC said that each year the FDRC received a number of cases referred by DC Members, and he hoped Members would continue to support it.

62. A Member indicated that resolving disputes through mediation was a general trend. She asked whether a judgement could be used as evidence in court if a person disagreed with the judgement and sought to resolve a dispute through legal proceedings. She further enquired whether a person could select a mediator and about the current service charges.

63. Another Member who supported resolving disputes through "mediation first, arbitration next" said that some DC Members had made great efforts to promote

mediation services, and he was glad about the establishment of the FDRC. He enquired about the structure of the FDRC, by whom it was supervised and how it reported on its incomes and expenditures. He also asked whether other commercial and civil disputes than those involving financial institutions were within the scope of the FDRC's services and if not, whether there were other channels in place to serve the public in these regards.

64. Ms Virginia SIU of the FDRC responded as follows:

- (i) Decisions made in the first instances of arbitration were final and no appeal against an arbitration award was allowed, though an appeal could be lodged to the court on issues arising from points of law in a judgement;
- (ii) The FDRC would not disclose the names of the more than 60 mediators on its list, but it would ask about the preference of both parties before picking three mediators from the list for their choice;
- (iii) The application fee for the service was \$200. For a claim involving less than \$100,000, a person would pay a \$1,000 mediation fee for the mediation time of four hours; for a claim involving \$100,000 to \$500,000, the mediation fee was \$2,000. The mediation fee for a financial institution was five times higher than that for an individual member of the public. Court data revealed that the service charges of the FDRC were lower than the market averages. The four-hour duration for mediation was set to facilitate both parties' calculation of the costs and time required for dealing with their disputes;
- (iv) As an independently-operated organisation, the FDRC was not directly under the Government or the two regulatory institutions. It was accountable to and supervised by a board of directors, which was chaired by an independent person and comprised of representatives from the Government, the two regulatory institutions, the financial sector and consumers, as well as the Chairman of the FDRC Appointment Committee;
- (v) The FDRC was established with funding from the Government and the two regulatory institutions, and the funding was still in use. As specified in its terms of reference, the FDRC would be funded by the industry in the future, and this was a practice adopted by most of its

peers in the international community; and

- (vi) The FDRC dealt with cases relating to financial institutions only and could not handle disputes involving other institutions or commercial disputes. Despite this, the FDRC provided enquiry services, under which cases outside the FDRC's purview would be referred to other institutions in order to help the public to resolve their problems. Each year, the FDRC received about 2 000 enquiries from the public.

65. Mr Anthony Ng of the FDRC said that the FDRC arbitration and mediation fees for an individual member of the public and a financial institution were \$5,000 and \$20,000 respectively. As at the end of 2015, the FDRC had 14 arbitrators, who were well experienced and rigorously selected. The annual budget of the FDRC was subject to the examination and approval by its board of directors, whose members included representatives from regulatory institutions. Therefore, the incomes and expenditures of the FDRC were under close monitoring.

66. A Member enquired whether disputes between the public and unscrupulous intermediary companies (especially lending companies) fell within the purview of the FDRC and whether the FDRC would handle cases involving violation of the Trade Descriptions Ordinance. In addition, he asked about the number of cases referred by the Securities and Futures Commission ("SFC"), the Hong Kong Monetary Authority ("HKMA") and the Consumer Council ("CC").

67. Another Member asked why the FDRC, an organisation funded by the Government and the two regulatory institutions, was accountable only to its board of directors, and to what department the board of directors was accountable.

68. Ms Virginia SIU of the FDRC responded as follows:

- (i) At present, all financial institutions involved in disputes handled by the FDRC must be those licensed by the SFC or the HKMA, so the FDRC could not deal with disputes involving unscrupulous intermediary companies or lending companies, though it would provide referral services as far as possible;
- (ii) Cases involving financial institutions suspected to have violated the Trade Descriptions Ordinance might fall within the purview of the FDRC. Yet, matters concerning compensation between financial institutions and their clients were outside the regulatory institutions'



purview, so the regulatory institutions might eventually refer these financial institutions and clients to the FDRC for mediation on their monetary disputes. Apart from the SFC and the HKMA, the CC, the Police, DC members and LegCo members also referred cases to the FDRC; and

- (iii) The FDRC operated independently and transparently. Its board of directors comprised persons from different sectors in society, and its finance was disclosed in annual reports. Also, the FDRC was glad to listen to various views.

69. Mr Anthony Ng of the FDRC responded that representatives of the Financial Services and the Treasury Bureau, the SFC and the HKMA sat on the board of directors, and all decisions it made had to be agreed by these representatives.

70. A Member enquired whether part of the funding for the FDRC came from the financial industry and if yes, how the FDRC could maintain independence in its operation. Moreover, she asked about the proportion between financial institutions and the public in the 80% successful cases.

71. Ms Virginia SIU of the FDRC responded that the funding would come from the financial industry in the future, and that a settlement was a resolution agreed to by both parties in a dispute, so there was no win or loss in a case. She explained that the FDRC's neutrality and independence was clearly reflected in the structure of its board of directors, which comprised members from different social sectors (e.g. government regulatory institutions, lawyers and a CC representative). Moreover, she said more representatives would sit on the board of directors in the future, adding that at present representatives from the financial industry had only two seats, and hence two votes, in the board of directors. She further remarked that independent operation was very vital for the FDRC as any problems with the centre's independence would expose it to criticisms and if so, the public would not use its services.

72. Mr Anthony Ng of the FDRC responded that in other regions like Singapore, Australia and Britain, funding for similar resolution centres was contributed by their industries on a proportional basis. He indicated that the FDRC's independence was embodied in its board of directors and there would be no conflicts of interests as the industry, while providing funding support, was not influential in the FDRC's operation.

73. A Member asked about the proportion of cases that had been further handled

through arbitration among the 20% cases that could not be resolved through mediation. She said the amounts involved in disputes might be increasing and asked whether the ceiling of \$500,000 could be raised.

74. Ms Virginia SIU of the FDRC responded that the FDRC had a settlement rate of more than 80%, and while it was the FDRC's hope that cases could be resolved in the mediation processes, it was up to members of the public to decide whether to put the unresolved cases up for arbitration. She said that data on winning cases could not be provided because arbitration results must be kept confidential, adding that the FDRC had handled seven arbitration cases in total as at the end of 2014. Besides, the \$500,000 ceiling for the claim amount was set by reference to the results of consultation in 2010 when the claim amounts in 80% of the cases processed by the HKMA were not more than \$500,000. She said the FDRC would listen to the views of the public when considering any revision to the maximum claim amount.

75. The Chairman said Members could offer their views for the FDRC to improve its services.

**(B) Work Reports by Working Groups under CIHC**  
**(CIHC Paper No. 10/2016)**

**(i) Working Group on Occupational Safety and Health**

76. The Convenor said that the working group had written to the public utilities it had cooperated with, inviting them to send representatives to its meeting for collaborations in promoting messages on occupational safety and health.

**(ii) Working Group on Economic Development in Tuen Mun**

77. The Convenor said that in the first half of the year, the working group could determine its position and draw plans on its work for promoting economic development and tourism in Tuen Mun through field studies and consultation with local stakeholders and by reference to the Study Report on the Future Directions of Industrial and Commercial Development in Tuen Mun.

**(iii) Working Group on Building Management**

78. The Chairman, who was also the Convenor of the working group, said that a roving exhibition and seminars on building management would be held, souvenirs would be produced and the mobile application "TuenMun BM" would be updated and maintained. She hoped Members would make good use of and promote the mobile application. Besides, she said that the working group had produced two souvenirs, one of which would be distributed by the TMDC to promote messages on building

management while the other one would be distributed during the promotions of the above mobile application in public areas. In addition, the working group would organise a seminar on “Get Rid of Whopping High Quotations for Maintenance Services” to explain matters on building management. The working group was also planning a summit on building management. It took time to prepare for the event and the working group would further discuss it.

**(iv) Working Group on Monitoring of Link**

79. The Convenor said that the working group had adopted the revised terms of reference at its 1<sup>st</sup> meeting held on 4 March. While disappointed with Link’s failure to attend the meeting of the working group, she said the Secretariat had forwarded in writing the working group’s comments to Link. She had called Link inviting it to attend the working group’s meeting, but Link had refused. In this connection, she would like Members to discuss how the working group could further its work, as she opined that without Link’s attendance, the meetings of the working group would be meaningless.

80. The Chairman suggested that if necessary, papers could be submitted for discussion at the CIHC before being passed to this non-standing working group for follow-ups. Link was not a government department, nor did it have any permanent representatives, so it might choose whether or not to attend meetings, and the TMDC had never invited non-government departments to appoint permanent representatives to attend its meetings.

81. A Member suggested that a letter be issued to Link condemning it for failing to perform the work it had promised. Moreover, she requested that the matter concerning magnetic doors in the former On Ting Commercial Complex be followed up and the working group be retained. She indicated that as the current working group had wider terms of reference, it was more necessary for Link to attend its meetings, or else it should give explanations at TMDC meetings.

82. The Convenor said the Secretariat had forwarded in writing the comments of the working group’s members to Link and Link had provided a written response. As Link sent no representatives to the current CIHC meeting, she believed that Link would not attend the meetings of the working group either. In view of this, she asked Members if they agreed that the working group should keep contact with Link by written correspondence during its term.

83. The Chairman opined that the working group might continue to have meetings

because the CIHC might pass issues to the working group for follow-ups. She said that where necessary, non-members of the working group could be allowed to read the written responses of Link, adding that at the moment there was no need to bring the matter up at a TMDC meeting.

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

- (i) A Member opined that a letter should be issued to Link requesting it to promptly perform the work it had promised (e.g. the matter on smoke doors) instead of merely giving responses on papers;
- (ii) A Member suggested the Convenor write to Link requesting it to carry out the promised work, attend meetings and provide works schedules. As a wider scope was put under monitoring by the newly-formed working group, it took time to negotiate with Link and therefore, Link was urged to attend its meetings; and
- (iii) A Member said that members of the working group had not yet received Link's written response, and the working group and the Secretariat had tried their best to invite Link to the meetings. If Link gave no reply about the meeting date, the working group might meet to discuss its positioning. Besides, a condemnation of Link should be given in the name of the CIHC for Link's failure to perform the promised work and attend meetings.

85. The Convenor of the working group said it had been suggested that a meeting be scheduled for a date convenient to Link and that Link propose two meeting dates for the working group to choose from. Yet, Link's representative had replied that it was not that Link was unable to attend the working group's meeting due to other commitments on the meeting date, but that Link had decided not to attend it. She said this non-standing working group would continue to meet regularly to follow up on the works promised by Link and request it to provide the works schedules.

86. As representatives of the HD had attended the previous meeting of the working group, a Member hoped that HD representatives could also write to Link requesting it to handle the matter concerning smoke doors in the commercial complex.

87. The Chairman concluded by requesting Link to attend the next meeting of the working group to discuss the above matters.

88. The Chairman announced that the reports of the above four working groups were endorsed.

**(C) Work Report on Private Building Management in Tuen Mun District**  
**(CIHC Paper No. 11/2016)**

89. Ms Rene CHAK of the TMDO said that as indicated in the work report, the number of resolved cases on “owners’ views on OCs or management companies” should be amended to six. Members noted the contents of the report.

**(D) Report by Buildings Department**  
**(CIHC Paper No. 12/2016)**

90. Members noted the contents of the report.

**VII. Any Other Business**

**(A) Objection to Drastic Rental Increases in Link’s Car Parks**  
**(Paper No. 2 Distributed at Meeting)**

91. The Chairman indicated that some Members had submitted a paper on 8 April this year to discuss the issue concerning Link’s plan to increase rental in its car parks with effect from 1 May. The agenda of this meeting had been sent out on 31 March, but given the urgency of the issue, she agreed that it be included in the agenda of this meeting. Members raised no objection to this.

92. A proposer of the paper said Link had indicated that its monthly fixed parking spaces would be changed to floating parking spaces and such a change would affect the rights and interests of car owners. He further said that rental in Link’s car parks would increase starting from 1 May, a date before the TMDC meeting, so the paper was tabled at this meeting for discussion on how to address issues concerning Link’s modification to administrative measures and the drastic increases in rental in its car parks. He remarked that the provision of monthly fixed parking spaces had been an effective measure in those years when the car parks were managed by the HD, and if Link changed a number of fixed parking spaces to floating ones in a bid to boost the capacity ratio of its car parks, there would be undesirable consequences as car owners renting monthly parking spaces would have to vie for parking spaces with those renting hourly spaces. In view of this, he hoped Link would give explanations and put forward corresponding measures. Besides, he indicated that in previous times, the rental of HD-managed parking spaces had been favourable towards grassroots car owners, so he disapproved of Link drastically putting up the rental of its monthly parking spaces every year, adding that the increase rate concerned outpaced the inflation rate.

93. Members' comments and enquiries in the first round of discussion are summarised as follows:

- (i) A Member said she objected to Link putting up rental every year, but due to the acute shortage of and high demand for parking spaces, the rental of car parks in Link's estates rose by 9.7% this year and residents had no choice but to accept the rental hikes. She noted that the introduction of floating parking spaces this year posed difficulty in addressing the problem of car owners vying for parking spaces. She pointed out that Link's introduction of floating parking spaces was originally intended to provide more parking spaces and flexibility for the public to park their vehicles, yet floating parking spaces could hardly serve the demand of non-resident car owners as most of them parked their vehicles in the same hours. Furthermore, she said Link claimed that no motorcycle parking spaces were provided in San Wai Court because the original motorcycle parking spaces there had been cancelled by virtue of the terms of the land lease. In this connection, she would like to ask the DLO whether such terms were really contained in the land lease. Besides, she noted that vacant parking spaces in Leung King Estate Car Park, if any, had been open for application by residents in neighbouring estates when the car park was managed by the HD, yet at present Link claimed that by virtue of the terms of the land lease, the parking spaces there could no longer be open to residents in neighbouring estates. In this connection, she enquired whether the DLO had approved Link's introduction of floating parking spaces and whether residents living in neighbouring estates were not allowed to apply for the parking spaces;
- (ii) A Member supported the provision of motorcycle parking spaces, which were absent in Butterfly Estate Car Park. Moreover, he noted that rental in Link's car parks climbed by 8% on average and even surged by 10% in Butterfly Estate Car Park, so he requested Link to cancel the rental hikes for this year. He also requested that facilities such as electronic panels and closed circuit televisions be installed in its car parks. Furthermore, he noted that monthly fixed parking spaces for residents living on the third and fourth floors of Butterfly Estate had been replaced by monthly floating ones in the previous year. In view of this, he requested restoration of the monthly fixed spaces;
- (iii) It was suggested that the CIHC write to Link expressing the views of

Members. A Member indicated that discontent had been growing among the public over the estate car parks managed by Link. The Member suggested that if Link stubbornly insisted on the rental hikes, a letter should be issued to Link in the name of the TMDC expressing the views of Members and requesting it not to ignore public opinions;

- (iv) The proposer of the paper said that in the recent two years, Link had kept introducing and providing floating parking spaces. For instance, an additional area had been provided for floating parking spaces in the car parks of Sam Shing Estate and Butterfly Estate. Starting from May, Link would even launch a full-scale replacement of fixed parking spaces by monthly floating ones. This would lead to chaos in parking, because car owners would not know whether they had their own parking spaces and they would have to wait when driving off the car parks. As there were only one or two staff members on duty in a car park, provision of floating parking spaces would make it difficult for them to handle problems arising from competitions for parking spaces between car owners renting monthly parking spaces and those renting hourly ones. There had been some car park staff indicating that they would quit their jobs for this reason. He remarked that this was a livelihood issue leaving car park staff in a difficult position. Therefore, he hoped Link would clearly understand the current situation before switching over to floating parking spaces; and
- (v) A Member said he understood that DC Members ought to strive for reasonable rights and interests for the public, but in this issue Members idealistically believed that DCs could still put Link under reasonable monitoring even after the HD had sold its assets to Link, which was formerly known as the Link, years before. He pointed out that at present Link was a listed company that served to maximise the interests of its shareholders, and corporate conscience and social conscience were not among its top priorities. Therefore, he suggested Members explore how to discuss and handle issues with Link, otherwise the listed company might not give attention and extend cooperation even if there were numerous issues concerning the pursuit of public welfare, since all its decisions were made by its board of directors. As this was a territory-wide issue, he suggested the 18 districts take concerted actions to resolve the problem. Another Member said it was right to stand against the listing of Link years before. While agreeing that it

was necessary to find a better way to discuss issues with Link, she believed it was better for Members to talk to themselves than to express no voice, otherwise the problem would get worse.

94. The Chairman indicated that Link would not ignore the issue as public opinion could have influence on listed companies. The Chairman also said it was impossible for the TMDC not to discuss the issue because it affected the grassroots public. Therefore, the Chairman asked the Secretariat to write to Link, expressing the views of Members and requesting it to give responses before 15 April. If Link was not active in giving responses or went its own way, the CIHC would bring this issue up at the TMDC and invite Link to attend its meeting. Besides, the Chairman asked the DLO to check the terms of the land leases for Link's car parks in various areas in Tuen Mun to see if there was any stipulation that certain numbers of monthly and hourly parking spaces should be provided in the car parks. She also asked the DLO whether Link had the right to modify the terms of the land leases, as she worried that Link had already done so secretly.

Secretariat  
DLO

95. Mr MOK Hing-cheung of the DLO said the DLO would check the terms of the land leases of the car parks in San Wai Court and Leung King Estate.

96. The Chairman said that as parking spaces in Butterfly Estate Car Park had been secretly changed to floating ones in the previous year, she would like the DLO to check the terms of the land leases of Link's car parks in other areas in Tuen Mun as well.

97. Mr MOK Hing-cheung of the DLO indicated that as the land leases were different from each other in content, it would take very long time to check the land leases of all estates in Tuen Mun.

98. The proposer of the paper suggested the land leases of San Wai Court and Leung King Estate be checked first, so that Members could not only know whether composition of parking spaces was a matter covered in the conditions of land grant, but better understand the current situation of Link's parking spaces in the territory.

99. The Chairman said Link would be allowed time to give responses, but if Link was not active in doing so or went its own way, the issue would be brought up at the TMDC for follow-ups.

(Post-meeting note: The said letter was issued on 12 April and Link gave a written response as shown in Annex 2. With the consent of the TMDC Chairman, the above



Action

issue was brought up at the TMDC, and Link sent representatives to attend the 4<sup>th</sup> TMDC meeting held on 3 May 2016 for discussion on the issue.)

100. There being no other business, the Chairman closed the meeting at 12:41 p.m. The next meeting would be held on 6 June 2016.

Date: 9 May 2016

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