



THE HONG KONG INSTITUTE OF
SURVEYORS

28 May 2008

BY FAX & POST
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Your ref.: CB1/PL/DEV

Clerk to Panel
Legislative Council
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Attn: Mr Wong Siu Yee

Dear Sir

Panel on Development
Provision of public facilities in private developments

We refer to your letter dated 28 April 2008 and would like to thank you for inviting the Institute to give its views on the subject of "Provision of public facilities in private developments".

We have pleasure in enclosing herewith our views on the proposal.

Should you have any enquiries about our views, please feel free to contact us.

Yours faithfully

Margaret Yung
Manager

Encl.



Legislative Council Panel on Development
Meeting on 31 May 2008
Provision of Public Facilities in Private Developments
The Hong Kong Institute of Surveyors

1. Preamble

This paper is for submission to the Legislative Council Panel on Development highlighting the views of The Hong Kong Institute of Surveyors (HKIS) on provision of public facilities in private developments. Public facilities mentioned in this paper include open space for use by the public.

2. Provision of Public Facilities in Private Developments

2.1 Given land is a very valuable and limited resource in Hong Kong, HKIS in principle supports private engagement that can fully utilize land resource for the best benefit of our community. Providing public facilities in private developments could be, and indeed has demonstrated to be, one of the possible ways to provide the much needed facilities for public use within our congested city in a timely, efficient and effective manner, in particular if suitable Government land or public funding is not available for the provision of such facilities. The said arrangement can also make use of private developers' expertise and resource to achieve integrated and comprehensive developments in a district context.

2.2 Nevertheless, the inclusion of the public facilities in private development should only be determined on a "Genuine Need" basis. It is most important that this subject should not be taken as an excuse to hinder or delay development projects and programme.

3. Management and Maintenance Responsibilities for Public Facilities

3.1 Unless requested by the private owners and/or with strong justifications, the Government should make every effort to take up the eventual management and



maintenance responsibility for the public facilities and proper handover and management programme should be worked out before completion of the private developments. In any event, it should be absolutely avoided to have the management and maintenance of the public facilities to be undertaken by multi-strata owners.

3.2 As an alternative to taking back the management responsibility from private owners, the Government may, subject to payment of reasonable land premium by private owners, permit them to buy back the exclusive right to use the existing public facilities within their developments, if:-

- (a) the facilities are not attracting public use, and improvement, change of use or alterations of such situation are difficult to implement;
- (b) the usage of the facilities would create nuisance and safety concern to the occupiers within the private developments; and
- (c) there is strong evidence that opening up the facilities to the public is of minimal benefit to the society but detrimental to the private owners.

4. Recommendations of the HKIS on Long Term Policies and Guidelines on Provision, Use and Management of Public Facilities

4.1 HKIS suggests that the Government should formulate clear and implementable long term policies and guidelines on provision, use and management of public facilities for better use of our land resources. The following are the recommendations of the HKIS:

4.2 Any party (i.e. developer or Government departments/agencies) suggesting to provide public facilities in private developments should also tender their recommendations and justifications on long term management and maintenance proposal for the consideration of the relevant approving authorities, such as the Town Planning Board.

4.3 The Government should ensure that the public facilities in private developments are easily accessible and enjoyed by the public to avoid "privatizing" of the facilities, e.g. independent access to the public facilities should be provided with sufficient direction notices posted at prominent locations.



- 4.4 A proper monitoring system should be worked out to ensure those conditions imposed for the provisions to the public be complied with.
- 4.5 The details on provision of such facilities, including design, intended use, access arrangements, etc. should be submitted at building plan submission stage in order to demonstrate the developer's genuine commitment to materializing such facilities for public use.
- 4.6 The Government should formulate management guidelines / rules for private owners or management companies to follow in managing public facilities.
- 4.7 The Government should enhance the publicity and education of the public on their rights and obligations in using public facilities to avoid abuse in using such facilities. It would facilitate the management agents, be them the government departments or private management companies, in managing and maintaining the peaceful and effective enjoyment of the facilities and seeking assistance from other government departments, such as the Police and the LCSD when necessary.

Prepared by The Hong Kong Institute of Surveyors
28 May 2008