

LCQ5: Property development project above the Tin Shui Wai Light Rail Terminus

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Following is a question by the Hon Lee Cheuk-yan and the reply by the Secretary for Transport and Housing, Ms Eva Cheng, in the Legislative Council today (December 21):

Question:

As the building plan of the property development project above the Tin Shui Wai Light Rail Terminus owned by the MTR Corporation Limited (MTRCL) was already approved by the Building Authority in 2009, it does not need to comply with the requirements under the new measures to control "inflated buildings" which came into effect on April 1 this year. There have been comments that according to the approved building plan, the development project will create a "wall effect" in the area where the project is located and four schools in the vicinity are most affected. In this connection, will the Government inform this Council:

(a) whether the additional directors of MTRCL appointed by the Chief Executive have any plan to put forward a proposal at the company's board meeting or other meetings to amend the building plan of the aforesaid development project in accordance with the new measures which control "inflated buildings", so as to reduce the impact on the residents, teachers and students in the vicinity; if so, of the details; and if not, the reasons for that; and

(b) whether the Government has any measure to make MTRCL fulfil its corporate social responsibilities (including protecting the environment and maintaining a cordial relationship with the community) in planning the aforesaid development project?

Reply:

President,

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

In accordance with the property package of the 2007 rail merger proposal, the then MTR Corporation Limited purchased investment properties, property management business and property development rights in respect of six property sites

(including the development project above the Tin Wing Light Rail Transit Station (Tin Wing Station) in Tin Shui Wai) from the Kowloon-Canton Railway Corporation. In other words, the merged MTR Corporation Limited (MTRCL) owns the development rights to the development project above the Tin Wing Station.

The new requirements of quality and sustainable built environment, including the measures to control "inflated buildings", have been incorporated into the practice notes promulgated by the Buildings Department (BD) which have come into effect from April 1, 2011. The practice notes set out objective criteria for the design of new buildings and provide appropriate incentives for inclusion of green features in new buildings.

Under BD's relevant arrangements, the Department considers building plan applications submitted before April 1, 2011 in accordance with the old practice notes, and considers building plan applications submitted on or after April 1, 2011 in accordance with the new practice notes.

According to the Development Bureau, the planning application of the property development project above Tin Wing Station was approved by the Town Planning Board (TPB) as early as 2001. The project's building plan was also approved by the BD in 2009. As such, the project has completed the statutory planning and building procedures and proceeded to the implementation stage.

As shown in the Master Layout Plan approved by the TPB, the property development above the Tin Wing Station in Tin Shui Wai comprises 4 blocks of 43 storeys, including a 3-storey podium for Light Rail Terminus, carparks, clubhouse and podium garden respectively. The project will provide 1 600 residential flats with an average flat size of about 57 square metres, as well as 287 and 25 parking spaces for private cars and motorcycles respectively.

In response to concerns about the project's impact on air ventilation in the surrounding area raised by local residents, the MTRCL conducted an air ventilation assessment earlier on and proposed installation of urban windows on the clubhouse floor to improve ventilation. These measures have already been incorporated into the revised building plan.

In fact, the Planning Department's assessment reveals that the project site above Tin Wing Station is not located at the sole breezeway in Tin Shui Wai. There are

many other breezeways in the area, such as Tin Shing Road, Tin Wah Road and Tin Kwai Road. Moreover, Tin Lung Road, Tin Shui Wai Park and Tin Shui Road Park are joined together to form another breezeway. MTRCL has considered various environmental factors in designing the project site above Tin Wing Station, including air ventilation. The proposed provision of urban windows on the clubhouse floor can help improve the air ventilation of the surrounding area (including the four schools nearby) of the development project.

Notwithstanding the promulgation of the Sustainable Building Design Guidelines in 2011, as noted in the reply of the Secretary for Development at the Legislative Council meeting in May this year, the Administration cannot require MTRCL to amend its project plan because it has already been approved after completing the statutory planning and building procedures.

As a listed company, the MTRCL has the discretion to determine how to implement its own property development projects. Regarding the property development above the Tin Wing Station in Tin Shui Wai, the MTRCL has indicated that the project has already entered the implementation stage after completing the statutory planning and building procedures.

Being a listed company, the operation of the MTRCL must comply with the provisions of the Listing Rules. The MTRCL operates on commercial principles in respect of its business development (including its property development projects), day-to-day operation, management audit and deployment of human resources, etc. In respect of corporate governance, it must comply with the Code on Corporate Governance Practices of the Listing Rules.

The overall management of the MTRCL's business is vested in the Board of Directors (the Board). Pursuant to the MTRCL's Articles of Association, the Board has delegated the day-to-day operation of the MTRC's business to the senior management, and focuses its attention on matters affecting the MTRCL's overall strategic policies, finances and shareholders. These include financial statements, dividend policy, significant changes in accounting policy, annual operating budget, major financing arrangements and major investments, risk management strategies, etc.

The public officers appointed to serve on the MTRCL's Board help safeguard the investment interests of the Government and, in respect of their policy portfolios, work with other Board members in performing the directors' duties, including

formulating development strategies, examining the company's budget and overseeing the company's operations.

As with other listed companies, all Board members of MTRCL are collectively responsible for discharging the functions of the Board. All Board members, be they independent non-executive directors or directors appointed by the Government in their capacity as public officers, shall undertake general legal responsibilities and fiduciary duties in accordance with the following standards as set out in the Listing Rules:

- (a) act honestly and in good faith in the interests of the company as a whole;
- (b) act for proper purpose;
- (c) be answerable to the company for the application or misapplication of its assets;
- (d) avoid actual and potential conflicts of interest and duty;
- (e) disclose fully and fairly interests in contracts with the company; and
- (f) apply due skill, care and diligence.

In summary, the directors must act in good faith on behalf of the MTRCL and in the best interests of all shareholders.

As a matter of fact, as an incorporated and listed company, MTRCL is obliged to comply with all relevant laws and regulations in Hong Kong with respect to its local business operations. As regards railway services, the Government regulates the operation of the MTRCL primarily through the Railway Ordinance, and the Operating Agreement between it and the Government. As with other companies, the Government regulates MTRCL's property development business through the Town Planning Ordinance, Buildings Ordinance, and other regulations relevant to land matters.

In the course of project planning, MTRCL has taken into consideration factors such as environmental protection and maintaining good community relations. Sustainability is the development goal of MTRCL. Hong Kong's transport policy stipulates reliance on public transport, with railways serving as a backbone, and promotes green transport. The railway network can help achieve environmental protection and sustainable development by mitigating the public's demand on road transport, and reducing adverse environmental impacts. In the process of planning, design, construction and operation, MTRCL has all along been minimising environmental impact by strengthening environmental management. In addition,

MTRCL also understands that, during planning and implementation, there is a need to actively communicate and maintain good community relations. MTRCL would make full reference to the views of relevant stakeholders, with a view to striking a balance between operational need and the views and expectations of relevant parties, in order to achieve the goal of sustainable development.

The MTRCL considers that the property development above the Tin Wing Station in Tin Shui Wai has been planned with careful consideration in terms of the overall layout, building heights, green space and compatibility with the surroundings. There are also spaces between buildings. The MTRCL notes that local residents and bodies have different expectations. As such, it has met and discussed with the stakeholders, including the local residents, management of the schools nearby, and district leaders through different channels since 2010. With the development project entering the implementation stage, the MTRCL will set up a works liaison group to continue its engagement with the local community with a view to further improving the implementation during the construction period.

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