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23 December 2014

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Dear Sir,

**Phase II Public Engagement Exercise for the Proposed Establishment of a
Harbourfront Authority**

I refer to the captioned exercise and I enclose the Law Society's Submissions on the subject matter for your consideration.

Yours faithfully,

Kenneth Fok
Director of Practitioners Affairs

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BY EMAIL & BY POST



Phase II Public Engagement Exercise for the Proposed Establishment of a Harbourfront Authority

The Law Society's Submissions

The following are the Law Society's Submissions on Phase II of the Public Engagement Exercise for the Proposed Establishment of a Harbourfront Authority.

A. Objectives of HFA

1. The Law Society supports the Harbourfront Authority ("HFA") to replace the Harbourfront Commission ("HC")'s existing role as stated in the HC's existing terms of reference and expand its functions and become a statutory authority replacing its predecessor(s), with a specific duty in ensuring compliance with the Protection of The Harbour Ordinance (Cap. 531) ("POH Ordinance").
2. The other objectives of the HFA should include protecting, conserving and enhancing Victoria Harbour as a world class waterfront asset, promoting green, sustainable and environmentally friendly development, promoting the efficient working of the harbour (land sea and air), promoting public engagement and proper consultation on harbour issues and collaborating with governmental, non-governmental and private sector organisations, creating, enhancing and managing public and open spaces. Victoria Harbour front land should not be privatised but let or sublet.

B. Definition of Victoria Harbourfront and Remit

3. Victoria Harbourfront is already defined in Cap 1, the Laws of Hong Kong.
4. HFA's remit should be expanded to have the widest definition and in any event must include all recent reclamations since 1997. HFA should deal with all land-use building, planning and environmental including relating to sea and air issues affecting Victoria Harbour front. It should also ensure compliance of the POH Ordinance.

C. HFA's governance, functions, compositions, finance and accountability

5. The composition should be broad based to cover all stakeholders and expertises to make this work and the process of appointment should be totally transparent and should comprise all major non-governmental stakeholders including all existing non-governmental organisations and governmental departments which are already of the HC. In addition, other institutions should be asked to nominate members from academia (built environment faculty appointees of the relevant universities), the Consumer Council representing the general public, Hong Kong Institute of Certified Public Accounts, the CFA Institute for financial expertise, the Law Society for legal expertise and the relevant affected Legislative Council ("LEGCO") and District Councils to represent constituents and representatives from two of the main chambers of commerce e.g. Hong Kong General Chamber of Commerce and The Chinese General Chamber of Commerce.
6. However, there should not be any individual non-governmental members as this may be seen as non-transparent and may give the perception of imbalance in favour of Government (as for example sometimes there are complaints about the composition of the Town Planning Board). The Chair should always be a non-governmental member but the vice-chair may be a governmental member as is the current position with the HC. It would be preferable for the founding chair to be the same as the HC for continuity. The HFA should not be seen to be a rubber stamp of government policies but be seen to be independent balanced and reflecting the views of all stakeholders.

D. HFA's advisory and advocacy functions

7. HFA should take over the HC's existing advocacy and advisory role, advise Government on issues affecting the harbour, and proactively proposing macro and micro planning on conservation, planning and environmental issues.

E. HFA's executive functions and office setup

8. HFA should be supported by an independent executive arm with secondees from relevant governmental departments and/or full time staff sourced from the Civil Service appointed by the HFA but also be able to appoint staff/experts from the private sector.
9. A fund should be set up and topped up by Government and endorsed by

LEGCO for all projects. Projects should start on a small scale to see how the HFA performs.

10. HFA should be involved in planning on both macro and micro level and involve public in consultation for Government, Institution or Community or Comprehensive Development Area zones (similar to the Urban Renewal Authority) and operate and manage the area.

**The Law Society of Hong Kong
23 December 2014**