

GOVERNMENT HILL CONCERN GROUP

The Chairman & Members
Antiquities Advisory Board

9 July 2012

Dear Sir/Madam

Re: Former CGO Complex and site

We write to assure members of the Board that irrespective of the comments reported in the media which individuals within the various groups constituting GHCG may have made, we share the same interest as the Board in ensuring that heritage assessment and grading is **professionally** and **lawfully** carried out. We have also received legal advice that as with any administrative decision made by a statutory board with statutory powers, only relevant considerations and material should be taken into account in the grading exercise and irrelevant considerations and material excluded and reasons should be given for the gradings. It is in no-one's interests that the Board's gradings be quashed on procedural or other grounds.

It is precisely because we respect the need to maintain the Board as independent and impartial and not to allow it to be swayed by irrelevant considerations that some members within the

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group took exception to the conduct and statements made by the Secretary for Development and the Chairman before the 159th meeting of the Board including the conveying of the Government's model of the proposed development to the Hong Kong Heritage Discovery Centre for members' viewing. In this connection, we note the remark made by the Chairman at the 157th meeting of the Board when the building at no. 23 Coombe Road was under discussion and in response to a member's expressed concern about the possible impact of according a Grade 1 status upon redevelopment of the building that "*AAB should focus on the building's heritage significance in considering the grading of historic sites/buildings, irrespective of any development plans for the sites/buildings*".

We would expect that every member of the Board without exception understands that this is the correct approach to grading and that this approach is fully consistent with the statutory powers of the Board and the declared policy of Government as articulated in AAB Board Paper AAB/28/2009-10 (ref.140th Meeting – 4.12.09), paras.4 and 6 [not cited in full] "...*AAB will continue to accord gradings (namely Grade 1,2 and 3) to historic buildings. In carrying out this task, the AAB will focus its assessment on the heritage significance of the buildings concerned...While the AAB will perform its statutory role of giving advice to the Antiquities*

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Advisory Authority in the process [of possible monument declaration], it will not be tasked to weigh heritage value against other factors in the overall community interest. ”.

It is disturbing to note however that despite declaring that he will take no part in the voting on the final grading, the Chairman nonetheless feels at liberty to make public comments on the issues during the period of public consultation on the gradings without making it clear that gradings have nothing to do with specific proposals for development and any balancing exercise is not a matter for the Board at the grading stage. This can do nothing to preserve the perceived independence and impartiality of the Board and will only serve to confuse the public as to the grading process.

Equally disturbing is the declared attitude of some members of the Board who have openly said that no matter what views are expressed by members of the public during the public consultation, it will have no influence on him/her. This is totally to misunderstand the role of the Board which must be to determine by professional criteria what is relevant and what is not relevant to the exercise of heritage assessment and grading. Members with this attitude are ruling out in advance the possibility that anything relevant will emerge from the public consultation. This is not

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independence nor impartiality but professional arrogance and ignorance as well.

To that end and in the same spirit, we believe that it is necessary for the Board to explain what has happened so far in the manner which the Board has considered the grading of the former CGO complex and site. This will also assist in the process of ensuring that the public consultation is a meaningful exercise which properly engages the public while directing their minds to what is relevant in the grading exercise (a "true consultation" in the words of the Chairman). We deal with each of these separately, ie the process so far and the current public consultation.

The Process so far

What is called for is an explanation of what has happened so far in the gradings of the former CGO complex and in particular,

1. What were the reasons given by the Expert Panel (so-called), for its gradings and for grading the buildings individually? We note that the majority of views expressed by members at the 157th meeting that the former CGO should be graded as a whole. What did they mean by the former CGO compound

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and why was this later changed from compound to site? Why (contrary to the approach adopted in the grading of City Hall complex and that suggested by the Executive Secretary to the Antiquities and Monuments Office at the 141st Meeting of it being preferable to assess buildings as a whole if they formed a harmonious integral building cluster but assessing them individually if they were built in distinct periods) the Expert Panel considered it right to give individual gradings to the buildings in the former CGO complex?

2. Given the absence of any reasons supplied by the Expert Panel (so-called) for their gradings for the consideration of members at the 159th meeting, how could members of the Board at the 159th meeting rely upon or refer to the gradings by the Expert Panel (so-called)?
3. What did the Chairman mean when more than once at the 159th meeting he said that the term Expert Panel was a misnomer?
4. Why were members not asked first to consider whether they accepted the need for individual gradings of the buildings within the former CGO when no reasons were given by the Expert Panel (so-called) for giving such individual gradings

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and when as a matter of undeniable fact, the buildings are part of an integral compound, planned to be constructed in phases and were **not** constructed in distinct periods?

5. The Chairman having accepted a member's suggestion in the light of the possible controversy over the West Wing that each of the possible gradings for the West Wing be put as a separate motion, why did the Chairman not then adopt the proper procedure of asking for those in favour to raise their hands, those against and those abstaining in respect of each grading ? Given that each grading was to be voted upon separately, why did the Chairman not vote when the grade 2 voting was put to the meeting? If he was allowed to vote after the vote had been taken on a particular grading, why was that option not open to other members of the Board? Why did the Chairman not allow further discussion as suggested by a member of the Board notwithstanding that less than a majority of members actually voted in favour of Grade 2?
6. What collectively are the reasons for the Board's provisional grading of grade 2 for the West Wing? What collectively are the Board's reasons for grading the buildings individually?
7. Why was it necessary for a member of the Board to urge fellow members who had not read the relevant material including the

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ICOMOS alert to do so? How can professionals who do not read relevant material give professional advice?

The Public Consultation

The presumed purpose of the public consultation is to seek the public's views on the appropriate grading. Until the public is given relevant information, it is apparent that this is not a true consultation since the public is told nothing about what information, materials and considerations are relevant to grading according to the Board's process and what are the reasons for the gradings accorded so far both by the Expert Panel (so-called) and by the Board. It can be fairly said that the Board is going through the motions without any genuine intent to engage the public thus losing a valuable opportunity to fulfil part of its mission of educating the public on what heritage is as well as rendering the process of consultation fundamentally flawed.

We therefore ask the Board to explain to the public generally what the gradings are and what are the criteria and considerations relevant to each grading. In particular, since members of the public are expected to express a view on no grading or grade 1,2 or 3, the public needs specific information on the criteria and

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which apply to each grading. Since the Board members are all professionals with relevant expertise, it should present no difficulty for the Board to explain how they make these determinations.

We have in mind an accepted international grading system such as the Burra Charter which has been used for other heritage assessments in Hong Kong or the Principles for the Conservation of Heritage Sites in China which may be useful for reference. Such principles and guidelines ensure that all **relevant** information is taken into account in a **systematic** way.

If the Board is seeking information from the public on the historic, artistic and social aspects of the former CGO complex and site, it would be helpful for the Board to list out fully the kind of information which is being sought.

This will help also to exclude subjective and irrelevant considerations such as pure matters of opinion for example whether a particular structure is ugly or beautiful.

Although the period of one month is proposed by the Board, it is not a statutorily provided period and it is open to the Board to set a longer period having regard to the fact that public consultation

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not directed to the proper issues will be meaningless and that a consultation paper from the Board containing the above information, yet to be supplied, is required to initiate the process of consultation. A clear start date and end date should be advertised and provided on the AAB web-site. This is standard in all public consultations undertaken by government departments and public bodies. We suggest that the same approach be followed in this case.

There is undoubtedly significant public interest in Government Hill and the former CGO complex which has already been demonstrated by extensive press coverage and media interest. Also, as public hearings have been held in the past, the Board should consider inviting the public to attend hearings and present their views and information in person.

Further, in light of the fact that the provisional grading for the former CGO site (which includes all buildings within it) is grade 1, public views should be sought on whether there is any purpose to be served by giving separate gradings to the buildings comprising the former CGO. In the case of City Hall, the grading is to the complex as a whole including the carpark and no separate grading is accorded to the individual blocks, notwithstanding that they are separate structures or elements of the complex. This

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would seem to be the most appropriate precedent on which to draw.

As there is no urgency in the Board reaching a decision on the final gradings and in the light of the summer vacation, we would urge the Board to postpone a decision on the final gradings allowing sufficient time for a proper and meaningful (true) public consultation to take place. The process and proper consideration of relevant information is as important as the outcome.

In summary, to assist the AAB in ensuring that the grading process is lawfully and credibly carried out and that it can be shown that only relevant factors have been considered and irrelevant matters excluded from consideration:

1. Please can the AAB answer the questions posed above and supply the complete list of reasons for the Expert Panel's recommendations
2. Please can the AAB supply the complete list of reasons for their gradings and in particular why the precedent of City Hall has not been followed of giving a single grading for a complex which was planned and constructed as a complex of buildings built in the same distinct period to serve the purpose of being

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the Central Government Offices and was so used by both the colonial government and the HKSAR Government until the new complex at Tamar came into use in late 2011.

3. Please explain why this matter was not put to the vote at the 159th meeting.
4. The AAB should provide a consultation paper giving at least the information set out above under the heading “The Public Consultation” and set a new time frame for the consultation after such document becomes available to the public.

We hope that this process will set a precedent for the way in which future gradings will be conducted where there is considerable public interest in the site or buildings concerned. We appreciate the opportunity which is being given to us to assist the Board in achieving a credible process which can assure the public that a well-reasoned decision has been objectively reached.

Yours sincerely

Gladys Li
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