

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

香港添馬添美道 2 號

2 Tim Mei Avenue, Tamar, Hong Kong

本函檔號 Our Ref.:

SBCR 26/15/5691/74

來函檔號 Your Ref.:

By Post

26 February 2015

Mr Cosmo Beatson
Executive Director
Vision First
5/F, 102 First Street
Sai Ying Pun
Hong Kong

Dear Mr Beatson,

Issues relating to non-refoulement claimants in Hong Kong

Thank you for your letter of 19 January 2015.

As you may also be aware, the Government has been offering in-kind assistance to persons who have lodged a non-refoulement claim to the Immigration Department (i.e. non-refoulement claimants) in need on humanitarian grounds to prevent them from becoming destitute. The Social Welfare Department has commissioned a non-governmental organisation to administer such in-kind humanitarian assistance programme providing these non-refoulement claimants in need with temporary accommodation, food, clothing, other basic necessities, appropriate transport allowances and counselling.

In response to views of some Members of the Legislative Council and concerned non-governmental organizations, the Government undertook to review the humanitarian assistance programme. As a result, enhancement measures have been implemented since February 2014. For details, please refer to the relevant paper which we provided to the Legislative Council (LC) Panel on Welfare Services before (LC Paper No. CB(2)626/13-14 (06).

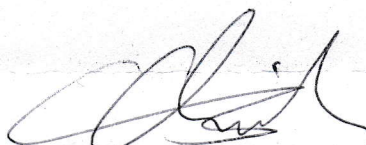
On relevant cases relating to the accommodation for claimants that you referred to in your letter, we understand that the Yuen Long District Lands Office (YLDLO) had a meeting with you on 28 January 2015 and a site visit to the 69 compounds was conducted on 13 February 2015. Moreover, YLDLO has already given a substantive response to you on the way forward on 24 February 2015.

As regards your views on permission for claimants to work in Hong Kong, we must stress that non-refoulement claimants, including those whose claim has been substantiated ("substantiated claimants"), have no right or permission to enter or remain in Hong Kong. They are accordingly prohibited from taking any employment in Hong Kong under the Immigration Ordinance (Cap. 115). In February 2014, the Court of Final Appeal upheld in *GA & Ors v. Director of Immigration* [(2014) 17 HKCFAR 60] that substantiated claimants (and refugees recognized by the United Nations High Commissioner for Refugees in Hong Kong) have no constitutional or other legal rights to work in Hong Kong.

Notwithstanding the above, the Director of Immigration (the Director) may exercise his discretion exceptionally and on a case-by-case basis to consider an application for permission to take employment from a substantiated claimant (or mandated refugee) who has no other choice but be stranded in Hong Kong for a substantial period of time pending departure (or resettlement) and the prospect of the applicant's departure (or resettlement) in the near future is slim. The Director will consider such an application on a discretionary and exceptional basis, having regard to individual case merits and the entire circumstances of the case, taking into consideration an array of factors such as details of the intended employment and the prospective employer, personal circumstances and health condition of the applicant, security concerns (if any) to the community, impact on the relevant local employment sector, impact on the maintenance of effective immigration control in Hong Kong, whether there is any record of the applicant's failure to cooperate with the authority concerned in the course of any departure (or resettlement) arrangements, etc. The Director will also take into account any strong compassionate or humanitarian reasons or other special extenuating circumstances when making the decision.

Thank you for your interest in this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Zorina WAN', written over a horizontal line.

(Ms Zorina WAN)
for Secretary for Security

c.c.

Director of Lands
(Attn: Ms Lily CHIU/DLO(YL))

Director of Social Welfare
(Attn: Mr Alex WONG/ CSWO(FCW)1)