

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

HC/S 668/2017)

Between

ALJUNIED-HOUGANG TOWN COUNCIL
(ID Unknown)

...Plaintiff

And

1. **SYLVIA LIM SWEE LIAN**

2. **LOW THIA KHIANG**

3. **PRITAM SINGH**

4. **CHUA ZHI HON**

5. **KENNETH FOO SECK GUAN**

6. **HOW WENG FAN**

7. **HOW WENG FAN**

(PERSONAL REPRESENTATIVE OF THE ESTATE OF DANNY LOH
CHONG MENG, DECEASED, IN HIS PERSONAL CAPACITY AND
TRADING AS FM SOLUTIONS & INTEGRATED SERVICES)

8. **FM SOLUTIONS & SERVICES PTE. LTD.**

...Defendants

HC/S 716/2017)

Between

PASIR RIS-PUNGGOL TOWN COUNCIL

...Plaintiff

And

1. **SYLVIA LIM SWEE LIAN**

2. **LOW THIA KHIANG**

3. **PRITAM SINGH**

4. **CHUA ZHI HON**

5. **KENNETH FOO SECK GUAN**

6. **HOW WENG FAN**

7. **THE PERSONAL REPRESENTATIVES OF DANNY LOH CHONG
MENG, DECEASED**

(No ID. No. Exists)

8. **FM SOLUTIONS & SERVICES PTE. LTD.**

...Defendants

AFFIDAVIT OF EVIDENCE-IN-CHIEF OF LOW THIA KHIANG

I, Low Thia Khiang [REDACTED] of [REDACTED]

[REDACTED] do solemnly and sincerely affirm and say as follows:

1. I am the 2nd Defendant in Suit No. 668 of 2017 ("**Suit 668**") and Suit No. 716 of 2017 ("**Suit 716**") (collectively referred to as the "**Suits**").
2. Insofar as the facts deposed to herein are within my personal knowledge, they are true. Insofar as the facts deposed to herein are not within my personal knowledge, they are true to the best of my information and belief and are based on relevant documents pertaining to this action.
3. I refer to the 1st to 5th Defendants' Defence (Amendment No. 1) in both Suit 668 and Suit 716 ("**the Defence**"). I confirm that the facts set out in the Defence are correct to the best of my knowledge, information and belief and shall rely on them for purposes of my Affidavit of Evidence-In-Chief ("**AEIC**") herein.

Introduction

4. I am a Member of Parliament ("**MP**") from the Worker's Party ("**WP**") and an elected member of the Plaintiff, the Aljunied-Hougang Town Council ("**AHTC**") from 27 May 2011 to date. I was part of a group of candidates from the WP who successfully contested and won the electoral division of Aljunied Group Representation Constituency ("**Aljunied GRC**") in the 2011 General Elections held on 7 May 2011 ("**the 2011 GE**"). We were re-elected in the 2015 General Elections held on 11 September 2015 ("**the 2015 GE**").

Background

5. I am Chinese educated. I graduated from Nanyang University in 1980 with a general degree and from the National University of Singapore ("**NUS**") in 1981 with a Bachelor of Arts (Honours) in Chinese Studies. Upon graduating from NUS, I was admitted to the Institute of Education and I obtained a Diploma in Education. Subsequently, I became a teacher in a secondary school. I joined the WP in 1982 and subsequently became its Organising Secretary (a role within the WP's Central Executive Committee) until 1991 when I became WP's Assistant Secretary-General. I took over as Secretary-General of the WP in 2001. On 8 April 2018, Mr Pritam Singh ("**Pritam**") who was previously the Assistant Secretary-General took over my post as Secretary-General.

6. I first became a MP when I was elected in the 1991 General Elections ("**the 1991 GE**") in Hougang Single Member Constituency ("**Hougang SMC**"). I was the only elected MP from the WP. I continued as Hougang SMC's MP for the next 20 years until 2011. For the 2011 GE, it was decided that I will contest in Aljunied GRC together with 4 other candidates from the WP. Mr Yaw Shin Leong ("**Shin Leong**") from the WP contested Hougang SMC. At the 2011 GE, the WP won both Aljunied GRC and Hougang SMC. The Town Councils ("**TC**") of these 2 electoral divisions were amalgamated into Aljunied Hougang Town Council ("**AHTC**") on 27 May 2011 and I was appointed its Vice-Chairman on 3 June 2011. Pritam took over as Vice-Chairman on 10 August 2012 and I remained as an elected Town Councillor of AHTC where my role entailed participating in discussions with the other Town Councillors and engaging in the decision-making processes of AHTC. I exhibit at **TAB 1 of LTK-1** copies of the Government Gazette No. 1533 dated 3 June 2011 and Government Gazette No. 2045 dated 10 August 2012 which show that I was Vice-Chairman as of 3 June 2011 and that Pritam took over as Vice-Chairman on 10 August 2012.
7. On 26 January 2013, a by-election for Punggol-East was held and Ms Lee Li Lian of the WP was elected to the Punggol East SMC ("**Punggol East SMC**") seat. Pursuant to the Town Councils (Declaration of Towns) Amendment) Order 2013 (G.N. No. S 97/2013), AHTC was reconstituted as Aljunied-Hougang-Punggol East Town Council ("**AHPETC**") with effect from 22 February 2013 and Punggol East SMC was handed over to AHPETC on 1 May 2013.
8. On 11 September 2015, a General Elections was held ("**the 2015 GE**"). Pursuant to the Town Councils (Declaration of Towns) Order 2015 (G.N. No. S 577/2015), Punggol East SMC became part of Pasir Ris-Punggol Town Council ("**PRPTC**") and AHPETC was reconstituted as AHTC on 1 October 2015.
9. As such, the TC was known as "AHTC" from 27 May 2011 to 21 February 2013 and "AHPETC" from 22 February 2013 to 30 September 2015, and again as AHTC from 1 October 2015 to present.
10. Accordingly, the relevant time periods when I was involved in the TC are as follows:
 - (a) AHTC for the period from on or about 27 May 2011 to 21 February 2013;
 - (b) AHPETC for the period from 22 February 2013 to 30 September 2015; and
 - (c) AHTC for the period from 1 October 2015 to date.

The Accountants' Reports used in Suit 668 and Suit 716

11. I refer to the following reports which are being relied upon by both the Plaintiffs in Suit 668 and Suit 716:
 - (a) On 18 February 2014, the Minister for National Development invited the Deputy Prime Minister ("**DPM**") and Minister for Finance to consider exercising his power under section 4(4) of the Audit Act to direct the Auditor-General's Office ("**AGO**") to conduct an audit of AHPETC's FY2012-2013 accounts and the DPM so exercised his powers and directed the AGO to carry out an audit of AHPETC's FY2012-2013 financial accounts, records and books ("**AGO Audit**") according to prescribed Terms of Reference. The AGO in turn appointed PricewaterhouseCoopers LLP ("**PwC**") to carry out an audit on selected areas of AHPETC's accounts on behalf of the AGO ("**the PwC Audit**"). The key objective of the PwC Audit was to *"to analyse the inflows and outflows of six current bank accounts operated by AHPETC in FY 2012/13 (April 2012 to March 2013) and to identify and follow up on irregular transactions so as to ascertain the legitimacy of these transactions."* On 9 February 2015, AGO issued its final report on the AGO Audit which incorporated the PwC Audit ("**the AGO Report**").
 - (b) AHTC, the Plaintiff in Suit 668, appointed KPMG LLP ("**KPMG**") as its accountants to review past payments made by AHPETC. KPMG published its report on 31 October 2016 ("**the KPMG Report**").
 - (c) PRPTC, the Plaintiff in Suit 716, appointed PricewaterhouseCoopers LLP ("**PwC**") as its accountants to review past payments made by AHTC/AHPETC. PwC published its report on 30 April 2017 ("**the PwC Report**").
12. Insofar as the AGO Report, the KPMG Report and the PwC Report allege impropriety or wrongdoing on my part or that of the other Town Councillors, these allegations are denied. Where relevant, I have addressed these allegations in this AEIC.

The handover of Hougang Town Council (“HTC”) after the 1991 GE

13. For context of what I am about to elaborate upon, I will first touch on the history of how public housing estates were previously managed and the evolution into the system of town council management adopted today. This will show that:
 - (a) TCs are institutions with a strong political dimension – The elected MPs are responsible for leading the management of the TCs. They are accountable to their constituents who voted them in; and,
 - (b) Town Councils Act (Cap. 329A) (“**TCA**”) set down broad rules upon which the TCs should be managed. Within these rules, the elected MPs were given full latitude and autonomy to manage their TCs with little intervention from the Government.
14. Prior to the introduction of the TCs, public housing estates were managed by the Housing Development Board (“**HDB**”). After the TCs were introduced, HDB continued providing Essential Maintenance Services Unit (“**EMSU**”) services for all TCs until the mid-1990s. According to a “HistorySG” article by the National Library Board entitled “*First Town Councils Are Established*”, TCs in Singapore were first established under a pilot project in Ang Mo Kio in September 1986 which “*aimed to change the way housing estates were managed, devolving the day-to-day running of these estates to residents*”. A copy of the “HistorySG” article dated 1 September 1986 is exhibited at **TAB 2 of LTK-1**.
15. On 29 June 1988, the Government passed the TCA which eventually resulted in the full implementation of the town council concept throughout Singapore. It was reported in an article in The Straits Times entitled “*Town Councils a ‘major contribution to democracy’*” dated 29 June 1988 that the then-First Deputy Prime Minister Mr Goh Chok Tong (“**Mr Goh**”) described “*the introduction of town councils as a major contribution to parliamentary democracy in Singapore*”. A copy of this Straits Times article dated 29 June 1988 is exhibited at **TAB 3 of LTK-1**. According to Mr Goh, TCs served “*two important objectives*” which were: (a) to “*allow Singaporeans to take part in the management of their housing estates*”; and (b) to “*provide ballast to the political system*” in that as “*MPs would, in future, run the housing estates and thus have a greater direct impact on people’s lives, voters*”.

would have to look more carefully at candidates for Parliament and pick only the competent, dedicated and trustworthy”.

16. In another Straits Times article dated 29 June 1988 entitled “‘Free-rider’ syndrome that can topple a government”, Mr Goh is reported as saying that TCs serve as a stabiliser to the democratic political system by preventing the “free-rider” problem. A copy of this Straits Times article dated 29 June 1988 is exhibited at **TAB 4 of LTK-1**. Mr Goh’s explanation of this “free-rider” problem was reported as follows:

“Town councils should provide the missing stabiliser to trim sudden, temporary drastic swings. With town councils, it will matter more to the voter who his MP is. His MP will head the town council which looks after his living environment.

Because of this, voters will have a stronger incentive to vote carefully and sincerely, i.e. for the person and party who they think they can depend on to run their constituency and run the country, whether it is the PAP, WP or SDP.

...

At present, MPs have no direct responsibility for their constituencies. They are not directly responsible for the welfare of the voters in their constituencies. The Government is.

It is, therefore, quite safe for voters to cast their votes for a candidate they would never pick to manage their constituency.

For example, some voters who want a PAP government, also want to see some opposition in Parliament. They may vote for an opposition candidate, and depend on the PAP to look after his constituency because they expect other constituencies to return PAP MPs in sufficient numbers to form the government.

This phenomenon is sometimes known as the free-rider problem, or the have-your-cake-and-eat it syndrome. If everyone free-rides, Singaporeans may end up with a government nobody really wanted.”

17. As such, it is apparent that the TCA is a political piece of legislation introduced by the Government to affect the way voters elect their MPs. Singaporeans were no longer expected to vote purely on how well their candidate performed in Parliament as an MP and in election rallies but also on how they ran their TCs. An effective TC would raise the esteem and reputation of the MPs running it and in turn affect their performance in election results. Where Managing Agents (“MA”) are engaged to manage the TC, the performance of the TC would depend heavily on the competence and reliability of its MA. A TC with poorly motivated staff or a disinterested MA would perform poorly. This would damage the reputation of the MPs running it. This reality was acknowledged by the Ministry of National

Development (“MND”) in the MND Town Council Review Report dated 30 April 2013 (“**the MND Report**”) at paragraphs 4(a)-(c) of the executive summary as follows:

“4. Arising from the review, the Review Team has come to the following conclusions:

Nature of the Administration of the Town Councils Act (TCs Act)

a) TCs were set up nationwide in 1989 by an act of Parliament to serve two objectives. Firstly, TCs were set up to enable elected politicians, i.e. MPs who were elected by constituents, to be given authority and responsibility to take charge of their constituents’ estate and allow each Town to develop its own distinctive character under the MP’s leadership. **Secondly, TCs so set up made MPs accountable to their direct voters for the running of their estate, as these voters can take into account the MP’s performance in running the TC when they go to the polls.**

b) TCs deliver a public service previously handled solely by HDB across the country. The persons selected to lead the management of TCs are selected on a political basis. **They are MPs serving the constituents of the wards that have elected them, and an intent of the Town Councils Act was that how they manage and run their TCs will have a bearing on their electoral fortunes at the next election. Given the political character of the TC’s leadership and the political implications attached to the management of the TC, it is inevitable that the TC’s function is carried out in a competitive politicised context.**

c) **The Town Councils Act (TCs Act) and subsidiary legislation such as the Town Council Financial Rules (TCFR) reflect a recognition of this political nature of TCs.** The intent is to give the elected MPs as much latitude as possible to run the TCs within broad and general rules laid down to ensure proper governance and safeguard public interest. For instance, TCs are required to keep proper accounts, which must be audited annually, by an independent auditor who needs to state whether the receipts, expenditures, investments and the acquisition and disposal of assets have been in accordance with the TCs Act. Beyond that, TCs are empowered with much autonomy to manage their affairs. For example, each TC has the powers to make its own by-laws, to set its service and conservancy charges (S&CC) and its enforcement policy. **The TCs Act also does not prohibit transactions with persons or entities associated with political parties. In the administration of the Act, latitude has always been given to MPs, across political parties, to exercise autonomy in their judgement on such matters as to how best to achieve their agenda and serve their residents’ interest.**

*The TCFR also sets out the rules for good financial governance. However, **the regulatory approach by MND is again one of a light touch in order to respect the autonomy of and to provide flexibility to MPs running their TCs and be directly accountable to residents, without excessive intervention by the Government.***

(emphasis added)

A copy of the MND Report is exhibited at **TAB 5 of LTK-1.**

Difficulties faced by Opposition TCs

18. However, it became apparent very soon after the passing of the TCA that the “competitive politicized context” of the town council scheme could serve as a political tool to “trip up” elected opposition MPs to “show” voters that opposition MPs are not capable of managing

a town and let alone the country by making it difficult for the opposition MPs to manage a town. I exhibit at **TAB 6 of LTK-1** my foreword dated 30 October 1992 to the HTC's Financial Statements for the period from 7 September 1991 to 31 March 1992 which gives a taste of some of the difficulties I experienced as a newly-elected MP immediately after the 1991 GE when I took over the running of the HTC. I set out some of these experiences below.

19. Prior to my being elected as MP for Hougang SMC, HTC was initially formed on 5 July 1990 under the TCA. Although it was called HTC, it was formed to control and manage 3 constituencies, namely, the Paya Lebar, Punggol and Hougang constituencies. Thereafter, the Housing and Administration Department ("**HAD**") of the HDB was appointed the MA of HTC with effect from 1 January 1991. At that time, the HTC was occupying office premises at Block 810 Hougang Central, #02-214, Singapore 1953.
20. Following the 1991 GE when I was elected as MP for Hougang SMC, the constituencies of Paya Lebar and Punggol left HTC and the HTC was then responsible for Hougang SMC alone. I took over as the Chairman of the reconstituted HTC on 7 September 1991. However, on 30 September 1991, barely a month after I was elected as MP for the Hougang SMC, HDB served notices on me informing me that:
 - (a) HAD would be terminating their MA services to the HTC with effect from 31 December 1991; and
 - (b) HTC had to quit their then-premises at Block 810 Hougang Central by 31 December 1991.

I exhibit at **TAB 7 of LTK-1** a copy of HDB's Notice to Quit the premises at Block 810 Hougang Central dated 30 September 1991.

21. I was faced with the huge challenge of being left on my own and without a physical office to operate from to manage the Hougang SMC. However, I knew that the Hougang residents would suffer if their elected MP was not able to manage the town properly. As such, I was under tremendous pressure to overcome these obstacles. I had to work day and night to recruit new staff for the HTC and arrange for these staff to receive training on

how to use the Town Council Financial Management System which was at that time provided by HDB.

22. Given HDB's Notice to Quit, the premises which had been used by the previous PAP TC at Block 810 Hougang Central had to be vacated by 31 December 1991 (i.e. 3 months from the service of the Notice to Quit), I had to build a new office from scratch on a very tight timeline. At the time, I was told by HDB that they needed 40 weeks to build the new premises which meant that these new premises would not be ready when the premises at Block 810 Hougang Central had to be vacated. To make a bad situation worse, HDB rejected my request for an extension of time to use the Block 810 Hougang Central premises in the meantime. As such, HTC had no choice but to appoint its own architect for the office project on 23 October 1991 and awarded the tender for the construction of the office premises on 12 November 1991. The construction was completed as planned on 29 December 1991 and HTC moved into the new office on 31 December 1991. With the help from my family members, supporters and friends, I managed to establish the new HTC and its new office at Block 701 Hougang Avenue 2. HTC was therefore able to commence operations on 1 January 1992 without causing major disruption of services to the residents. Copies of HDB's responses to my request to HDB for a new office at Block 701 Hougang Avenue 2 to run HTC and HDB's rejection of my request for an extension of time to use the existing Block 810 Hougang Central premises are exhibited at **TAB 8 of LTK-1**.
23. Even after the challenging early days of my being elected to the Hougang SMC, I found myself having to face similar obstacles along the way. In the mid-1990s, HDB terminated its EMSU and computer services for HTC. EMSU is a 24-hour service provided by the TCs to attend to the residents' maintenance and urgent essential services requests such as lift rescues. While the many PAP TCs could pool their resources together to meet these changes, the TCs in opposition wards had to fend for ourselves and struggled to put in place EMSU and computer services after they were terminated. There were 4 opposition wards at the time: The SMCs in Hougang, Potong Pasir, Bukit Gombak and Nee Soon Central. The opposition wards tried to pool our resources together to develop our own computer software. Eventually, an alternative computer software was developed which HTC eventually adopted.

24. Apart from these critical services being terminated, government-funded upgrading programs for HDB estates such as the Main and Interim Upgrading Programmes were also not given to Hougang SMC. As a result, Hougang town had fewer facilities and amenities than other towns under PAP TCs. Due to the denial of such programs funded by the Government, HTC would also have to spend more money from its own funds to maintain the estate because of the lack of government-funded renewal of aging facilities and common areas under the TC's management. Further, as HTC was responsible for a small ward, we lacked economies of scale which meant weaker bargaining power in purchasing goods and services.
25. The cumulative effect of the steps taken against TCs run by the opposition could reach a point where residents living in a town managed by an opposition town council would have to pay higher monthly Service & Conservancy Charges ("**S&CC**"). This would deter people from electing opposition MPs. In fact, it was even mentioned by the late Mr Lee Kuan Yew (who was then the Minister Mentor) during the 2011 election rallies as a reason against electing WP for Aljunied GRC that property prices in opposition wards such as Hougang are lower than in their neighbouring (PAP) wards. A copy of the online yahoo article dated 30 April 2011 which reported on the late Mr Lee Kuan Yew's abovementioned comment is exhibited at **TAB 9 of LTK-1**.
26. I was not alone in facing the abovementioned difficulties as an opposition politician in the running of a town council. The respective opposition MPs for Bukit Gombak and Nee Soon Central SMCs, Mr Ling How Doong and Mr Cheo Chai Chen from the Singapore Democratic Party ("**SDP**"), also faced similar challenges when they were newly elected and took over the running of their respective TCs in 1991. For instance, both Mr Cheo and Mr Ling had to operate their respective TCs from temporary container offices as stated in the Straits Times articles dated 4 and 11 October 1991 on the setting up of their respective TCs, copies of which are exhibited at **TAB 10 of LTK-1**.
27. The importance to an MP of having of an effectively run TC cannot be understated. Based on the feedback I received from the ground after the 1997 General Elections ("**the 1997 GE**") through residents of Bukit Gombak and Nee Soon Central whom I personally knew, poor estate management was cited by numerous constituents as one of the reasons why they voted against the SDP in those SMCs in the 1997 GE.

My concerns relating to the 2011 GE

28. For the 2011 GE, I decided to move out of Hougang SMC to contest in Aljunied GRC. Given the difficult experiences I had with running a TC in an opposition-ward in Hougang, I knew that similar challenges would be faced if WP were to be elected in Aljunied GRC. One clear challenge that WP potentially faced was that Aljunied GRC which consists of five wards covered a much bigger area and had many more dwelling units that would come under its management compared to Hougang SMC. As such, I knew that the challenges we would experience on being elected in Aljunied GRC would be huge. Hougang SMC had about 10,000 HDB dwelling units that come under the purview of HTC's management whereas Aljunied GRC had more than 40,000 HDB dwelling units. A "dwelling unit" could be either a HDB residential unit or a commercial unit and does not include private housing within the geographical boundaries of Aljunied GRC and Hougang SMC.
29. Upon WP being elected to Aljunied GRC in the 2011 GE, one of my key concerns was to ensure a smooth taking over of the management of AHTC. This concern was especially pertinent given my past experiences when I took over the HTC after I was first elected to the Hougang SMC in 1991. As such, I was anxious to ensure that the new AHTC could meet the operational challenges within the 90 days that we were given under the TCA to complete the takeover. It was crucial that WP met these operational challenges within 90 days so as to continue to serve the residents without any major disruption of services and/or a sudden drop in living standards. Given my previous experience, I fully expected the critical service providers to the town such as the MA, EMSU, and computer system service providers of Aljunied Town Council ("**ATC**") to not want to continue with their contracts. My concerns were proven to be correct as I will elaborate below.

Decision for the appointment of a MA for AHTC after the 2011 GE

30. The issue of having a MA in order to preserve the continuity of services to the residents was of critical concern to the MP-elects, especially because we were new to having to manage a much bigger town and would have a limited choice of service providers.

31. Generally, there are two models of town council management in Singapore: (a) direct management; and (b) engaging a MA. After 20 years of directly managing the HTC, I realised the disadvantages of direct management:
- (a) Cost efficiency - manpower cost increases over the years and difficulties in improving productivity;
 - (b) Manpower - to be able to manage a town efficiently, quality professional staff are needed. It is hard to recruit quality staff because there is limited career development and TCs cannot afford to pay the upper end of the market rate salaries. There are also some who feel uncomfortable working for opposition-held TCs, with a perceived disadvantage for their future employment opportunities; and
 - (c) Management – the elected MP has to pay personal attention to the day-to-day affairs of the TC and management of human resources (especially staff relationships) to ensure that the town is properly managed. This is not only time consuming and stressful for the MP but also makes it harder for the MP to play a more active role in serving his constituents in grassroots work and parliamentary work.
32. With a MA, AHTC would be able to enjoy the benefit of being able to outsource the tedious township management work to the MA. Relieved of this burden, MPs and other Town Councillors will then simply be concerned with issues such as the MA's price competitiveness, service performance and the TC's budget and bottom lines for the MA and MPs would be able to concentrate on their other functions. Further, it is also typical of MAs in this industry to have other projects under their portfolios such as managing condominiums, other properties or organizations. This provides the MA with greater hiring powers because they can offer their staff better career advancement and flexibility in that he/she could be rotated to work on other projects (and not have to work exclusively for an opposition TC which often has a "stigma") that are under that MA's portfolio.
33. After the 2011 GE, I shared with the rest of the MPs-elect the difficulties I faced when I took over the HTC in 1991 and abovementioned considerations that they should bear in mind with regard to direct management. From 1991 to 2011, HTC was managed by WP

directly. HTC employed a General Manager/Secretary, line managers, estate management staff which included property officers, technicians, and other staff such as finance personnel, administrative personnel, and receptionists. Some of the difficulties I faced in having to manage HTC directly would include having to spend a lot of time and effort dealing with the following management issues personally:

- (a) Productivity issues: Without a MA, I had to oversee operational matters which often included tedious issues the resolution of which was time-consuming. For instance, I recall that the financial accounting system which was newly adopted by the HTC had bugs in its software and the Finance Department often faced difficulty and accounting issues. It took many man-hours to finally resolve most issues and stabilise the system. I had to carefully strike a balance between driving the staff to work efficiently and paying a relatively competitive salary so as to avoid frequent staff turnover. In so doing, I invested substantial time and attention in micro-managing my staff personally and cultivating inter-personal relationships with them to enhance productivity levels by keeping their morale and spirits high.
- (b) Limited options: As an opposition elected ward, HTC did not have the luxury of options as fewer contractors would tender for contracts such as conservancy and building term-contracts which are contracts for fixed terms. I had to closely monitor the HTC staff and their work to ensure that they in turn ensured that the contractors that came forward achieved as much efficiency as possible in their performance of the contracts.
- (c) Tight budget: Specialist contractors such as lift companies charged a higher rate because of lack of economies of scale, tender prices are usually higher, and high estate maintenance cost due to aging buildings, and no upgrading.

34. I also shared with the MPs-elect my views that the constituents will be better served if the elected MPs can function more effectively by having parts of the routine TC management work taken off their workload. The MPs could then simply focus on monitoring the work of a MA as in most PAP TCs, thus allowing them to focus on parliamentary work and to see to the needs of constituents at the grassroots level.

35. Further, the introduction of the TCA did not take into consideration that most MPs would have no experience in estate management. No training is provided to MPs to undertake this role. Other than myself and Sylvia who was a councillor of HTC for some years, the other MPs-elect had no prior experience in township management. As such, I knew that the learning curve for them was going to be very steep such that direct management would be riskier in relation to any decisions which the MPs would have to make for routine estate maintenance and operational matters, especially in having to take over the operations of AHTC during the transitional period. It was imperative that we had a dependable MA that AHTC was able to entrust with making proper decisions on routine matters on the ground and giving sensible recommendations to the town council by having technical knowledge of estate management as some of these issues would require tapping on experience for a proper judgment to be made in the decision-making process.
36. For example, should the TC be overwhelmed by complaints on estate matters received through its Property Officers that may be new hires, an experienced MA with experienced Property Managers would be able to guide and help their Property Officers to prioritise the work and deal with them in a targeted manner. For example, when an underground water pipe is leaking/broken and there is no water supply to that particular block in question, an experienced MA needs to make a decision on whether the standard measures should be taken to resolve the issue or longer term solutions are required, i.e. whether the pipe should be repaired and left to continue corroding until it leaks again or whether it is appropriate to ascertain if the whole supply pipe should be diverted above ground instead. In fact, I recall that FM Solutions & Services Pte Ltd ("**FMSS**"), the MA that AHTC eventually appointed, did make 2 such important recommendations: (a) After a lift incident occurred, FMSS recommended that lift maintenance should be carried out by the company that manufactured the lift instead of a third-party company that was currently providing such maintenance services, and (b) After observing that the escalator at the market in Block 105 Hougang Avenue 1 was breaking down frequently, FMSS recommended that a new lift be constructed instead of simply relying on the escalator and having to repair it frequently. Such recommendations require the person who makes the recommendation to the TC to exercise a judgment call in assessing the situation for which technical knowledge and experience are important.

37. For the reasons stated above, the MPs-elect agreed with me that outsourcing to a dependable MA would be in the best interests of the residents.

Setting up of FMSS

38. HDB township management is a very niche and relatively “closed” market with only three companies in Singapore (at the material time) which provided town council MA services. This was the case both before GE 2011 and even now. They are:

- (a) EM Services Pte Ltd (“**EM Services**”).
- (b) CPG Facilities Management Pte Ltd (“**CPG**”).
- (c) Cushman & Wakefield (formerly known as Emasco Township Management Pte Ltd).

39. EM Services is a private company with a 75% shareholding by HDB. The remaining 25% is owned by Keppel Land Limited. Most of EM Services' staff were from HDB. After HDB stopped managing estates, the staff in HDB who were managing estates joined EM Services. CPG was formed when the former Public Works Department was corporatized. All three of the abovementioned companies had been managing PAP TCs for many years. Given that these companies had staff who were experienced in township management, the PAP MPs had an advantage in having these companies manage their estates. However, none of these companies wanted to manage AHTC.
40. Shortly after the 2011 GE, I explored with Ms How Weng Fan (“**Ms How**”), the 6th Defendant, the possibility that she and her husband, Mr Danny Loh (“**Mr Loh**”) (who passed away on 27 June 2015 and whose estate is the 7th Defendant) could form a new company to manage the town council under the WP's leadership together with the existing key staff of the HTC in the event that the existing MA did not wish to continue. At that time, I was also of the view that the introduction of a new entrant into the small market would be good for competition and price benchmarking over time. Further, it was only after seeing the results of the 2011 GE which saw a historical election of an opposition party in a GRC ward that I began to see the viability for a new entrant compete on the market of MAs for township management because I believed that the size of a GRC ward is big enough to accommodate the survival of such a new entrant. I also thought that a new entrant would serve as an attractive alternative option for any other opposition candidate

who may be elected in future should this trend continue. Indeed, another WP member was elected in Punggol-East SMC during the 2013 by-elections.

41. I first came to know Ms How when she was employed as a Property Manager with a developer that I rented premises from to operate a commercial school back in 1986. I headhunted her for the post of Estate Manager for HTC in 1991 after I was elected and she subsequently worked her way up to become its Secretary/General Manager. I then got to know the late Mr Loh through Ms How as he was her husband. Mr Loh was in the business of real estate and private property management. It was sometime in 1997 when Mr Loh stepped in to provide EMSU services to HTC through an entity called TC Maintenance & Management Services when HDB decided to stop providing EMSU services to all TCs in the mid-1990s.
42. I worked closely with the wife and husband team during their years of managing HTC. I have personally witnessed their commitment, how they could work with limited resources under adverse conditions and were able to resolve problems. Some notable instances in my recollection would include their efforts to implement a number of cost-saving measures in estate maintenance, strategizing for tenders of major works to maximize their dollar values in tenders, and closely watching HTC's bottom line by controlling escalating management and routine maintenance costs to keep HTC afloat without needing to impose higher S&CC charges than all the PAP TCs for 20 years whilst attaining an acceptable standard of town management. To give a specific example, HTC was able to accommodate not having to increase the S&CC charges in 2004 even during the economic downturn when most other TCs felt it necessary and justifiable to do so. This particular instance was recorded in the 2005 Hougang Review which is a publication of the HTC which also published a copy of a Straits Times article dated 7 August 2004 entitled "*Potong Pasir and Hougang S&C charges not raised*". A copy of the 2005 Hougang Review is exhibited at **TAB 11 of LTK-1**. Ms How personally oversaw every aspect of the TC management together with me and she often worked tirelessly day and night. I personally observed how she was able to defend HTC's interests even in a hostile political environment. As such, I was confident that she and her husband were capable of managing the larger town in an opposition-held TC.

43. During the initial stages of my discussions with Ms How on the topic of forming a new company shortly after the 2011 GE, she was hesitant as the couple was contemplating semi-retirement. I told Ms How that I needed her help and asked her to discuss with her husband. I recall that there were at least 2 such discussions with Ms How which took place in the HTC office and these discussions were brief, primarily because there was just one fundamental question: whether Ms How and Mr Loh were willing to set up a company to help the WP and its GRC team to prepare for the critical contingency of ATC not having a MA. I had already received information from sources such as Mr Tan Thuan Tong ("TT Tan") (a WP member) as early as 13 May 2011 that CPG was intending to withdraw from acting as MA and that CPG had already begun deploying some of their staff to other departments outside of the TC at the time. This news did not come as a surprise to me given my past experience with HTC. In fact, this was consistent with my expectation that CPG would not want to continue managing Aljunied GRC under the WP's leadership. I also informed Ms How of this news I received by forwarding TT Tan's e-mail to her and she replied to this e-mail as follows: "... noted. More or less coincides with what the AJTC [Aljunied Town Council] Secretary [i.e. Mr Jeffrey Chua] told me." I understood Ms How to mean that Mr Jeffrey Chua ("Jeffrey") similarly informed her that CPG will not continue to act as the MA for ATC. A copy of the abovementioned e-mail chain is exhibited at **TAB 12 of LTK-1**. As such, my biggest concern was to prepare for this situation because the sooner we were prepared, the safer a position we would be in.
44. In my discussions with Ms How, I also told her that the appointment of their company as MA was subject to the consent of the TC and would be a temporary appointment. Eventually, we would need to call a public tender and they will need to be selected.

CPG's request for release as the MA of AHTC and the termination of the Town Council Management System ("TCMS") software by Action Information Management Pte Ltd ("AIM")

45. I cannot recall when exactly Jeffrey, the Managing Director of CPG and the Secretary/General Manager of ATC, first told us that CPG did not wish to continue as the MA. However, shortly after the 2011 GE on 7 May 2011, the MPs-elect had a meeting on 9 May 2011, after which I sent them an e-mail to update them on new developments that occurred following the morning's meeting. One of the issues I updated the MPs-elect on included the feedback I received from HTC that CPG had already begun showing signs

that it would not continue acting as MA. I set out an extract of the relevant portion of my e-mail of 9 May 2011:

"Dear Team,

The following are new developments after we have the discussion this morning:

*1. I am asking Ms How, GM of HGTC to attend the both meetings to meet Secretary of Aljunied TC and HDB Town Council Secretariat. **This is because feedback received by Hougang TC that CPG Facilities Management has started not to manage or go into inactive management of the contract for some projects and some areas are poorly maintain.** We need to understand the situation in greater details and may have to take over the management earlier or risk residents suffering from poor service and rubbish piling up."*

(emphasis added)

A copy of the e-mail chain including my e-mail of 9 May 2011 is exhibited at **TAB 13 of LTK-1**. I believe it was at this meeting on 9 May 2011 that the MPs-elect made a decision to engage a MA rather than directly manage the TC ourselves. This is apparent from the e-mail chain as the discussion took place on the premise that a MA will be hired.

46. Thereafter in the course of making further preparations for the contingency of needing Ms How's company to be engaged at the MA, I sent Ms How an e-mail on 28 May 2011 to suggest that *"AHTC MA should employ All the existing staff of HGTC, at least for a start. Please read today ST report on PPTC staff employment."* The basis of my suggestion was to ensure that Ms How's company will have the staff and support who are experienced in town management to spring into action and take over managing the operations of the TC if need be. A copy of my e-mail of 28 May 2011 is also exhibited at **TAB 13 of LTK-1**.
47. In any case, at a later meeting on 30 May 2011 held at ATC's office at 10:00am, Sylvia, Pritam, Ms How, and I had our first meeting with CPG represented by Jeffrey. Jeffrey informed us at the meeting that CPG did not wish to continue as the MA and sought to be released from the CPG contract when AHTC takes over the running of the Aljunied ward on 1 August 2011. One of the main factors cited by Jeffrey for not continuing as the MA was that CPG was also managing Ang Mo Kio Town Council which was a PAP TC helmed by the Prime Minister. It is clear from Sylvia's handwritten notes taken during the meeting on 30 May 2011 that by that point in time, the meeting proceeded on the shared understanding of those present (i.e. the representatives of AHTC and CPG) that CPG

would be released as MA (pursuant to its request) and that AHTC would be recruiting their replacement. I exhibit at **TAB 14 of LTK-1** a copy of Sylvia's abovementioned handwritten notes. It is also evident from the handwritten note that the topics discussed at the meeting included matters such as the new staff having to understudy the existing staff in order to take over and the retention of CPG to continue overseeing projects for cyclical works that CPG had kickstarted earlier and were well in progress.

48. After our meeting with Jeffrey on 30 May 2011, Sylvia e-mailed him on that day (copying me and Shin Leong) asking for a copy of the powerpoint slides that were used at the 10:00am meeting and Jeffrey did so on that same day. A copy of an e-mail chain which includes Jeffrey's e-mail and the powerpoint slides that were attached to his e-mail is exhibited at **TAB 15 of LTK-1**. It is apparent from CPG's powerpoint slides which were dated 30 May 2011 that they dealt with "*Handing Over Preparations*" from "*27 May to 31 Jul – Care taking period*" and the "*Interim Management Arrangement*" that was envisaged.
49. The fact that CPG wanted to be released from the CPG MA Contract is indisputable. This was communicated to all Town Councillors who were present at the 1st AHTC meeting on 9 June 2011 and is also reflected in the minutes of that meeting, a copy of which is exhibited at **TAB 16 of LTK-1**. Given that it was clear by 30 May 2011 that CPG wished to be released as MA, FMSS issued its "*Letter of Intent for the Appointment of Managing Agent for Aljunied-Hougang Town Council*" dated 15 June 2011, a copy of which is also exhibited at **TAB 16 of LTK-1**. Pursuant to the delegation of authority to Sylvia as Chairman of AHTC under Section 32 of the TCA that took place at the 1st AHTC TC meeting on 9 June 2011, Sylvia exercised her delegated authority and signed this Letter of Intent on 8 July 2011. Further, Mr Seng Joo How, a Consultant of CPG, sent Sylvia a copy of the draft Deed of Mutual Release on 18 July 2011 that was prepared by CPG's lawyers. Mr Seng says the following in his e-mail to Sylvia:

"Thank you for agreeing to release M/s CPG Facilities Management Pte Ltd and Secretary Mr Jeffrey Chua from our obligations under the Managing Agent contract on 1 Aug 2011."

(emphasis added)

A copy of this e-mail between Mr Seng and Sylvia is exhibited at and **TAB 17 of LTK-1**. The fact of CPG wanting to be released is also acknowledged at paragraph 5.5.6 of the

KPMG Report which states that *"on or about 30 May 2011, CPG requested the Town Council to release CPG from its obligations under the CPG Contract."*

50. Further, while CPG was making its move to exit from the scene as MA, AHTC was concurrently facing the situation of AIM terminating the contract under which the TCMS software was provided for the then ATC's use. TCMS is a software that was used by all PAP TCs as a form of IT system support and financial accounting system.
51. AIM is owned by the PAP. As stated at paragraph 3(a) of the MND Report a copy of which has been exhibited at **TAB 5 of LTK-1**, AIM was set up by and owned by the PAP in 1991 to provide IT related services to support PAP MPs in the running of their TCs and estates.
52. Prior to becoming elected to Aljunied GRC, the WP was not aware of AIM's existence and the terms of use of the TCMS software that were put in place by the PAP. On 10 June 2011, AHTC wrote to AIM requesting an extension of time for use of TCMS as Jeffrey had already conveyed to Sylvia and Ms How in early June 2011 that AIM would be terminating the software on 31 July 2011. After we had requested for an extension, AHTC received a letter from AIM on 22 June 2011 to terminate AHTC's use of TCMS effective from 31 July 2011 citing Clause 9.3 of the Conditions of Contract which gives AIM an absolute discretion to do so with one month's notice in the event that there are material changes to the membership of the TC. This termination placed AHTC in a very difficult position. AHTC had no alternatives but to turn to the existing financial system used by Hougang SMC. AIM granted the extension requested in its letter of 24 June 2011 and its termination date moved to 31 August 2011. Copies of the 3 abovementioned letters are exhibited at **TAB 18 of LTK-1**.
53. On the issue of CPG wanting to be released as MA, I note the observations at paragraph 5.5.10 of the KPMG Report that there is no record of any discussion on the feasibility of requiring CPG to fulfil its obligations under the MA contract and at paragraph 5.5.19 of the KPMG Report that the WP had from the outset decided to keep the work "in house" in relying on resources already familiar and available. It is simply untrue that WP's decision to appoint FMSS was due to a preference for relying on familiar resources. As is apparent from the above, the WP did not have any other options such as whether to call for an expedited tender within the short window of 3 months we had to take over all operations

by 1 August 2011 or to retain CPG. To forcibly retain CPG against its own will would not have been sensible because an unwilling MA would not have performed its functions effectively and this was a judgment call that the MPs made with the best interests of our residents at heart.

Alleged Conflict of Interest

54. The issue that a conflict of interest may potentially exist in the arrangement where FMSS is appointed as MA and its officers hold key roles in AHTC was considered in the early days post-2011 GE. At the time, this issue first arose on my receipt of an e-mail on 13 May 2011 from Ms Ng Swee Bee ("**Swee Bee**"), a WP member who eventually became an appointed Town Councillor of AHTC. Swee Bee's e-mail was a copy of an online article which she came across relating to concerns raised by the article's author over the issue of conflict of interest between the TC and the MA. The author ends his article by posing this question:

" ... What I find extremely worrying, however, is that this matter only came to light because the Workers' Party won Aljunied GRC, and there now needs to be a handover. If the PAP had won, would this unhealthy arrangement have continued? Are there any other such apparent conflicts of interest that we do not know about?"

(emphasis added)

Copies of Swee Bee's e-mail of 13 May 2011 and the online article which she forwarded to me are exhibited at **TAB 19 of LTK-1**.

55. I forwarded Swee Bee's e-mail to Ms How and to Sylvia in separate e-mails both of which were sent on 14 May 2011. Copies of my forwarding emails are also found at **TAB 19 of LTK-1**.
56. Ms How replied to my e-mail of 14 May 2011 on the same day saying that "*we have known of such arrangement since day 1. The current GM of Jalan Besar Town Council who was my lecturer and then was holding Deputy GM post was asked about this conflict of interest and his answer was simply that it is a practice!*" Nevertheless, Ms How also suggested the approach of keeping the Secretary of the TC as a distinct entity from the MA to ensure that there is a proper check and balance. I wanted to understand what the conflict of interest issue was under the TCA and how that related to the current practice of appointing

a representative from the MA to be the General Manager/Secretary of the TC. I had asked Sylvia to check on this. In my reply to Ms How on 19 May 2011, I informed her of this. Ms How replied on 19 May 2011 to suggest that I should take up the position of Secretary of AHTC with the General Manager being an MA representative. A copy of my e-mail exchange with Ms How is also exhibited at **TAB 19 of LTK-1**.

57. Meanwhile, Sylvia responded to my separate e-mail of 14 May 2011 to her by forwarding it to the other elected MPs with a cover e-mail which stated: *"The GM reports to the Town Council and takes instructions from TC... so is it a problem?"* In other words, Sylvia's e-mail reflects the dimension of this consideration that the General Manager of the TC plays an executive role while the ultimate decision-making powers still lay with the TC. A copy of Sylvia's e-mail to the other MPs is also exhibited at **TAB 19 of LTK-1**.
58. Sylvia and I then had a discussion on 19 May 2011 concerning Ms How's suggestion as mentioned in paragraph 56 above. I e-mailed Ms How on 19 May 2011 after my discussion with Sylvia to inform Ms How of our view that it will be better to appoint Mr Loh (Danny) to be the Secretary and that Ms How will be actively involved with FMSS as AHTC's MA during the transitional 1-year period:

"Dear Ms How,

I have a short discussion with Sylvia today, we agree it is cleaner and easier to work by appointing Danny to be GM/Secretary of TC. This is on understanding that you will be actively involve with the company which will be appointed as MA for the transition period with a contract for one year.

Please prepare the necessary personnel/company credential and information and document for the appointment by the council.

As for the conflict of interest, we find that it is not a big issue as all transaction has to follow the Financial Rules and MA's company is subject to the Companies Act.

Please confirm whether Toh Kay Seng is going to be a shareholder. If he is, I will Not propose to reappoint him as councillor.

Low Thia Khiang"

A copy of this e-mail exchange with Ms How has been exhibited at **TAB 19 of LTK-1**. I wish to highlight the following in respect of the e-mail set out above:

- (a) The above e-mail was sent before it was confirmed that CPG wished to be released from the MA contract. As such, when I said that Ms How's company will be appointed as MA, I was referring to the contingency of appointing her company in the event that CPG did not wish to continue. It was my belief at that time that this would come to pass.
 - (b) I also informed Ms How that the supposed conflict of interest is "not a big issue" because all transactions that the TC undergoes are governed by the TCFR and FMSS is also governed by the Companies Act.
 - (c) My key concern is that no personnel involved in the MA should be a town councillor. Hence, I made it clear that if Mr Toh Kay Seng (previously an appointed town councillor of HTC) was going to be a shareholder of the MA, then we will not appoint him as a town councillor for AHTC.
59. In coming to the view that Sylvia and I came to in our 19 May 2011 discussion, being able to ensure the best possible smooth transition and merger of the operations of HTC and ATC was our prime concern. It was therefore of great importance that we appoint persons whom we could trust and rely on, namely Ms How and Mr Loh, in roles such as the General Manager and the Secretary of AHTC.
60. Subsequently in our meeting with Jeffrey on 30 May 2011, which is referred to at paragraph 47 above, I recall Sylvia raising this issue of a potential conflict of interest. According to Sylvia's handwritten notes of meeting, a copy of which has been exhibited at **TAB 14 of LTK-1**, Jeffrey informed the MPs-elect that this issue had been ameliorated in ATC by, *inter alia*:
- (a) having an independent quantity surveying firm drafting the contractual specifications in the MA contract;
 - (b) fulfilling MND's requirement for all TCs to make quarterly declarations to MND of any contracts which the MA is performing;

- (c) ensuring that the decision-making power remained with the TC and not the MA; and
- (d) requiring that the TC be subjected to audits.

61. It is a fact that it was industry practice at that time for TCs to have Secretaries and General Managers who were also senior managerial staff of the MA. A TC would not have its own staff whenever an MA is engaged. This industry practice amongst TCs was reported in a Today article dated 30 May 2011 entitled "*MPs: No conflict of interest...*" which was published shortly after the 2011 GE:

"... [the] general managers [are] accountable for the day-to-day administrative functions of town councils. Some of them are also employees of managing agents who win contracts from the town councils to service the estate. This arrangement – known to occur in at least four town councils in Singapore – has raised the issue of conflict of interest in town council management. At Aljunied and Jurong town councils, the respective GMs, Mr Jeffrey Chua and Mr Ho Thian Poh, in fact also hold the position of managing directors CPG Facilities Management and UGL Premas. CPG is currently the MA of Aljunied Town Council... UGL Premas, meanwhile, is the parent company of Emasco Township management, the MA of Jurong Town Council."

This was similarly reported in a Straits Times article entitled "*Jurong-Clementi to hire managers directly*" dated 31 December 2016 that "*the key staff at most town councils are often employees of the managing agent*". Copies of the 2 abovementioned articles are exhibited at **TAB 20 of LTK-1**.

62. Further, Jeffrey, who was both the Managing Director of CPG and Secretary/General Manager of ATC, had also approved payments to CPG on behalf of ATC. Copies of documents in AHTC's records showing such payment by ATC to CPG approved by Jeffrey are exhibited at **TAB 21 of LTK-1**.
63. I am surprised at KPMG's allegations of conflict in respect of FMSS given that unlike Mr Loh and Ms How, I am aware of at least one PAP TC i.e. Jurong Town Council where Mr Ho Thian Poh held concurrent appointments in the MA and the TC as Managing Director of the MA and Secretary of the TC respectively. He was also a PAP party member. This to me is a cause for greater concern than the arrangement in AHTC. A copy of a Newspaper Article titled "*Many hats for two WP supporters*" published in the Straits Times

on 10 February 2015 confirming the fact of Mr Ho wearing multiple hats as stated above is exhibited at **TAB 22 of LTK-1**.

Work Flow amongst the AHTC Town Councillors

64. There was no formal distribution of work amongst the Town Councillors apart from the various sub-committees that were formed and performed specific functions according to their respective scope of work. The recommendations of the sub-committees would be considered and decided on at AHTC meetings. The system of having sub-committees to look into and recommend courses of actions to AHTC was implemented to help AHTC manage the escalating amount of matters that it had to deal with. This is reflected in the TC meeting minutes for 14 June 2012 which also records that "*appropriate committees would be required to assist to look into the details on behalf of the Council.*" A copy of this Minutes of Meeting is exhibited at **TAB 23 of LTK-1**.
65. Apart from the sub-committees that were formed and the supervision which the elected MP carried out over the sub-committees that he/she was in charge of, each Town Councillor also took charge of overseeing the estates that are under our own divisions. We will also assist the Chairman of AHTC with his/her work as and when required. A copy of a document titled "*AJ HDB Estate PO List #document*" dated 23 December 2011 which I retrieved from my e-mail records which division each MP oversaw and the list of Property Officers in that division who were under their charge is exhibited at **TAB 24 of LTK-1**.
66. I oversaw the Bedok-Reservoir Punggol division and I was a member of the Estate and Community Liaison Committee whose Chairman was Mr Mohamad Faisal Manap ("**Faisal**"). Additionally, I also assessed the MA's performance at ground level. I would look out for estate matters that required attention such as whether there were major maintenance or building issues in the estate. For instance, this would include resolving the issue of cleaning the higher areas of the market and food centre at Block 511 in the Kaki Bukit division. I also focused on overseeing specific operational matters such as the construction of the new AHTC offices at Block 549 Bedok North Avenue 1 for the Kaki Bukit Division, at Block 136 Bedok Reservoir Road for the Eunos division, and the renovation works that were carried out at the Serangoon North and Hougang Central offices to enhance operational efficiency so that better service could be given to the residents.

67. Other operational matters in my charge also included seeing through the implementation of processes due to the Aljunied-Hougang town being newly formed such as changing the information concerning the new AHTC and EMSU contact numbers for the residents, standardizing the signages at the HDB blocks and car park entrances throughout the Aljunied-Hougang town to eliminate confusion on the ground as many residents of the newly formed Aljunied-Hougang town were unsure of which TC they should be turning to with their problems or complaints. This confusion largely arose from the substantial re-drawing of electoral boundaries of Aljunied GRC for the 2011 GE. The newly-formed AHTC besides Hougang town, consisted of parts of the estates from Marine Parade town. Parts of the original estate of Aljunied town became part of Ang Mo Kio town and Pasir Ris-Punggol town. Apart from this, I also focused on the grassroot works in all 5 divisions in Aljunied GRC such as arranging to organize the Meet-the-People sessions and on parliamentary work such as having to coordinate the WP MPs' preparation for parliamentary debates. Such coordination work increased in volume with WP's successful election in 2011 due to the increase from only having to manage the other WP NCMP and myself in Parliament while I was in Hougang SMC to managing 6 elected MPs and 2 NCMPs since 2011.

Appointment of FMSS as MA under the 1st MA Contract without calling a tender

68. Faisal, Sylvia and myself met with Mr Loh sometime on 2 June 2011 for Mr Loh to make a presentation for us to determine whether FMSS would truly be capable of taking on the role of MA for AHTC. I understand that the other elected members were invited to the meeting but were unable to make it. In the course of Mr Loh's presentation, we discussed the sort of requirements AHTC would need and how FMSS would fulfil those needs.
69. During the presentation, Mr Loh presented a basic plan showing FMSS' key personnel and their expertise, proposed organisational charts for AHTC's various branch offices, and the pricing structure which preserved the status quo for Aljunied GRC and Hougang SMC. A copy of the materials that were distributed by Mr Loh at this meeting in hardcopy is exhibited at **TAB 25 of LTK-1**. These materials included a copy of the powerpoint slides which Mr Loh used for his presentation and a write-up on the profile of FMSS' key personnel with their credentials and achievements.

70. A critical part of FMSS' proposal to provide MA services for AHTC was their fee proposal to act as MA. I set out an extract of FMSS' powerpoint slide on the same:

*"MANAGING AGENT PROPOSAL
Fee Proposal*

- *Due to time constraint and incomplete information, we propose the following:-*
 - *We shall takeover all the existing staff of Hougang Town Council at their existing salary and terms of appointment. The total staff costs for financial year ended 31 March 2011 shall form the basis to compute the monthly Managing Agent's fee (Reimbursement basis with no profit element).*
 - *We shall takeover the management of Aljunied Town Council at their prevailing Managing Agent's fee (2nd year fee structure).*
 - *Our scope of work shall follow closely to the specifications stipulated under the Managing Agent's contract of the Aljunied Town Council. (Manpower deployment will differ slightly due to different mode of operation and specifications cannot be fully complied.)"*

(emphasis added)

71. Given the tight timelines that AHTC was working with to meet the handover date of 1 August 2011, FMSS also set out its action plan to carry out this handover:

"ACTION PLAN

FM Solutions to takeover HGTC on 15 June 2011.

Tentative Cut-over Date for Aljunied – 1 August 2011

- *Critical path is set by the Accounting System*
- MA ready to takeover on 15 July 2011 (Actual date of commencement of MA contract)*
We will second staff (as necessary) to HGTC till 15 July 2011. Such staff shall be reimbursed on a cost basis from AHTC.

- *Time constraint*
- *Anticipated additional workload (outside scope of preparation for takeover)*
 - *Setting up of Accounting System vs Taking over an existing system*
 - *Need to liaise with existing MA on day-to-day works*
- *Existing key staff at HGTC already working at maximum workload"*

(emphasis added)

72. After the presentation and having considered FMSS' proposal, Sylvia, Faisal and I had our own discussion. We were of the view that the FMSS proposal was a reasonable one that we could take to the other elected MPs for a decision. This proposal was then circulated to the other elected MPs for their consideration.
73. Having had the 1st AHTC meeting on 9 June 2011, there were tentative plans for the 2nd AHTC meeting to be fixed on 21 July 2011 "to take stock of the handover process to see that everybody was on track for the handover" as Sylvia had mentioned in her e-mail of 13 July 2011. However, Sylvia had concerns about the meeting taking place on 21 July

2011 as, *inter alia*, CPG will still be present at this meeting as it would not be appropriate to discuss the details of FMSS' appointment as MA in the presence of the outgoing MA. Sylvia e-mailed Ms How, Shin Leong and myself about her concerns on 13 July 2011. I agreed with Sylvia's concerns and the reasons for postponing the 2nd TC Meeting to August. In my reply e-mail, I shared with her my views that we do not need to make announcements to the residents on how and with whom we will manage AHTC until after the handover on 1 August 2011 for the following reasons:

"... 8. residents are not interested in whether we manage the town directly or manage MA or which MA we engaged, whatever happens, good or bad, all elected members will be affected and accountable. I am of the view that the sole responsibility nature of the matter in Town Management means the decision making authority should solely rests with the elected members so long as we act in good faith and do not contravene "explicit" financial rules

A copy of this e-mail chain is exhibited at **TAB 26 of LTK-1**.

74. In preparation for the 2nd AHTC Meeting that was eventually fixed for 4 August 2011, Sylvia also e-mailed Mr Loh on 1 August 2011 to request for a softcopy of the presentation slides that were used at the meeting on or around 2 June 2011 as mentioned in paragraph 68 above. In addition to replying with a copy of the powerpoint slides as requested, Mr Loh also prepared a "draft report on the appointment of MA from our [i.e. FMSS'] perspective" and sent this to Sylvia on 1 August 2011. Sylvia eventually used this draft and circulated a finalized version to Shin Leong and myself on 3 August 2011 for our views because that report was to be distributed to the other Town Councillors at the meeting the next day. Ms How and Mr Loh were also copied in this e-mail. The relevant part of Sylvia's e-mail of 3 August 2011 read as follows:

"Dear Mr Low and Shin Leong,

Pls see attached draft report and recommendations to be presented at tomorrow's AHTC meeting for decision, based on input from Danny. Please let us know if you have any comments or amendments to suggest.

cc Danny and Ms How – fyi and any comments on whether it will pass the auditors' eyes – esp re waiver of tender. The exact MA fees, based on the adjusted electoral boundaries, would need to be told to Council as soon as you have worked it out – perhaps by the following meeting?"

75. One of the queries raised by Shin Leong in his e-mail reply of 3 August 2011 was whether there was any need to specifically disclose the marital relationship between Ms How and

Mr Loh to the other Town Councillors at the meeting on 4 August 2011. I responded to Shin Leong by e-mail on 3 August 2011 as follows:

"Most of councillors know both of them but no harm to mention it at the meeting. There is no necessity to include it in the report.

If we want to go into that, we can also mention Danny was running the EMSU in HG. If there is any concern of conflict of interest, these had been dealt with in the past.

Ms How is GM of TC, she has the direct oversight of her husband's company, FMSS [sic] providing EMSU services to HGTC. HGTC decided to award the EMSU contract to her husband, looks like a case of conflict of interest and likely corruption.

I decided to push through the above despite the concern of the then vice-chairman, Huang Seow Kwang and another councillor, to save me the years of not being able to sleep properly at night for not knowing whether those happened to trap inside the lift at night would be rescued."

(emphasis added)

I wish to clarify two things. One is that 'FMSS' in the above email is a typographical error. It should read FMSI (see below). The other is that in saying that it "*looks like a case of conflict of interest and likely corruption*" in the above email, what I meant was that a third party may interpret this transaction as a conflict of interest or even corruption even though that was not actually the case. In any event, the only EMSU service provider available to HTC at the time was Mr Loh's company, FM Solutions & Integrated Services ("**FMSI**"). HTC therefore had to appoint Mr Loh's company and we had to have trust in our General Manager, who operates under the supervision of HTC, to ensure that the EMSU services were provided and payments were made properly accordingly.

76. Shin Leong agreed with my views. However, he also went further to query in his subsequent e-mail reply of 3 August 2011 whether there was "*a need to reveal the exact 'stakeholdership(s) of FMSS in the TC minutes/report? *Not key personnel, which is already indicated in FMSU [sic] proposal to us.*" "FMSU" is a typographical error and should read "FMSS". As is self-evident from Shin Leong's reply, the FMSS MA proposal which Sylvia, Faisal and I had received at our meeting with FMSS on or around 2 June 2011 was circulated to the other elected MPs.
77. Eventually, Sylvia replied to Shin Leong's query concerning the "stakeholdership" of FMSS by saying that "*we can/ should enclose the ACRA search... let me arrange (or we can get it from Kor Kian Beng!)*". A copy of the e-mail exchanges referred to in paragraphs 73 to 76 above are exhibited at **TAB 27 of LTK-1**. Although I understand that such reference to

the "stakeholdership" of FMSS did not eventually feature in the minutes of meeting for the 2nd AHTC Meeting or the report which Sylvia circulated at the meeting, Ms How's shareholding in FMSS was in fact reported in the Straits Times on 2 August 2011 and a copy of the article is exhibited at **TAB 28 of LTK-1**. Additionally, the fact of Ms How and Mr Loh's marital relationship was expressly disclosed and discussed openly during the 2nd AHTC Meeting on 4 August 2011 and such disclosure was recorded at paragraph 2.5 of the Minutes of the 3rd AHTC meeting on 8 September 2011, a copy of which is exhibited at **TAB 29 of LTK-1**.

78. I believe that all of the Town Councillors were aware of the relationship between Mr Loh and Ms How and that they were behind FMSS and that FMSI was Mr Loh's firm.

2nd AHTC Meeting on 4 August 2011

79. Based on my discussions with Sylvia, I was aware that she had appointed FMSS as the MA of AHTC on 8 July 2011 when she signed the Letter of Intent dated 15 June 2011 that had been issued by FMSS. Sylvia however felt that it would be in good order for the appointment to be confirmed by the Town Councillors. As such, the matter was brought up at the 2nd AHTC meeting on 4 August 2011. Ms How and Mr Loh excused themselves during the discussion on this issue. Sylvia informed the Town Councillors of the reasons for the appointment of FMSS. Her reasons were also summarized in her report to AHTC dated 4 August 2011. The reasons for waiving the tender and the appointment of FMSS as MA for a period of one year commencing 15 July 2011 were recorded in Annex 1 of the Minutes of the 2nd AHTC meeting on 4 August 2011 as follows:

"In the absence of Danny Loh and How Weng Fan, the Meeting discussed the matters summarized by Chairman in her report to the AHTC dated 4 August 2011:

It was noted in particular that:

- a) The incumbent MA, CPG Facilities Mgt Pte Ltd, had indicated their desire to be released from the agreement as soon as practicable.*
- b) The computer and accounting systems needed to be replaced with the upscaled version of the one used by Hougang TC, as the owner/service provider of the existing systems used by Aljunied TC had given notice to withdraw them by end July.*
- c) MND's deadline for handover of the TC management was 1 Aug.*
- d) There was every likelihood that if a new MA was not appointed to prepare the systems and processes as soon as possible, there would be serious disruption to residents' services on 1 Aug.*
- e) Given the tight time frame and urgency, there was no time to call any tender for MA services which would take several weeks away from critical preparation time.*

- f) It was in the public interest that the calling of a tender be waived.
- g) FM Solutions and Services comprised of key staff familiar with estate and township management with proven track records. The terms offered by the company did not put the Town Council worse off than under the previous MA.

Chairman indicated that she had consulted the Elected Members and signed a letter of intent in June 2011 to facilitate preparation works.

Vice-Chairman Mr Low Thia Khiang observed that AHTC was extremely fortunate to have the Hougang TC computing and accounting system, and FM Solutions and Services Pte Ltd, to manage the transition.

Council was then requested to waive the calling of a tender for Managing Agent services and to make the official appointment of FM Solutions and Services Pte Ltd for a one year period commencing 15 July 2011, after which a tender would be called.

Discussions then ensued. Council members also noted that FM Solutions and Services had also taken over the former staff of Hougang Town Council on a cost-recovery basis. Several members also highlighted the importance of issuing a media release to avoid unnecessary speculation."

I exhibit at **TAB 30 of LTK-1** a copy of the Minutes of the 2nd AHTC meeting on 4 August 2011. It is clear from Annex 1 of the Minutes that Sylvia's report dated 4 August 2011 (referred to at paragraph 80 below) which fully sets out the context behind appointing FMSS as MA arising from CPG's request to be released following the change in political leadership in Aljunied GRC was laid before AHTC.

80. Copies of Sylvia's report to the AHTC dated 4 August 2011 that is referred to in Annex 1 of the Minutes above were circulated to all members of the AHTC at the meeting and a copy is exhibited at **TAB 31 of LTK-1**. This report was the draft that was circulated as an attachment to Sylvia's e-mail of 3 August 2011 to Shin Leong and myself. I set out the report in full:

"REPORT ON APPOINTMENT OF MANAGING AGENT FOR ALJUNIED-HOUGANG TOWN COUNCIL

Context of Managing Agent appointment

The following factors are to be taken into account when considering the appointment of the Managing Agent (MA):-

1. The incumbent MA, CPG Facilities Management Pte Ltd, though appointed MA for Aljunied Town Council from Aug 2010 to July 2013, had requested to be released as MA following the change in political leadership.

2. It was mandated by the Ministry of Development (vide letter dated 9 May 2011) that the reconstituted Town Councils would assume responsibility for the new areas under their charge with effect from 1 August 2011.

3. The service provider for the accounting system in Aljunied Town Council gave written notice that the service would be totally withdrawn within one month, due to the change in management of the Town Council as provided for in the service agreement. This meant that AHTC would have to set up a replacement accounting system, with sufficient time to conduct parallel testing to ensure integrity of the system and data.

4. The short timeframe, the critical nature and magnitude of the works, and the overriding concern that the welfare of the residents should not be disrupted, precluded the possibility of conducting a tender exercise for the appointment of Managing Agent. It was also imperative that the Managing Agent should be appointed as early as possible to enable recruitment and preparation.

5. FM Solutions & Services Pte Ltd (FMSS), incorporated in May 2011, was identified as a suitable MA for appointment. Its key management and staff were qualified and experienced in estate management, some of whom had worked with Hougang Town Council with proven track records.

FM Solutions & Services Pte Ltd (FMSS) presented their MA proposal in the presence of Ms Sylvia Lim, Mr Low Thia Khiang and Mr Muhamad Faisal in early June. The presentation covered the following areas:-

- Company set-up and organization structure
- Proposed Organization structure for managing Aljunied-Hougang Town Council (AHTC)
- Proposed Action Plan for the taking over of AHTC
- Proposed Managing Agent fee structure.

Subsequent to the presentation, a copy of the proposal was extended to other elected Members who were not present.

FMSS was prepared to be appointed as the Managing Agent for a period of one (1) year with effect from 15 July 2011, after which AHTC would call a tender for MA services. The one year appointment would be following preliminary terms and conditions:-

1. Former Aljunied Town Council

a) FMSS shall take-over the management of the former Aljunied Town Council on 15 July 2011 at the prevailing Managing Agent's fees and fees structure as per the existing MA contract between Aljunied Town Council and M/s CPG Facilities Management Pte Ltd made on 8 June 2010.

b) In view of the electoral boundary changes, FMSS will adjust the Managing Agent fees based on the revised quantum of residential dwelling units, commercial units, market/hawker stalls and motorcar/motorcycle/lorry parking lots.

2. Former Hougang Town Council

a) FMSS shall take-over all the existing staff of the former Hougang Town Council at their existing salary and terms of appointment on 15 June 2011 for preparation of takeover. FMSS's Managing Agent fees shall be based on the annual staff cost as per audited accounts as at 31 March 2011 which is \$1,114,283.02.

3. Reimbursement of New Staff

a) FMSS shall engage new staff as necessary for the preparation of handing and taking over and shall claim such staff costs on a full reimbursement basis.

4. Scope of Work

a) FMSS's scope of work for Aljunied-Hougang Town Council shall follow the specifications stipulated under the Managing Agent's contract of the former Aljunied Town Council.

Consensus was obtained among the elected Members to proceed with FMSS on the above terms.

To facilitate the necessary preparation work in the interest of the residents, a Letter of Intent dated 15 June 2011 based on the abovementioned terms and conditions was signed by Chairman to affirm the appointment of FM Solutions & Services Pte Ltd as the Managing Agent of Aljunied-Hougang Town Council with effect from 15 July 2011.

Decision Sought
Council's approval is sought to:

a) waive the calling of a tender for MA services from 15 July 2011 to 14 July 2012 in view of the urgency of the services and the manifest necessity in the public interest;

b) appoint FM Solutions and Services Pte Ltd as the Managing Agent for Aljunied Hougang Town Council from 15 July 2011 to 14 July 2012.

Prepared by: Sylvia Lim, Chairman,
3 July 2011"

(emphasis added)

81. Rule 74(18) of the TCFR provides that that the calling of a tender may be waived in "very special circumstances and must be fully justified". Given the matters set out above, the Town Councillors voted unanimously that such special circumstances existed in this case and waived the requirement for a tender. The need to ensure uninterrupted services for the residents was paramount.

82. AHTC was clearly acting in its residents' best interests in deciding to waive the tender so as to prevent any serious disruptions to its residents' services on the takeover date of 1 August 2011. In fact, AHTC's position is supported by the MND as shown in the MND Report (**TAB 5**) at paragraphs 6 to 8 which corroborate AHTC's concerns and demonstrate that our fear of residents suffering disruptions in such situations were legitimate:

"6. The review of the AIM transaction and the inputs obtained from TCs on other major contracts and the changeover process, have surfaced a broader issue of how to ensure continuity of services to residents in the event of a change of MPs. **As entities led by**

elected MPs, TCs' changeovers of MPs, whether from the same party but especially when from different political parties, can have a direct impact on the continuity of services to residents.

7. Currently, under the Town Councils Act, where an area within one Town is being transferred to another Town, the Minister for National Development may specify that the Town Council of the first Town continue to maintain and manage the area for a period not exceeding 90 days. There are no other provisions in the Town Councils Act for transition when there is a changeover of MPs. ***It is quite understandable that an in-coming MP and an out-going MP would want to take over or hand over the reins of administration of the TC as soon as possible.*** However, it is arguable whether this time provision of 90 days is sufficient in all circumstances, given the need to transfer operating systems and settle other ancillary issues. The main issues is how to ensure continuity of the services to residents, while allowing the newly elected MPs full authority and accountability immediately after an election.

8. While the elected MPs should continue to be given full authority and autonomy after an election, there is value to consider placing safeguards to minimise the risk of disruption of critical services during a change in leadership. ***The interests of residents should be the paramount priority for all political parties and MPs in such situations...***

(emphasis added)

83. I should point out that AHTC was not the only TC that exercised a waiver of competition for tender for a managing contract on the ground of the urgency of having to meet the TC's needs. Potong Pasir Town Council ("PPTC") had also waived a tender for its MA contract after the 2011 GE for the very same reason. The PAP won Potong Pasir from the SDP which had held the same ward for 27 years. MND recognized the impact of the changes on continuity of service to residents for PPTC and AHTC as can be seen from the extract of the MND Report (TAB 5) as follows:

"48. To study the impact of changeover on continuity of service to residents, the Review Team looked into the treatment of other major contracts and systems – namely, MA (MA) services, conservancy and cleaning, and lift maintenance and servicing – following the 2011 General Election. Specifically we sought inputs from Potong Pasir TC (PPTC) and the then-Aljunied-HTC (AHTC), which changed between political parties after the 2011 General Election."

84. Given that another TC, PPTC had similarly waived the tender requirements and MND had issued a report that this decision on the part of PPPTC and AHTC had allowed the TC to ensure continuity of services to residents clearly shows that there is no merit to the Plaintiffs' claims on this issue. The following is a relevant extract from the MND Report (TAB 5):

"Procurement for Other Major Contracts and Systems

49. The Review Team observed the following:

- a) All existing contracts, assets and liabilities remain vested with the TC after the General Election, and were passed over to the newly elected MPs when they took over.
- b) For PPTC and AHTC, most major contracts and systems continued after the changeover, which ensured continuity of services to residents.
- c) **The only exception was the MA contracts, where both TCs appointed new MAs. Due to the urgency of the TCs' needs, both TCs exercised a waiver of competition for tender for a one-year contract. In the case of PPTC, they appointed EM Services, who was also the MA for several other TCs. EM Services was able to quickly step in at short notice to ensure continuity of service to residents. In the case of AHTC, they appointed FM Solutions and Services Pte Ltd (FMSS), a company newly set up in May 2011 by the former General Manager of HTC. This allowed AHTC to ensure continuity of service to residents.**

Although there was no compromise of services as both TCs were able to appoint MAs quickly by exercising a waiver of competition, the Review Team is of the view that this arrangement is not ideal and more time should be given to TCs in such a situation to select and appoint their MA, which provides an essential service to the TC and its residents."

(emphasis added)

FMSS' pricing of the 1st MA Contract

85. KPMG had observed at paragraph 5.5.9 of its report that FMSS was "10% more expensive than CPG". This is incorrect. FMSS's proposal made in June 2011 to be appointed as MA was for it to be paid:

- (a) for the existing HTC's staff at cost (based on the audited statements of salaries paid by HTC) to manage Hougang SMC;
- (b) the existing CPG rates under the CPG Contract to manage Aljunied GRC; and
- (c) reimbursement for some staff brought in earlier to prepare for the handover.

In essence, this was to maintain the status quo in terms of pricing for the transitional one-year period by paying FMSS the existing direct management costs for Hougang SMC and the MA fees for Aljunied GRC. FMSS was merely claiming for the management of Hougang SMC on a reimbursement basis without making any profit. FMSS also agreed that the existing HTC staff could be re-deployed to FMSS and need not be retrenched.

86. It should be noted that, during the 1988 Parliamentary Debates over the introduction of the TCA, Mr S. Dhanabalan, the then Minister for National Development, stated in Parliament on 29 June 1988 that the Government would leave it to the individual TCs to decide how much to pay for their services:

"The Member for Bo Wen made an important point. Who will monitor the Town Councils and whether, in the course of monitoring, the Town Councils will be closely controlled by the Government?"

*That is not the intention. **The intention is to give the Town Councils as much latitude as possible for them to manage their areas.** Broad principles, of course, will have to be laid down, as the Bill itself now stipulates, in terms of how they manage their finances, publication of accounts and so on. **But the Town Councils will be given a lot of latitude to employ the kind of people who are necessary, to pay them the kind of fees that are necessary to get the work done....** We would not intervene in it. And if disparities arise, it will arise because of the Town Councils themselves making the decision. I think the Member for Bo Wen expressed some fear that there may be disparities and I take it that behind that fear is the idea that perhaps Government should stipulate what the fee should be. Well, we cannot have it both ways. **If the Government intervenes too much to fix the salaries and fees in every respect, then the Government will be accused of interfering and controlling the Town Councils too much. If you allow Town Councils to decide these things for themselves, of course, some disparities may arise. But I think we should take the risk of allowing such disparities to arise rather than be too close in our control of Town Councils. Basically, the idea is to allow Town Councils to make the decisions as to the kind of services they should buy and what they should pay for these services, whether the payments are to companies or to individuals.***

(emphasis added)

A copy of an extract from the WP's Hammer Newsletter (Issue No. 1702) which makes reference to this Parliamentary Debate that took place on 29 June 1988 is exhibited at **TAB 32 of LTK-1.**

87. Further, Mr Khaw Boon Wan, the then Minister of National Development, also stated in Parliament on 13 May 2013 that it was MND's position that it is up to AHTC to decide in their judgment whether or not the circumstances warranted the waiver of the tender:

*"In fact, **the Town Councils Financial Rules also provide latitude to Town Councils or their Chairmen to waive requirement to call for tender altogether.** Ms Sylvia Lim would be familiar with this because she exercised this latitude when her Town Council waived competition and appointed FM Solutions and Services Pte Ltd (FMSS) as their MA in 2011. **MND left the appointment to her best judgment and did not object.** We have to apply the Town Councils Act and the Town Councils Financial Rules fairly, evenly and consistently".*

(emphasis added)

I exhibit at **TAB 33 of LTK-1** a copy of the Parliamentary Debate that took place on 13 May 2013.

88. It is puzzling and wholly unmeritorious for the Plaintiffs to have filed their respective Suits alleging wrongdoing in the waiver of the tender notwithstanding MND's acceptance of the appointment.

89. Further, I note that Mr Khaw Boon Wan was reported to have made the following remarks in relation to AHTC in the newspaper article titled *"Something seriously wrong at AHPETC"; If such lapses were found in a listed firm or charity, there would be calls for top officials' removal: Khaw Boon Wan* published on 13 February 2015:

"IF LAPSES of the kind uncovered in the Workers' Party-run town council were found in a listed company or charity, there would be calls for the removal of the top decision-makers and directors, National Development Minister Khaw Boon Wan said yesterday.

"In Japan, the chairman and chief executive would call a press conference and take a deep bow. In the good old days, they may even commit hara-kiri," he said.

Punishments are prescribed in the Companies Act and the Charities Act for those who breach rules, he said, but town councils are not under such laws.

Instead, they come under the Town Councils Act, which deliberately takes a light-touch approach to regulation and enforcement.

He said MPs were given more authority and responsibility over the HDB estates in their constituencies: "The strategic intent was to bring home to the MPs that how they manage and run their town council will affect their electoral fortunes at the next election, and to voters, that the MPs they elect will be responsible for looking after their housing estates.

"This would enhance accountability, push MPs to focus on what mattered to residents and... encourage voters to scrutinise more closely the capabilities and track record of election candidates..."

(emphasis added)

A copy of the abovementioned newspaper article is also exhibited at **TAB 33 of LTK-1**.

AHTC awarded the 1st EMSU Contract to FMSS without inviting a tender on grounds of urgency, public interest, and necessity

90. Even after AHTC had negotiated the critical initial period by successfully securing FMSS as its Managing Agent, AHTC still faced the uncertainty of the continuity of other critical services such as its EMSU services.
91. At the time, EM Services was the incumbent EMSU service provider for the Kaki Bukit Division of Aljunied GRC and CPG was the incumbent EMSU provider for the other divisions of Aljunied GRC such as the Eunos, Bedok-Reservoir Punggol, Paya Lebar, and Serangoon divisions. The EMSU service provider for the Hougang division was FMSI during this period.

92. I recall that at the 3rd AHTC meeting on 8 September 2011, it was discussed that the contracts with CPG and EM Services were expiring on 30 September 2011. A copy of the Minutes of Meeting has been exhibited at **TAB 29 of LTK-1**. During the meeting, we were informed that CPG had verbally indicated an interest to extend its EMSU contract for a further period of 6 months as proposed by AHTC while EM Services had already indicated that it was not agreeable to an extension. However, we were also informed at the meeting that CPG had not confirmed officially in writing on the proposed extension despite several reminders. As such, there was concern amongst the Town Councillors that this will be a problematic situation given the lack of EMSU service providers in the market that would be willing to provide their services to AHTC. As such, in light of the tight timelines that AHTC faced since we had less than a month until the existing contracts expired, the TC agreed to appoint a Committee (comprising Sylvia, Mr Chen Show Mao, Faisal and Mr Anthony Teo) as required under Rule 76(4) of the TCFR in order for the TC to consider the proposal from FMSS as the current MA to also provide EMSU services in the event that CPG also decides not to extend its EMSU contract.
93. Shortly after the meeting on 8 September 2011, I received an e-mail from Sylvia on 16 September 2011 in which she provided updates on the situation on the EMSU service providers. In this e-mail, Sylvia first reiterates *"at the AHTC meeting on 8 Sep, you were briefed that with the EMSU (emergency services) contracts expiring on 30 Sep, CPG FM had verbally agreed to extend their services for EU, BRP, PL and SG Divs for 6 months until 31 Mar 2012 [and that] EM Services for KB Div had indicated they did not want to extend but would confirm by Monday 12 Sep"*. She also places on record certain decisions that were made during the 8 September 2011 meeting such as the TC's agreement *"that it was prudent to extend CPG for 6 months and call a tender thereafter for the EMSU services for the whole AH town"* and that *"as for KB Div [i.e. Kaki Bukit Division], it was likely that our MA FM Solutions and Services would have to take over EMSU services for 6 months until March 2012 when the tender for AH town would be called"* since EM Services had already refused to extend its contract.
94. In her email sent on 16 September 2011 to all the Town Councillors, Sylvia informed us that *"this week, EM Services has stood firm that they will not extend beyond 30 Sep. However, CPG FM informed us on 14 Sep (in writing and orally) that they too are not extending – it seems that they have been 'spoken to' about not helping us and have made*

a business decision. This means that we must make immediate provision to have continuity of EMSU services beyond 30 Sep for all Divs in Aljunied GRC."

95. Both EM Services and CPG were therefore not willing to continue extending their services to AHTC as EMSU services providers despite our requests for an extension. As such, Sylvia sent another e-mail on 18 September 2011 to seek AHTC's approval as follows:

"Dear All,

As you know, the existing EMSU providers CPG (Aljunied GRC except Kaki Bukit Div) and EM Services (Kaki Bukit Div) confirmed just this last week that they are not willing to extend their services beyond 30 Sep. In CPG's case, this came as a surprise on 14 Sep and was contrary to the verbal agreement that they were willing to extend for 6 months till March 2012.

It is now only 12 days more to 30 Sep. There is no time to call a tender for a new contract to commence on 1 Oct.

EMSU is clearly a critical service to residents of our town. A waiver of tender for EMSU services is needed under TC Financial Rule 74(17) due to the urgency of the requirement and the public interest necessity. However, it is recommended that an interim contract only be awarded, and a tender be called after this interim period.

Our interim MA, FM Solutions and Services Pte Ltd, has offered to supply the EMSU services in accordance with the scope of works (in email below) approved by the specially appointed committee under Town Council Financial Rule 76(4).

FMSS has also agreed to provide these services in the interim from Oct 2011 till June 2012; an open tender will decide the EMSU contractor after June 2012."

In the circumstances, I concurred with the appointment of FMSS as EMSU service providers via e-mail. A copy of the e-mail chain referred to in paragraphs 93 to 95 is exhibited at **TAB 34 of LTK-1**.

96. The above incident was yet another confirmation of my experience and my concerns expressed to the newly elected MPs after the 2011 GE: I continued to warn Sylvia of the need to have contingency plans. In my email reply to Sylvia's e-mail of 16 September 2011, I stated follows: *"Chairman, the most critical preparation for response to expecting the "unexpected" is to build a fire fighting team or you will not be able to sleep well at night. In 1991, I lost 10kg or more after I was elected..."*. A copy of my abovementioned e-mail reply to Sylvia of 16 September 2011 is also exhibited at **TAB 34 of LTK-1**.

97. FMSS was eventually appointed as the EMSU service provider of AHTC on the grounds of urgency, public interest and necessity under Rule 74(17) of the TCFR.

AHTC awarded the 2nd MA Contract & 2nd EMSU Contract to FMSS pursuant to holding an open tender in which FMSS was the sole tenderer

98. Given that the 1st MA Contract with FMSS was due to expire on 14 July 2012, the TC called a tender on 13 April 2012 for a three-year MA services contract and a three-year EMSU services contract. While I was not involved in the preparation for this tender process, I was aware that FMSS was the sole bidder in both open tenders. Whilst EM Services, CBM Pte Ltd, and FMSS had come forward to collect the tender documents, only FMSS put in a bid for the tender eventually. I suspect that EM Services and CBM Pte Ltd collected the tender documents to get information on the tender process and had no real interest in bidding for the contract.
99. FMSS was eventually awarded contract reference no. OT/0264/12 for the period 15 July 2012 to 14 July 2015 (the “**2nd MA Contract**”) and contract reference no. OT/0263/12 for the period 1 July 2012 to 30 June 2015 (the “**2nd EMSU Contract**”). I also recall that even after the tenders had closed but before any decision was made by the Council, Sylvia recommended to AHTC at a meeting on 10 May 2012 that an external audit firm be appointed to scrutinise the tender process that was adopted and the contract to be awarded in order to have greater transparency and to ensure that the transaction was all above board. Although I personally felt at the time that such a move was not necessary, I nevertheless supported her decision as I recognized that she was acting out of an abundance of caution. Eventually, RSM Ethos Pte Ltd was appointed to review the tender process and found that the tender and award process for the appointment of MA services was generally in compliance with the tender procedures as set out in Rules 76 to 87 of the TCFR. I exhibit at **TAB 35 of LTK-1** a copy of the Minutes of Meeting of the TC on 10 May 2012. I understand that Sylvia deals with this issue in greater detail in her AEIC.
100. Regardless of the fact that FMSS was the sole tenderer, I was aware that the Tenders & Contracts Committee (“**T&C Committee**”) still evaluated the tender documents submitted by FMSS. The Tender Evaluation Committee’s recommendation to re-appoint FMSS as MA was discussed at the 13th AHTC Meeting on 2 August 2012. During this segment of the meeting, representatives from FMSS who were present at the meeting left the meeting room and did not take part in the discussions of this item. Having considered this issue, the TC adopted the recommendation to re-appoint FMSS as MA. I exhibit at **TAB 36 of LTK-1** a copy of the Minutes of Meeting of the TC on 2 August 2012.

AHTC's oversight of all payments made to FMSS

101. Given that the WP's elected MPs had no prior experience in outsourcing AHTC's management using a MA, we decided to adopt the existing practices of MAs of the PAP TCs. In this regard, AHTC adopted the same practice used by ATC but with an additional layer of protection by instituting a standing instruction which required that all payments to FMSS regardless of quantum be co-signed by either the Chairman or Vice-Chairman of the TC, both of whom had no interest in FMSS. This standing instruction was given at the 3rd TC Meeting on 8 September 2011 and a copy of this Minutes of Meeting has been exhibited at **TAB 29 of LTK-1**. The same standing instruction was also given for payments to FMSS under the subsequent 2nd MA Contract and 2nd EMSU Contract – that the cheques be co-signed by either the Chairman or one of the Vice-Chairmen. This was recorded in the Minutes of 13th TC Meeting on 2 August 2012 which has been exhibited at **TAB 36 of LTK-1**.
102. Aljunied GRC and Hougang SMC were merged on 27 May 2011 and the operational handover date of Aljunied GRC was on 1 August 2011. During the interim period (from 15 June to 31 July 2011):
- (a) AHTC retained FMSS and CPG to manage Hougang SMC and Aljunied GRC respectively by approving a delegation of AHTC's authority under the TCFR to FMSS and CPG by way of a letter of delegation of authority dated 16 June 2011, a copy of which is exhibited at **TAB 37 of LTK-1**.
 - (b) Hougang SMC was managed by FMSS which consisted of existing HTC staff who took over the management of the HTC when it moved from the direct management model to the MA model in June 2011. FMSS agreed to take on the HTC staff and to be paid on a reimbursement basis without any profit, based on the audited staff costs for HTC in the preceding financial year and billed AHTC for the same from 15 June 2011; and
 - (c) Aljunied GRC continued to be managed by CPG.

103. As such, FMSS started providing MA services in respect of Hougang SMC from 15 June 2011 and Aljunied GRC from 15 July 2011. Accordingly, AHTC made payment of \$92,000.00 under FMSS Invoice No. FMSS/0601 dated 30 June 2011 as this payment was for a direct reimbursement of the cost of the existing staff of HTC that were already assisting with work concerning the amalgamation of HTC with ATC.
104. Where the 1st and 2nd MA Contracts are concerned, AHTC had a contractual obligation to make fixed monthly payments under these contracts which did not have a clause for liquidated damages or variable payment depending on their performance. As such, it is difficult to see how the officers of AHTC who are approving payments to FMSS may exercise any preference towards FMSS in so doing given that AHTC has a fixed contractual obligation to make these monthly payments.
105. I note that it was observed at paragraph 5.2.13 of the KPMG Report that *"the approval of payments does not relate only to the calculation of the contractual sum but also matters such as the satisfactory rendering of services in accordance with the contract as required by TCFR Rule 61(1) and the timing of the payments."* Such approval from the TC was indeed given on procuring the necessary certification that services were rendered satisfactorily before payment is made through AHTC's system of payment processes. I understand that this payment process is dealt with in greater detail in the AEIC of AHTC's current General Manager, Mr Vincent Koh ("**Vincent**").
106. I also note that observations were made at paragraphs 5.2.13 to 5.2.15 of the KPMG Report that despite the abovementioned standing instruction which requires the Chairman or Vice-Chairman as a co-signatory, this safeguard was undermined by alleged "conflicted persons" like Ms How or Mr Loh being the other co-signatory because *"it is unlikely that the Chairman or Vice Chairman of the Town Council would have been independently informed (other than by Conflicted Persons) as to whether the earlier certifications in respect of FMSS invoices were appropriate or justified"*. A further reason was also given at paragraph 5.2.15 of the KPMG Report that the continued involvement of "conflicted persons" in the payment process as co-signatory *"gives rise to the potential for influence being exercised by such individuals over the decisions and judgments of the Chairman or Vice-Chairman of the Town Council to perform meaningful review of the documentation*

presented to them being compromised when such documentation was prepared and approved by the Conflicted Persons”.

107. The abovementioned concerns raised in the KPMG Report are speculative and without basis. The fact that one such “conflicted person” (to borrow the term used in the KPMG Report) is involved in one stage of the payment process does not render the entire process ineffective. This is not sensible because the converse means that a payment process that only involved “non-conflicted persons” would certainly lead one to the conclusion that all work was done for which payment should be made. The sum total of assessing a MA who has a wide range of work and responsibilities go beyond documentary proof of its work. Reliance on reviewing the supporting documentation prepared by the MA without more in assessing whether the MA has carried out its work is simplistic and will only be a paper exercise. The real measure of the MA’s performance comes from the level of satisfaction of the residents since they are the ones who pay monthly S&CC fees to receive the benefit of the MA’s services. The MPs were in touch with the residents’ sentiments through the feedback and comments we gathered which in turn assisted us in our assessment of the MA’s work. I will elaborate upon this further later.
108. Additionally, the concerns raised by KPMG as set out in paragraph 106 above are also based on an inadequate understanding of how an MA model works. When a TC engages a MA, all of the town council’s operational works are essentially outsourced to the MA. This is evident in Clause 1.3 of the 1st MA contract which provides for the “*Provision of Professional and Technical Persons*”. An extract of the 1st MA Contract where Clauses 1.3 to 1.5 may be found is exhibited at **TAB 38 of LTK-1**. In other words, the MA’s employees, who would include senior management staff such as the “conflicted persons”, will inevitably be involved at some stages of processing the payments made by the TC to the MA itself. It is misconceived of KPMG to attack this arrangement at paragraphs 5.2.4 of the KPMG Report by saying that “*the Conflicted Persons [which] held key functions in respect of the Town Council’s payment approval processes [...] were in many respects given the power in effect to approve payments to themselves*” because this arrangement is simply a by-product of the MA model which AHTC adopted as guided by the industry practice of TCs. It was reasonable for the TC to rely on such a system because in having outsourced its work to the MA, it was the MA who would be in a position to confirm and justify whether the works for which payment is due were indeed carried out. This is also

subject to the overall assessment of the TC through its supervision of the MA's work. It is not true that there was an "*unacceptably high degree of abdication of control to the Conflicted Persons*" as observed at paragraph 5.2.1 of the KPMG Report.

AHTC's supervision of the MA's work

109. AHTC did supervise the MA and made assessments of its services. Given the nature of an MA's work, such assessments of the MA are of a holistic and qualitative nature. It is not a quantitative exercise. This is apparent from the terms of the 1st and 2nd MA Contracts where it will be self-evident from Clause 2.2 of the specifications section that the following "Basic Services" are carried out by the MA under the MA contract:

- (a) Maintenance Management Services;
- (b) Accounting and Financial Services;
- (c) Administrative and Secretarial Services;
- (d) Publicity and Community Development Services;
- (e) Essential Maintenance, Lift Rescue, Lift Tele-monitoring, Computer Applications, etc. provided by the TC's Direct Service Providers and Vendors; and
- (f) Other Management Services.

An extract of the 1st MA Contract which sets out Clause 2.2 of the specifications section is exhibited at **TAB 39 of LTK-1**.

110. Several measures were put in place in order to monitor and supervise the services by FMSS so that the Town Councillors can make the necessary assessments of their service levels.

111. For instance, I sent Sylvia an e-mail on 24 December 2011 attaching a proposed "SOP" or Standard Operating Procedure concerning how the MPs should exercise oversight of FMSS as the MA by introducing a structure for communication between the MPs and the MA. A copy of my e-mail is exhibited at **TAB 40 of LTK-1**. In the SOP attached to this e-mail, I stated that "*we, as elected members have also put in much personal efforts to assist and check the management of Town Council. Moving forward, as critical issues had been more or less resolved and the MA begins to settle in, we should move to a management*

phase. This means we will not want to involve so directly in town management but keep a watchful eye and resolve issues with the management and at management level rather than at ground level, leaving the ground on estate maintenance to the staff to do their job."

112. Regular meetings were held together with the MA staff at various levels such as the regular TC or sub-committee meetings. Whilst I was not personally involved in the weekly Chairman's meetings at the material time, I understand that MA staff were also in attendance at such meetings. This issue was specifically addressed by Sylvia in Parliament on 12 February 2015 on how AHTC had regular meetings with FMSS at various levels such as the quarterly TC meetings and sub-committee meetings overseeing estate work and project management. I exhibit at **TAB 41 of LTK-1** a copy of the table which Sylvia referred to in Parliament on 12 February 2015. This table sets out the various committees and channels that aid the monitoring of FMSS's services as MA.
113. The elected MPs also conducted estate visits on a weekly basis. We would usually do this individually by walking about the estate to inspect the surroundings in the estate and collecting the feedback and comments of residents that we would meet along the way on matters such as their experiences with interacting with the staff of FMSS and whether their concerns were addressed appropriately. Whenever I conducted estate visits, I would look out for things such as the general cleanliness of the estate. Where buildings are concerned, I will look out for the cleanliness of areas such as lift lobbies and staircases, common corridors, the condition of the building's walls to see if there is spalling concrete, ceiling seepage or cracks in the building façade. In the outdoor areas, I will observe things like the open-air car parks, gardens and the conditions of linkway maintenance and lighting at night, the planting and landscape conditions such as whether there is floor ponding or the tree canopies to determine whether the trees are overgrown and other environmental issues such as whether the area is experiencing bird nuisance, rats infestation, cobwebs, stray cats/dogs, or other pets issues such as dog poo that remained undisposed, estate matters such as whether there is water pipe corrosion, damage to the electrical meter boxes, or defective lamp posts. Oftentimes, I get recognized by my residents during my estate visits and I will get a lot of feedback from them automatically in the course of chatting with them. I also made the effort to attend all the funeral wakes that took place in my division. My interactions with the people I met during such visits were also another source of feedback on the township management carried out by FMSS.

114. Apart from the regular estate visits conducted by the MPs ourselves, there were teams of Property Officers whose work was to conduct checks on whether the contractors engaged by AHTC did their work satisfactorily. On several occasions, I had conducted joint inspections together with the Property Officers. I would convey the feedback I received from my own estate visits directly to the Property Officers so that they can take the necessary action. These Property Officers were supervised by Property Managers who in turn accounted to the Town Councillors. In this regard, I exhibit at **TAB 42 of LTK-1** a copy of the organization chart prepared by FMSS which shows the Property Officers who are assigned to each division. I also exhibit at **TAB 43 of LTK-1** copies of documents or correspondence which record examples of such estate visits that I conducted including the following:
- (a) an e-mail from a Property Manager, Mr Bernard Chen sent on 4 July 2011 which I forwarded to Ms How and Vincent for them to follow up on. This e-mail from Bernard attached a report from the walkabout that we conducted together on the morning of 4 July 2011 at Bedok Reservoir Road and the photographs that were taken during the walkabout. Vincent subsequently sent me an update on the action taken by the MA on the matters highlighted in the report;
 - (b) an e-mail titled "*MP Walk-About at Blk 105 Market Hougang Ave 1 on 21 Aug 2011*" sent on 31 August 2011 which attaches a report that records the issues that were picked up during my walkabout with the Property Officers; and
 - (c) a sample of the copies of inspection reports that were prepared by the Property Officers which record issues of non-compliance by the contractors engaged by the TC for purposes of charging liquidated damages on them.
115. AHTC had a software platform called IMMS which stands for the Integrated Maintenance Management System. This is a central system in AHTC which was operated by AHTC's Property Managers and Property Officers and it records all feedback, requests or complaints from the residents whether received through AHTC's call centre or through the MPs. There were instances where I would make entries in the IMMS myself to record matters that I detected on my estate visits which required follow-up action. The system would record the source of the feedback/complaint, a summary of the issue(s), the person

who received this issue(s). There is also a column that reflects the status of the matter, i.e. whether it remains "open" or if the matter has "closed" or "resolved". What it means if the system records that the matter has "closed" or "resolved" is that the MA has dealt with the issue appropriately and no further action needs to be taken. A copy of a sample of IMMS records which were lodged by me have been extracted and exhibited at **TAB 44 of LTK-1**.

116. There are also documentary records which show the Town Councillors' supervision of the MA's work. For instance, there are documents which show the MPs and other town councillors specifically giving instructions to the MA concerning its work and/or questioning its work, copies of which are exhibited at **TAB 45 of LTK-1**. These documents show that the decision-making power remained with the Town Councillors and that we took our responsibilities seriously and actively monitored the MA's work. Specifically, these documents demonstrate that:

- (a) AHTC gave FMSS specific instructions to prioritise the AGO audit during the AHTC meeting in May 2014;
- (b) Sylvia queried FMSS on its classification of various project claims;
- (c) Pritam queried FMSS on tender specifications;
- (d) AHTC refused to approve certain works suggested by FMSS; and
- (e) Sylvia declined to sign documents presented by FMSS until they came back with clarification.

Allegations in respect of LST Architects, Red-Power, Tong Lee, Rentokil, Titan and J Keart,

117. With respect to the claims on the appointment and/or extension of contracts with the abovenamed parties, the evaluation of these appointments and extensions were carried out by the T&C Committee. I was not a member of the T&C Committee and I was therefore not involved in these decisions. My involvement is limited to the consideration of the T&C Committee's recommendations together with the other Town Councillors when these recommendations were placed before us at the TC Meetings for our joint decisions. My recollection is that in all of these instances, the TC unanimously agreed with the T&C Committee's recommendations.

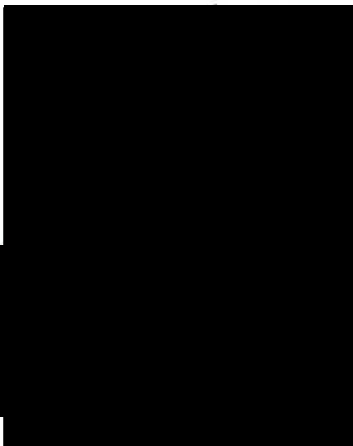
Conclusion

118. In conclusion, the matters stated above would show that the actions taken by my fellow Town Councillors and I on behalf of AHTC were done in good faith with our residents' best interests at heart. It is not the Plaintiffs' case that the 1st to 5th Defendants gained any personal benefit in carrying out their responsibilities.

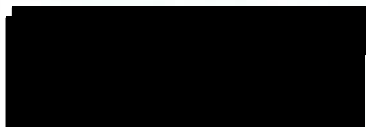
119. The Plaintiffs have commenced a wholly unmeritorious claim against me and my fellow Town Councillors. I humbly request this Honourable Court to dismiss the claims with costs.

Affirmed by the abovenamed
LOW THIA KHIANG
on this the 6th day of September 2018
at Singapore

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Before me



A COMMISSIONER FOR OATHS



This affidavit is filed on behalf of the 1st to 5th Defendant.

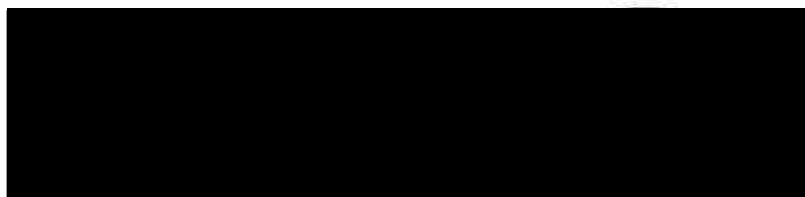
This is the exhibit marked "**LTK-1**"
referred to in the Affidavit of Evidence-In-Chief of

LOW THIA KHIANG

Affirmed before me

this 6th day of September 2018

Before me



COMMISSIONER FOR OATHS

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