

1st to 5th Defendants; 1st; Pritam Singh;

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

HC/S 668/2017)

Between

ALJUNIED-HOUGANG TOWN COUNCIL
[REDACTED] ...Plaintiff

And

1. **SYLVIA LIM SWEE LIAN**
[REDACTED]
2. **LOW THIA KHIANG**
[REDACTED]
3. **PRITAM SINGH**
[REDACTED]
4. **CHUA ZHI HON**
[REDACTED]
5. **KENNETH FOO SECK GUAN**
[REDACTED]
6. **HOW WENG FAN**
[REDACTED]
7. **HOW WENG FAN**
[REDACTED]
- (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.**
[REDACTED] ...Defendants

HC/S 716/2017)

Between

PASIR RIS-PUNGGOL TOWN COUNCIL
[REDACTED] ...Plaintiff

And

1. **SYLVIA LIM SWEE LIAN**
[REDACTED]
2. **LOW THIA KHIANG**
[REDACTED]
3. **PRITAM SINGH**
[REDACTED]
4. **CHUA ZHI HON**
[REDACTED]
5. **KENNETH FOO SECK GUAN**
[REDACTED]
6. **HOW WENG FAN**
[REDACTED]
7. **THE PERSONAL REPRESENTATIVES OF DANNY LOH CHONG MENG, DECEASED**
(No ID. No. Exists)
8. **FM SOLUTIONS & SERVICES PTE. LTD.**
[REDACTED] ...Defendants

AFFIDAVIT OF EVIDENCE-IN-CHIEF OF PRITAM SINGH

AFFIDAVIT OF EVIDENCE-IN-CHIEF OF PRITAM SINGH

I, Pritam Singh [REDACTED] of [REDACTED]
do solemnly and sincerely affirm and say as follows:

1. I am the 3rd 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' Defences (Amendment No. 1) in both Suit 668 and Suit 716 ("**the Defence**"). I confirm that the facts set out in the Defences 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.
4. I refer to AHTC's Responses given to the Independent Panel in 4 parts. Save as set out below, I repeat and adopt the positions set out in these Responses. Copies of these Responses can be found at **S/Nos. 1007 to 1010 of the Core Bundle ("CB")**.

Introduction

5. 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**").
6. 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.

7. 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.
8. 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.
9. The relevant time periods when I was involved in the AHTC/AHPETC 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.

Background

10. I graduated with a Bachelor of Arts degree in History from the National University of Singapore in the year 2000. I also hold a Master of Arts degree from King's College London having graduated from the said institution in 2004. I also hold a Diploma in Islamic Studies from the International Islamic University, awarded in 2005.
11. I was a graduate student in the *Juris Doctor* program at the Singapore Management University when I stood for the 2011 GE. I completed my substantive course requirements for the aforesaid program in late May 2011, after the General Elections. Thereafter, I sat for the Part B preparatory course between July to November 2011 conducted by the Singapore Institute of Legal Studies leading to the Singapore bar examinations. I completed my training contract with Rajah & Tann LLP in the first half of 2012 before being called to the Singapore Bar in September 2012.
12. I joined the Workers' Party ("**WP**") in 2010 when I was a *Juris Doctor* candidate at the Singapore Management University. Prior to taking over Mr Low Thia Khiang as Secretary-General of WP on 8 April 2018, I was previously the Assistant Secretary-General of WP.

When I first joined WP and before I became an elected member with the AHTC in 2011, I did not have any prior experience in Town Council management either as a Town Councillor or a member of any Town Council Committee. From July 2012 to date, I have been the Chairman of the Tenders & Contracts Committee ("**T&C Committee**"). On 1 August 2012, I was appointed the Vice-Chairman of AHTC. On 1 October 2015, I was appointed as the Chairman of AHTC.

Appointment of FM Solutions & Services Pte Ltd ("FMSS") as MA

13. Shortly after the 2011 GE on 7 May 2011, the MPs-elect had a meeting to discuss several matters. I believe this meeting took place on 9 May 2011 having reviewed an email that was sent by Mr Low to the MPs-elect shortly after this meeting. One of the topics discussed was the amalgamation of HTC and ATC given MND's letter of 9 May 2011 (a copy of which can be found at **S/No. 133 of the CB**) where the elected MPs had to inform MND by 12 May 2011 whether we would have separate townships of Aljunied Town Council and Hougang Town Council or a combined Town Council comprising Aljunied and Hougang. We also discussed the issue of whether AHTC should directly manage the TC or engage a MA to do so. By this time, Mr Low had already shared with us his concerns that the TC may be left without a MA given his previous experiences when he was first elected to Hougang SMC back in 1991. The MPs-elect shared Mr Low's concerns because we recognized that the MA was a critical service provider and there was a very short handover period of 90 days. Personally, I was sceptical about whether the existing MA to ATC, CPG, would be willing to continue serving Aljunied Town Council as it was the MA in Ang Mo Kio Town Council, where the Prime Minister and Secretary-General of the ruling People's Action Party was an elected member, along with other PAP members. Even if CPG would have been keen to remain as MA, the elected MPs of Aljunied would have had to be persuaded of how CPG was expected to perform two conflicting roles – to raise the esteem of townships of the ruling party and the only elected opposition political party thereby supporting the re-election of the elected MPs of both townships. This concern of mine was eventually moot as CPG did not want to continue as MA.
14. Following our meeting on 9 May 2011, Mr Low sent an email that day at 5:07 pm to the MPs-elect on certain updates, including the fact that CPG had already begun showing signs that it would not continue acting as MA. Mr Low's email read as follows:

"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.***

*2. The name of the Town Council merged should be **Hougang Aijunied Town Council** because majority of the HDS properties we managed will be in Hougang area and Singaporeans generally identify with Hougang TC for all kinds of feedback based on calls received. For areas at Bedok such as Bedok Reservoir and Bedok North estate, they do not identify with Aljunied either, they are likely to identify more with Hougang.*

*3. I have also communicated to Ms How our **decision that a) Hougang TC will be merged with Aljunied TC b) We will appoint managing agent to manage the town instead of self management c) Party Chairman Sylvia Lim has been elected amongst us as elected members to be chairman of the Town Council. Aljunied Team will meet at Hougang TC office tomorrow morning at 9.45am as planned.***

(emphasis added)

The above email from Mr Low can be found at **S/No. 134 of the CB.**

15. I cannot remember exactly when I came to know that CPG had indicated that it would not continue as the MA for the TC. However, on 30 May 2011, there was a meeting with CPG held at ATC's office on 10.00am which was attended by Mr Low, Sylvia, Ms How Weng Fan ("**Ms How**") and I. This was our first meeting with CPG which was represented by Jeffrey Chua ("**Jeffrey**"). Jeffrey informed us at this 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. As is apparent from the Sylvia's handwritten notes taken of this meeting, this meeting proceeded on the basis of the shared understanding of all attendees that CPG would be released as MA (pursuant to its request) and that AHTC would be recruiting their replacement. A copy of Sylvia's handwritten note can be found at **S/No. 1455 of the CB.**
16. As such, the MPs-elect had to spring into action to prepare for the contingency which was anticipated. Of the 6 MPs-elect, Mr Low and Sylvia were more involved in this process

given their previous experience with township management as Town Councillors back in HTC. I was aware that Mr Low and Sylvia were in discussions with Ms How and Mr Danny Loh (**"Mr Loh"**), Ms How's late husband, about setting up a MA company. I knew that some of these preparatory steps included meetings with Mr Loh and Ms How, one of which took place in early June 2011. All the MP-elects were invited to this meeting but I was not present then as I was unable to make it for reasons I cannot now recall. Eventually, only Mr Low, Sylvia and Mr Mohammad Faisal Manap (**"Faisal"**) met with FMSS in early June 2011 for a presentation of whether FMSS would be capable of taking on the role of MA for AHTC. Copies of the powerpoint presentation slides that FMSS gave out at this meeting were circulated to the MP-elects after the meeting.

17. As a result of Jeffrey's announcement at the meeting that CPG did not wish to continue, all the Town Councillors present became aware of the need for prompt action to be taken in order to ensure that AHTC could perform its functions for the residents of the town. Accordingly, at the 1st AHTC Meeting held on 9 June 2011, it was a unanimous decision made by all Town Councillors to delegate the authority under Section 32 of the TCA to Sylvia as Chairman to exercise the powers, functions and duties of AHTC in its name and on its behalf.
18. On 6 July 2011, I received an e-mail from Sylvia forwarding Ms How's e-mail of 22 June 2011 which attaches a letter from FMSS setting out its proposal to offer its services as MA for AHTC. Although Sylvia had already been vested with the powers of the TC to appoint FMSS as the MA, she nevertheless sought the views of all the MPs-elect to see if we had any concerns about this decision she was making. Sylvia's e-mail of 6 July 2011 reads as follows:

"As you know, Ms How and Danny are operating under FM Solutions & Services Pte Ltd to offer Managing Agent services to AHTC. They are already understudying and taking over the work in stages. It is expected that by 1 Aug, most of the functions will be taken over, except for the computerised S&CC collection systems which will take more time due to the need to conduct parallel runs to test the new system.

*Attached are documents I received 2 weeks ago. **In gist, we agree to appoint them for one year before we tender out the job. The rates quoted are similar to the ones CPG is using for AJTC for its 2nd yr [sic] of service.***

I am making one clarification on the project management rates of 3.5% (which CPG is charging AJTC for 2nd and 3rd yr [sic] of project mgt [sic]) and once I am satisfied, I will sign the letter of intent.

Pls [sic] let me know if you have any concerns. I intend to sign by Friday."

(emphasis added)

Having considered the points set out in Sylvia's e-mail, I then replied to her e-mail on 7 July 2011 to inform all the MP-elects in that e-mail chain that I had no concerns. This email chain can be found at **S/No. 246 of the CB**. As can be seen from the e-mail replies sent by the other MP-elects copies of which can be found at **S/No. 244 and 245 of the CB**, they were also supportive of this proposal. I understand that Sylvia exercised the power delegated to her and on 8 July 2011 signed a Letter of Intent from FMSS dated 15 June 2011 pursuant to which FMSS was appointed as the MA on 8 July 2011.

19. This issue on the appointment of MA was discussed at the 2nd AHTC Meeting held on 4 August 2011. At this meeting, a copy of a report prepared by Sylvia was circulated. This report dealt with, *inter alia*, the appointment of FMSS arising from CPG's withdrawal as MA due to the change in political leadership, and the need to waive the tender for the first year. Annex 1 to the Minutes of Meeting sets out the matters that was discussed among the Town Councillors in the absence of Mr Loh and Ms How during the meeting: The Town Councillors present considered Sylvia's report and agreed with the appointment of MA for reasons set out above. A copy of the 2nd AHTC Minutes of Meetings dated 4 August 2011 can be found at **S/No. 878 of the CB**.

Appointment of FMSS under the 1st EMSU Contract

20. At the time, EM Services ("**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. During this period, the EMSU service provider for the Hougang SMC was FMSI.
21. At the 3rd AHTC meeting held on 8 September 2011 ("**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 can be found at **S/No. 879 of the CB**. 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, Shen Mao, Faisal and Anthony) 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.

22. Shortly after the 3rd AHTC Meeting on 8 September 2011, I received an e-mail from Sylvia on 16 September 2011 in which she sets out the discussions and decisions taken at this meeting on the EMSU service providers as follows:

"...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".

"...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."

23. Subsequently, 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."

24. 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. Accordingly,

Sylvia also informed the Town Councillors in this same e-mail that she was arranging for a 4 member committee to meet that weekend to approve the scope of works for EMSU services that will be applicable under what will eventually constitute the 1st EMSU Contract.

25. On 18 September 2011 after the 4 member committee met as abovementioned, Sylvia sent us this e-mail that same day at 11.37 pm. It was apparent from this e-mail that the committee had given proper consideration to what should be the applicable scope of works under the 1st EMSU Contract. It was not the case that a "free pass" was given to FMSS simply because they were AHTC's existing MA then. Sylvia's e-mail sent at 11.37pm is set out below:

"Dear All,

The committee (Show Mao, Faisal, Anthony and I) met today at 2 pm at AHTC office to discuss the scope of works for the EMSU contract.

We compared the essential terms of the existing EMSU contracts:

- a) CPG's contract for Aljunied wards except Kaki Bukit;***
- b) EM Services' contract for Kaki Bukit ward;***
- c) Integrated Solutions' contract for Hougang SMC.***

We noted that:

1. CPG v EM: Generally, the standards expected for essential maintenance services for CPG and EM Services were about the same e.g. answer calls within 6 rings; to attend to lift rescues within 25 mins of being notified of persons trapped; to attend to problems relating to the common area only and not within the individual flats; replacement parts were charged in addition to the monthly EMSU fee.

2. CPG/EM v Integrated: We noted that the standards contracted for Hougang SMC showed some differences e.g. time limit for lift rescue is officially 30 mins; the contractor also provided some interim help to problems which occur within the units (e.g. choked gulleys) and not just common areas; Integrated's fee was higher than CPG/EM (due to lack of economies of scale).

The Committee decided that:

A. The scope of EMSU services for Aljunied GRC would take the higher standards among the 3 contracts. Therefore, e.g. lift rescues are to be done within 25 mins; interim help would be provided to problems even within the flats.

B. The fee payable should be about the same as the existing combined fees charged by CPG and EM Services, adjusted for electoral boundary changes. The fee currently is \$70,110.08, excluding replacement parts.

C. The manpower requirements would follow the guidelines in the CPG/EM contracts (since there are more economies of scale compared to Hougang SMC)- e.g. one plumber to 16,200 equivalent dwelling units etc.

D. The EMSU services to be provided are:

- i) telephone answering / channelling back to a monitoring system;*
- ii) lift rescue service;*
- iii) lift telemonitoring service and;*
- iv) tradesman service.*

*The Committee also noted that there are certain advantages of awarding the MA contract and the EMSU contract at the same time e.g. having a clean decision and not feeling obliged to award the MA contract to the existing EMSU contractor. **Given the urgency, the Committee recommends that the EMSU contract be awarded for the interim period from 1 Oct 2011 to 30 June 2012, so that the tenders for the MA contract and the EMSU contractor can be called at about the same time.***

As the existing EMSU contracts expire on 30 Sep, Council needs to make certain decisions by email circulation now, as our next AHTC meeting is only on 13 Oct which is too late. I will send a separate email shortly on the decisions Council needs to make.

*Sylvia Lim
AHTC Chairman"*

(emphasis added)

26. On the same day, 18 September 2011, Sylvia sent another e-mail at 11.55 pm to seek the Town Councillors' 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.

Council's approval is sought to:

- (a) Waive a tender for the provision of EMSU services from Oct 2011 to June 2012 for the HDB estates within Aljunied GRC;**

(b) To award the contract for EMSU services for the period to FM Solutions and Services Pte Ltd, based on the scope of works determined by the Committee appointed under TC Financial Rule 76(4).

Please reply ASAP in this format: (a) – Yes/No; (b) – Yes/No.

If you have any questions, pls do ask. Committee members can help add/clarify.

*Thank you.
Sylvia Lim"*

(emphasis added)

27. Having considered both of Sylvia's e-mails sent on 18 September 2011, I agreed with the appointment of FMSS as EMSU service providers via my e-mail sent at 9.41 am. A copy of the e-mail chain referred to in paragraphs 22 to 26 which includes my e-mail reply can be found at **S/Nos. 314 to 319 of the CB**. FMSS was therefore appointed as the EMSU service provider of AHTC on the grounds of urgency, public interest and necessity under Rule 74(17) of the TCFR.

The T&C Committee

28. The following were the T&C Committee members at the material time from between 14 June 2012 to December 2015:
- (a) Myself, as Chairman;
 - (b) Ms Sylvia Lim ("**Sylvia**"), the 2nd Defendant;
 - (c) Mr Chua Zhi Hon (also known as David Chua) ("**David**"), the 4th Defendant. He left the Committee as of 1 December 2016;
 - (d) Mr Kenneth Foo Seck Guan ("**Kenneth**"), the 5th Defendant;
29. At the 10th AHTC Meeting held on 12 April 2012, a standing T&C Committee comprising of Sylvia, Faisal, Anthony, Kenneth and myself was formed to evaluate and award tenders.
30. At the 12th AHTC Meeting held on 14 June 2012, the topic of the TC's composition and the appointment of committees was discussed. It was recorded in the Minutes of Meeting that the volume of work had been escalating and that it would not be possible to discuss details at the TC meetings which were held on a monthly basis at the time. As such, the system of having sub-committees to look into and recommend courses of actions to AHTC was implemented. It was also recorded in the Minutes that the "*appropriate committees*

would be required to assist to look into the details on behalf of the Council.” Accordingly, it was recorded at paragraph 4.2 of the Minutes that “*with the establishment of the various Committees, the Meeting agreed that future Council Meetings shall be held on a quarterly basis, with effect from August 2012...*”. At the meeting, the T&C Committee was reconstituted to, comprise myself (as Chairman), Sylvia, David and Kenneth as members. A copy of the Minutes of the 12th AHTC Meeting on 14 June 2012 can be found at **S/No. 890 of the CB**.

31. Generally, the T&C Committee's scope of work entailed assisting the Committee in evaluating tenders and deciding on the award of contracts. In this regard, Sylvia sent an e-mail on 7 May 2012 to me and other members of the then standing T&C Committee (both the standing T&C Committee referred to in paragraph [] above and the T&C Committee that was eventually formed on 14 June 2012 referred to at paragraph [] above) to inform us of what is expected of the T&C Committee under the TCFR: “*According to the Town Council Financial Rule 76(1), tender specifications which are drafted by managing agents “shall be approved by a Tender Committee comprising members of the Town Council”. Tenders are being drafted by our MA and called all year round.*” A copy of Sylvia's e-mail of 7 May 2012 can be found at **S/No. 467 of the CB**.
32. There was no guidance either in the legislative framework or by HDB or Ministry of National Development (“**MND**”) on the functions, duties and powers of a T&C Committee or how such duties should be discharged. It was only recently on 13 May 2016 that MND first circulated a powerpoint slide entitled “*Functions, Duties, and Powers of Town Councils*” which specifically dealt with the “*Role of Town Councillors In a Committee Dealing with Tenders and Contracts*” between slides number 14 to 17. Copies of the e-mail from MND's Mr Desmond Lee on 13 May 2016 attaching the abovementioned powerpoint slides can be found at **S/No. 786 of the CB**. Further, I wish to point out that the appointed Town Councillors such as David and Kenneth who are resident volunteers, did not receive any additional stipend from AHTC for performing their roles as members of the T&C Committee beyond the monthly honorarium of \$300 which they received as appointed Town Councillors.
33. Nevertheless, on assuming this role in the T&C Committee and performing our function accordingly, the T&C Committee was supported by and took guidance from the staff of

FMSS which worked in AHTC's Contracts Department. Generally, the T&C Committee would expect to be informed of the salient features of tenders and/or contracts that required our attention such as whether a contract is expiring and a tender should be called or whether there were options to extend under the existing contracts. The T&C Committee dealt mostly with the Contracts Manager, Ms Rosalind Poh ("**Rosalind**"), and later with Mr Philip Lim ("**Philip**") in or around June 2014 who took over from Rosalind. Depending on the nature of the tenders, the T&C Committee would appoint tenderers by giving its approval to the Contracts Department to do so in one of two ways. One method was by way of email consensus amongst all members. At other times, a tender interview would be called when the T&C Committee wished to have a better sense of the potential contractors particularly when the tenders were competitive.

34. Whenever the T&C Committee had to evaluate tender bids, we were conscious of the need to ensure fairness in its assessment of all tenderers even while prioritizing the interests of maintaining efficiency in AHTC's operations and the welfare of AHTC's residents while taking into consideration of how this would impact the elected members' and the Workers' Party's electoral fortunes in future general elections given the ecology of the TC and the TCA. In making such assessments of tender bids, the T&C Committee worked on the basis that appointing the lowest tenderer and thereby securing short-term costs savings may not necessarily give rise to the best outcome for the Town Council in the long-term. This approach towards awarding tenders is in fact in line with the spirit of the TCA as seen in a newspaper report entitled "*Town Councils can be flexible in spending*" published in the Straits Times on 8 November 1988. An extract of the said report which can be found at **S/No. 1134 of the CB** is set out:

"Town councils will be given some flexibility in handling money matters when rules governing their operations are gazetted soon.

For one, they need not accept the lowest tender for a contract if the council is unanimous about picking someone else – so long as they have good reasons for doing so.

Each council will also have the right to decide on how much allowance to give its councillors, subject to the maximum laid down by the Minister.

Mr Peter Ng, who is expected to be appointed a councillor of Ang Mo Kio West Town Council, said: "I'm glad that some flexibility will be given to the town council. As an independent body, it should have the power to decide what is best for residents and not be handicapped by a strict rule."

A National Development Ministry spokesman said, however, that the reasons a council chooses a bid other than the lowest should be recorded.

Mr Ng said that councillors had felt that a ruling on accepting the lowest (tenderer) would be too inflexible – which was what they had been subjected to during their two-year experimental town council scheme which ended last Tuesday.

Said Mr V.Mohan, 41, a councillor with the Ang Mo Kio South Town Council: "We were very upset about this and it was a topic of discussion in our meetings."

"I remember we engaged a contractor with a good track record but he lost out to a lower bidder whom we knew was not good enough. We had no choice but to accept the lowest just like government departments." ..."

(emphasis added)

35. As can be seen from the above extract from the newspaper report, TCs are given flexibility in handling money matters including the appointment of tenderers such that they need not accept the lowest tender for a contract if there is unanimous agreement amongst the Town Councillors and the reasons are recorded. The TCs have the power to exercise judgment in determining for themselves what is best for the residents under their charge given the Town Councillors' knowledge of the residents' needs which should not be second-guessed by an external party.
36. In this regard, PRPTC's allegations in Suit 716 with regard to certain decisions made by the T&C Committee in relation to the appointment of contractors and/or the extension of existing contracts are wholly misconceived because these allegations are premised on the incorrect notion that the TC should only award contracts on the strict basis of whether doing so would, on a superficial level, save costs for the TC. In making such claims, PRPTC seeks to question the judgment exercised by the then AHPETC to call tenders without exercising the option to extend existing contractors. Such decisions are not in breach of the TCFR which does not stipulate that the T&C Committee must accept a tender which is the lowest offer. In fact, this position is corroborated by the guidance provided by the MND in the powerpoint slides that were circulated in May 2016 as referred to in paragraph 32 above. I set out slide number 18 of the MND powerpoint slides:

"Tenders

- ***The Town Council or the Chairman, for tender amounts within their respective approval limits, may accept a tender which is not the lowest offer.***
- ***The Town Council or the chairman [sic] may waive [sic] the requirement to call tender if:***
 - *The supply of goods or services can only be procured from a sole agent or specialist contractor;*

- Due to the urgency of the requirement which makes it necessary; or
 - It is clearly necessary in the public interest to do so.
- The circumstances and justifications for not accepting the lowest offer or granting the waiver shall be recorded and made available to auditor."

(emphasis added)

37. While costs-savings are a very relevant consideration, the PRPTC's claims in Suit 716 which are based on observations made in the KPMG Report and/or the PwC Report reflect a failure to understand the political nature of TCs and the degree of latitude that is supposed to be devolved to TCs. As stated by the then Minister for National Development, Mr S Dhanabalan in the Parliamentary Debates on the Town Councils Bill on 29 June 1988, TCs were designed to have wide degree of latitude to manage the constituency with a direct knock-on effect on the MPs who were elected to lead the constituency:

"When the Town Councils are set up, the whole idea is to rest the responsibility of the management of the funds as well as the estate with the Town Council.... The whole idea of this exercise is for people to be careful in the choice of their MPs as well as in the choice of the Councillors, in the sense that if the MP is good, he could choose good, honest, competent Councillors to help him. It is important that people realize that they have to live with the consequences of their choice. If they elect an MP who chooses a bunch of crooks to help him and together they run through the coffers in no time and leave the constituents in the lurch, well, they have to take the consequences. The Government is not going to come in and say, "We will take over now and make good all the losses."

(emphasis added)

A copy of the Parliamentary Report dated 29 June 1988 can be found at **S/No. 1441 of the CB.**

38. Apart from costs considerations, whenever the T&C Committee met or deliberated on tender award, I, in my capacity as a member and/or Chairman have always sought to consider whether appointing the tenderer as AHTC's contractor would raise the esteem of AHTC and contribute to an efficient and well-run TC, accountable to the constituents who voted us in. This called for judgment to be exercised in my capacity as a member and Chairman of the T&C Committee so that appointed contractors would work with and develop a professional relationship through the term of their contract with the Town Council and its MA, to deliver a good living environment for the residents of Aljunied-Hougang Town. Should this objective be achieved, all other things being equal, the prospects of re-election would be high.

39. Separately, this desire to establish a collaborative, professional and long-term relationship with appointed contractors is especially important where AHTC was concerned due to it being an opposition ward. It has long been a reality that continues even today that many eligible contractors avoid submitting tender bids for AHTC term contracts. This has had some effect in handicapping AHTC from being able to enjoy competitive pricing from contractors due to the lack of competition. I exhibit at "**TAB 1**" of **PS-1** copies of tender results from PAP TCs which would illustrate my point that PAP TCs enjoy significantly better competition as compared to opposition TCs. Nevertheless, this is not something that the Town Councillors of AHTC lament over. We simply recognize this reality in a matter of fact manner as a manifestation of the political nature of the TC scheme – which would naturally reflect the business calculations of contractors and pricing differences across the various TCs – and we deal with the situation within our means in the best way we can. Naturally, it would be propitious for the TC to work with contractors who operated synergistically with the MA, reacted well to contingencies and were able to provide a prompt response to issues that are highlighted by the residents.
40. To that extent, in considering which tenderer to choose from, I prioritised those contractors whom I felt were more trustworthy or those whom the MA had more trust in and to be more dependable such that the TC could rely on their work. This consideration of trust is not unusual in the TC context. In a Sunday Times report entitled "Town Council on the estate it wants" that was published on 16 October 1988, it was the position of the Ang Mo Kio West TC that "*Reliability and trustworthiness are two qualities a Town Council in Ang Mo Kio looks out for in its estate agents.*" A copy of this newspaper article can be found at **S/No. 1133 of the CB**. Whilst this statement was made in the context of MAs, I echo the wisdom of this statement in my evaluation of whether the T&C Committee should give its approval to appoint contractors who will work synergistically with its MA in performing works for the TC.
41. The broad considerations set out above ran through practically every deliberation I made as a member and Chairman of the T&C Committee. I did not see any contradiction in this approach in view of the spirit of the TC scheme and the TCA as espoused in Parliament which was to give powers of responsibility to MPs to decide how they want to run their towns as long as it did not breach the TCFR.

42. I shall now deal specifically with the transactions that have been raised by the Plaintiffs in both Suits which the T&C Committee were involved in.

Evaluation of FMSS as the sole tenderer for the 2nd MA and 2nd EMSU Contracts

43. Given that the 1st MA Contract and the 1st EMSU Contract was due for expiry, an open tender for the 2nd MA Contract and 2nd EMSU Contract was called. However, whilst 3 companies had collected the tender documents, eventually, FMSS was the sole bidder for the 2 contracts.
44. Given the tender bid received by FMSS to provide MA and EMSU services, the T&C Committee met on 21 June 2012 and 21 July 2012 to discuss this bid and the minutes of the 2 meetings along with the relevant Tender Evaluation Report prepared by the Contracts Department can be found at **S/No. 891, 897, 39 and 40 respectively of the CB**. The T&C Committee had some concerns with the rates offered by FMSS for MA services under the proposed 2nd MA Contract as they appeared to be a marked increase from the 1st MA Contract.
45. During the T&C Committee meeting of 21 June 2012, Mr Loh discussed FMSS' proposal for additional staff, the annual increase in FMSS tender price of 6%, the impact of FMSS's proposed prices on AHTC's bottom-line and whether the service and conservancy charges of the residents would have to be raised, as well as costs related to other staffing issues faced by FMSS. The T&C Committee's abovementioned concerns were raised to FMSS and its explanations were recorded in the Minutes. In particular, the Minutes of the T&C Committee Meeting held on 21 June 2012 recorded the following:

"The Committee noted that, compared with the prices tendered in 2010 by the former Managing Agent, CPG Facilities Mgt Pte Ltd (CPG), for Aljunied Town Council, the rates tendered in 2012 by FM Solutions and Services Pte Ltd (FMSS) represented an increase of 17.3% when averaged out over the respective 3- year contract periods, from \$5.96 per EDU per mth to \$7.00. Both tenders had provided for price increases over the 3 year period tendered for. For the year 2012, CPG had previously tendered at \$6.26 compared with FMSS' rate for 2012 of \$6.60. FMSS' rates over the 3 year period were \$6.60 (2012), \$7 (2013) and \$7.42 (2014).

The Committee expressed concern about the marked increase and its impact on the AHTC. Chairman also shared with the meeting that from her understanding through informal checks with some other Town Councils, the going-rate for current MA tenders was between \$6+ to \$7. The Committee asked FMSS for justification.

FMSS' Managing Director Danny Loh presented 11 slides explaining FMSS' pricing strategy (slides are attached as Appendix 1). In gist, he emphasized that a cost plus / cost recovery method had been used, with cross-checking with CPG's previous rates for reasonableness. Based on the 2012 (first year) tender price, it was shown that salaries alone accounted for about 81% of the monthly fee of \$438,505.50; if overheads were included, the profit margin was less than 8.3%. Mr Loh pointed to other costs which FMSS had to bear:

(a) Lift testing fees — annual no-load tests (currently \$120,000 per annum) and 5-yearly full load tests (approximately \$150,000 for existing lifts over the cycle). Mr Yeo Soon Fei gave the estimated costs.

(b) The number of lifts will rise with completion of the Lift Upgrading Programme, especially in Hougang SMC which is getting all its LUP within a 2 year period. FMSS will be bearing the risk of the increased cost as there is no provision in the contract for revision of MA fees due to higher lift numbers.

(c) Additional number of offices, requiring more admin staff. CPG had operated 3 offices — Hougang Central (Blk 810), Serangoon North (Blk 147) and Bedok Reservoir (Blk 609); FMSS was operating 5 offices — the 3 mentioned plus Hougang SMC (Blk 701) and the new Kaki Bukit office (Blk 549).

(d) Other additional staff, especially technicians and a contracts department. This is discussed in further detail in the next section.

(e) The fact that FMSS' business was focused on town management for AHTC; it did not have the same economies of scale as others who may have several towns to manage or have other business arms.

Ms How Weng Fan added that provision of IT maintenance services were done by FMSS in-house, included in its monthly fee. This was a saving of more than \$30,000 per month compared with the monthly fee charged to the former Aljunied Town Council by its IT service provider."

(emphasis added)

46. Even after the meeting with FMSS on 21 June 2012, the T&C Committee continued to conduct due diligence on FMSS' proposal. On 22 June 2012 at 10:15 am, Sylvia sent an e-mail to Mr Loh and Ms How that was copied to me. In Sylvia's e-mail, she sought clarification from FMSS on its tender rate for Project Management Services as she queried them on the need to increase the applicable percentage of Project Management fees payable. Mr Loh replied by an email on the same day at 2:07 pm setting out his explanation for the said increase in the Project Management fee:

For pricing of tenders over a 3 years time horizon, there is a time element to consider. For example, a NRP project tendered at today's prices may take 2 years to complete. We are effectively locked in at current prices. In 2 years' time, macroeconomic conditions may cause labour costs to go up. Even for R & R projects, it can easily take one year to complete. So there is a time lag between prices and costs.

As discussed last night, it is very difficult to forecast over a 3 year horizon so we have to take a fair bit of risk. The proposed increase at the 3rd year is to minimize any unforeseen cost increase. AS can be seen from some of the conservancy contracts, the contractors are facing costs problems in their final year. We do not want this to affect our delivery of service at the tail end of the contract.

HDB is charging 4% for mega projects such as LUPs. Our current rate is 3.5% which is CPG's 2nd year rate, so it should be reasonable. The most we can do is to hold it constant throughout the three years of the new contract. Hence, the 3rd year rate shall remain at 3.5%."

47. I found Mr Loh's explanation as set out above to be reasonable, particularly since the rate of 3.5% for project management fees was akin to CPG's rate for the second year of its contract and because Mr Loh was amenable to keep it at 3.5% for the third year of the contract which was lower the HDB's project management fee of 4%. Further, on 3 July 2012 at 5:53pm, Sylvia sent another e-mail to Mr Loh and Ms How (which I was copied in) seeking clarifications on FMSS's rates for EMSU services and whether the addition of new blocks would result in significant financial changes in the EMSU fee payable. A copy of this e-mail exchange can be found at **S/No. 502 of the CB**.
48. Other issues relating to FMSS's pricing for Project Management Services and Project Management Staffing were discussed during the 21 July 2012 T&C Committee Meeting and accordingly recorded in the Minutes of Meeting.
49. At the 13th AHTC meeting held on 2 August 2012, the T&C Committee gave a briefing to the Town Councillors in relation to the provision of MA and EMSU services by FMSS. All the Town Councillors present unanimously agreed with the recommendations to award the contract for MA services as well as EMSU Services to FMSS. This was also after Ms Lim had discussed that the necessary enquiries to ensure that sufficient due diligence was conducted in relation to the tender process and award of the 2nd MA and 2nd EMSU contracts to FMSS were made. I recall that Ms Lim had mentioned that an auditor was appointed to audit the tender process in relation to the 2nd MA and 2nd EMSU Contracts with FMSS and that she had even sought the views of a human resources company on the salaries of the FMSS staff in relation to the market norms. Due to the political circumstances the WP was in, I recall that the T&C Committee was very aware that it was important to ensure that the award of the 2nd MA and 2nd EMSU contracts to FMSS was transparent and procedurally correct to the best of our abilities. This was so even when

FMSS turned out to be the sole tenderer for the 2nd MA and 2nd EMSU contracts. A copy of the 2 August 2012 AHTC Minutes of Meeting can be found at **S/No. 898 of the CB**.

50. Despite the above, the KPMG Report, at paragraphs 5.5.32 to 5.5.39 alleges that there "remained flaws in the process for appointment of FMSS" in relation to the appointment of FMSS for the 2nd MA contract. I disagree with these observations which do not take into consideration the reasons that I have set out above including the matters considered by the T&C Committee meeting held on 21 June 2012. I have no doubt that FMSS was appointed in the best interests of the residents at the material time.

Appointment of LST Architects ("LST") and Design Metabolists ("DM") to a Panel of Consultants (the "Panel")

51. At paragraph 6.2.1 of the KPMG Report, it was alleged that AHTC had breached Rule 74 of the TCFR by appointing LST over DM for 7 out of 10 constructions projects which resulted in AHTC having to pay more than it should for the same. This is denied. I refer to and adopt paragraphs 45 to 56 of Part 1 of the AHTC Response to the Independent Panel which can be found at **S/No. 1007 of the CB**. I will nevertheless set out some of the salient points raised in Part 1 of AHTC's Response and will elaborate further where appropriate.
52. AHTC called for an open tender sometime in September 2012 for the appointment of consultants onto a Panel for a period of 3 years for the provision of architectural consultancy services. The services were to be provided at pre-agreed rates based on the awarded project value. LST and DM were the only 2 consultants to submit tender bids. After the tender process and the evaluation of the tender bids, the T&C Committee decided to appoint LST and DM to the Panel. DM was appointed even though it did not score as well as LST on "Timeliness and Completion of Work". DM received a score of 5/10 while in comparison, LST scored 6/10. In my assessment, it was prudent for the Town Council to appoint both consultants to the Panel to give TC flexibility in being able to appoint either consultant should there be a problem with either one. The T&C Committee then underwent the usual tender evaluation process for the appointment of the consultants to the Panel and held a meeting on 7 November 2012 to consider this decision. David, however, was not present at this meeting and therefore did not take part when the decision to appoint both LST and DM to the Panel was made. As such, David was not a party to the T&C Committee's decision to appoint both LST and DM to the Panel.

53. After the T&C Committee's meeting on 7 November 2013, its recommendation to appoint LST and DM to the Panel was presented to the Town Councillors at the 14th AHTC Meeting on 8 November 2012. The Town Councillors adopted the T&C Committee's recommendation. Accordingly, AHTC entered into separate Appointment Agreements with each consultant for the provision of certain services at pre-agreed rates for a period of 3 years. Copies of the Minutes of the 14th AHTC Meeting can be found at **S/No. 907 of the CB** and copies of the Appointment Agreements dated 1 December 2012 can be found at **S/No. 55 to 58 of the CB**.
54. By entering into the Appointment Agreements with consultants selected pursuant to a tender, the requisition of such consultants' services at the pre-agreed rates from time to time under the Appointment Agreements was akin to instructing work under a contract that is already in effect. Appointing consultants pursuant to a tender is in compliance with the TCA and TCFR which do not prohibit the use of a Panel.
55. In fact, the abovementioned approach of appointing consultants to a panel was similarly performed by ATC previously when it was under the management of the PAP with CPG as its MA. ATC had appointed DM and 3 other consultants to a panel for the period of 1 April 2009 to 31 March 2012. This past practice of ATC had not been questioned. In fact, there is nothing in the TCA or TCFR that prohibits the appointment of panel. I also note that other TCs such as Bishan-Toa Payoh TC had also similarly constituted a panel of consultants for consultancy services for the implementation of projects in Bishan-Toa Payoh Town Council Estates for the period from 1 August 2017 to 31 October 2020. 4 consultants were appointed to this panel. A copy of this provisional tender result can be found at **S/No. 88 of the CB**. Copies of the various letters of appointment and awards of projects to DM by the ATC can be found at **S/No. 106, 112, 114, 115, 122 of the CB**. KPMG's observations on this issue are therefore misconceived.
56. Once LST and DM were appointed to the Panel, it was for the MA to decide which consultant it wanted to work with for the TC's projects and such decisions were not referred to the T&C Committee thereafter. Further, once the Panel was constituted, the T&C Committee also did not deal with awarding contracts to the consultants on the Panel for each of the 10 construction projects as such decisions were left to the MA. Its role was

limited to vetting and evaluating the tender specifications that were submitted and awarding the tender (see paragraph 78(c) of the Defence).

57. Based on my own observations and interactions with the 2 consultants, I was not surprised that FMSS awarded more consultancy contracts to LST as compared to DM. In general, over the period 2013-2015, I found project meetings with LST more focused as LST had a keen eye on a project's progress and resolution. My only sustained contact with DM came as a result of them being the appointed consultant for the Neighbourhood Renewal Program at Eunost Spring, a precinct in my constituency of Eunost within Aljunied GRC. DM did not give me the same sense of efficiency in the course of performing their work as compared to LST when I was involved in meetings with the latter. At project meetings involving DM, parties such as the contractor, architect, and project manager tended to be lackadaisical, whereas LST always appeared to be deliverable-focused and willing to take the initiative to drive matters and resolve delays expeditiously, so as to push each party to deliver on time when it came to project meetings involving them. For instance, at the 15th AHTC Meeting held on 14 February 2013, I requested the MA to give DM an ultimatum to expedite on the plan submission and preparation of tender. This is recorded at paragraph 3.4.2(b)(iii) of the Minutes, a copy of which can be found at **S/No. 913 of the CB**.
58. This impression of DM remains with me even in AHTC's recent interactions with them. On 7 March 2018, AHTC put DM on notice for unsatisfactory performance arising out of a complaint by the Project Manager of an Electricity Load Upgrading Project. The said Project Manager was from SIPM Consultants Pte Ltd (a wholly-owned subsidiary of Surbana Jurong) and he raised the issue of unnecessary delays and deficiencies in the execution of DM's professional services to the TC. I exhibit at **"TAB 2" of PS-1** a copy of an e-mail which reflect the comments of the SIPM Project Manager on DM's performance.

Appointment of Contractors Involving Punggol East ("PE")

59. PRPTC has made claims in Suit 716 in relation to the appointment of contractors involving Punggol East. These claims are denied.

60. Further, the 1st to 5th Defendants say that they acted in the honest and reasonable belief that the decisions made were made in good faith and for the best interests of the TC, even if these decisions subsequently turned out to be money-losing ones.
61. Generally, the decision on whether to renew an existing contract or to call for a new contract requires consideration of several factors. In a straightforward case, a decision may be made not to renew a contract with a vendor although there is an option to do so, because the vendor has not shown good or satisfactory performance. There are times where the decision-making process was influenced by the market forces at play then. There are instances when it was necessary to consider whether the decision to renew the contract would give AHTC a better deal by being able to negotiate a longer term contract for a lower rate at an earlier time period instead of extending the contract and calling the tender later when the cost could be much higher. Another example is if the calling of tenders were delayed to a later date, some contractors that AHTC hopes would come forward may already have committed their resources to another project such that these contractors will no longer submit a tender because they do not have the capacity to do so.

Appointment of Red-Power Electrical Engineering Pte Ltd ("**Red-Power**")

62. In terms of the appointment of Red-Power, PRPTC alleges at paragraphs 58 to 63 of the Statement of Claim in Suit 716 that:
- (a) In or around April 2012, AHTC called for a tender for the maintenance of transfer and booster pumps, automatic refuse chute flushing system and roller shutters for the Eunost division, Bedok Reservoir Road of the Bedok Reservoir Punggol division and the Kaki Bukit division. Red-Power was the sole tenderer.
 - (b) The rates offered by Red-Power for its services for the maintenance of transfer and booster pumps were higher than that of AHTC's existing contractors (i.e. Digo Corporation Pte Ltd ("**Digo**") for the Bedok Reservoir-Punggol and Serangoon divisions and Terminal 9 Pte Ltd ("**Terminal 9**") for the Kaki Bukit division). Under the existing contracts with Digo and Terminal 9, AHTC had the option to extend each of the contracts for another year at the same rates. Exhibited collectively at **S/No. 17 and S/No. 19 of the CB** are the contracts for the maintenance of transfer pumps and booster pumps with Digo and Terminal 9.

- (c) If AHTC had exercised the options to extend the contracts with Digo and Terminal 9, AHTC would have been able to make "significant savings in fees" paid for the maintenance of the transfer pumps and booster pumps.
63. After the contracts expired, AHTC did not extend the contracts with Digo and Terminal 9. I do not remember why this was the case as I was not present at the tender committee meeting on 7 June 2012. I do not recall being informed by the Contracts Department that any such option was available by way of email communication. If there were such an option, we would have expected to be told of it. As such, AHTC had called for a tender and awarded the contract to Red-Power who was the sole tenderer. The AHPETC's letter of acceptance to Red-Power and the tender evaluation report for the contract that was awarded to Red-Power can be found at **S/No. 1539 and S/No. 1781 of the CB**.
64. Further and in any event:-
- (a) The Terminal 9 and Digo contracts were for the period from 1 July 2009 to 30 June 2012. If the contractual options for both contracts were exercised, the Terminal 9 and Digo contracts would have expired on 30 June 2013 and 30 June 2014 respectively.
- (b) At the material time, the Punggol East SMC had an existing Maintenance Services contract with EM Services which only expired on 31 March 2015.
- (c) The options to extend the terms of the Digo and Terminal 9 contracts therefore do not accrue to Punggol East SMC and by extension, PRPTC.

Maintenance of transfer and booster pumps, automatic refuse chute flushing system and roller shutter: Appointment of Red-Power instead of Tong Lee for PE

65. The maintenance of transfer and booster pumps, automatic refuse chute flushing system and roller shutters for PE were initially provided by EM Services which was engaged by PRPTC. AHTC had exercised the option provided in the contract to extend the contract with EM Services to a maximum allowable period of 12 months. After the extended contract expired, AHTC did not call for a new tender / quotation for PE in respect of such services. Instead, AHTC included Punggol East under its existing contract with Red-

Power which was the contractor engaged for parts of the Aljunied-Hougang town under a contract that was awarded by AHTC on 7 June 2012 before PE was handed over to AHPETC in May 2013. This Red-Power Contract was one of the two awarded by AHTC for the maintenance of transfer pumps and booster pumps in different wards of the Aljunied-Hougang Town. The other contract was awarded to Tong Lee Engineering Works Pte Ltd ("**Tong Lee**") for the remaining parts of the Aljunied-Hougang town that were not covered by Red-Power.

66. PRPTC alleges at paragraphs 103(a) and 109(a) of the Statement of Claim in Suit 716 that:
- (a) AHPETC failed to include PE under its contract with Tong Lee and included PE under its contract with Red-Power instead even though Red-Power's rates were higher than that of Tong Lee.
 - (b) If PE had been included under the contract with Tong Lee, PE could have saved \$25,920 in fees for the period of 1 April 2015 to 31 March 2016. This is for the reasons set out below.
67. The difference in the rates as set out at paragraph 5.79 of the PwC Report for the period of 1 April 2015 to 31 March 2016 is as follows:

Transfer Pumps

Vendor	Units of Transfer Pumps in PE	Rates per unit per month	Total Cost
Red-Power	270	\$7.00	\$1,890
Tong Lee	270	\$2.00	\$540
Difference in costs per month (A)			\$1,350
Number of months affected (B)			12
Total Difference (A) x (B)			\$16,200

Booster Pumps

Vendor	Units of Booster Pumps in PE	Rate per unit per month	Total cost
Red-Power	270	\$4.50	\$1,215
Tong Lee			\$405
Difference in costs per month (A)			\$810
Number of months affected (B)			12
Total Difference (A) x (B)			\$9,720

The total costs savings are therefore $\$16,200 + \$9,720 = \underline{\underline{\$25,920}}$.

68. PRPTC's claim as abovementioned in paragraph 66 is a non-starter because Tong Lee had verbally declined to extend its coverage to include PE when asked by AHTC to do so. The reason cited for Tong Lee for declining was that it had insufficient resources to extend the coverage sought by AHPETC. This is reflected in AHPETC's records in an e-mail sent by Assistant Contracts Manager, Mr Chen Jingwen ("**Jingwen**") on 16 December 2014 to other FMSS staff including the Contracts Manager of AHPETC. The email concerned the contracts for Propell, Rentokil and Red-Power. The copy of this e-mail has what appears to be a post-it note pasted on it which records that "*Jingwen verbally contacted Tong Lee but declined to takeover due to the insufficient resources.*" A copy of Jingwen's e-mail of 16 December 2014 can be found at **S/No. 1805 of the CB**.
69. Further, we were informed by the MA that Tong Lee's performance had also been unsatisfactory for the existing wards that it covered. AHTC eventually terminated its contract with Tong Lee. Tong Lee was informed of AHTC's decision by way of AHTC's letter of 22 February 2016. This termination was due to Tong Lee's frequent failure to respond to AHTC's instructions and communications which had affected the operational requirements and services to the residents. AHTC's letter to Nat Aire Builder & Distribution

Pte Ltd (formerly known as Tong Lee) of 22 February 2016 is found at **S/No. 1806 of the CB.**

70. Despite AHTC not having Tong Lee as an alternative option at the material time, the T&C Committee continued to exercise due diligence in assessing the suitability of including PE under Red-Power. On 28 November 2014, the Contracts Manager sent the T&C Committee an e-mail at 9.41 am requesting approval to merge three contracts of Punggol East which were expiring in March 2015 with the existing contracts of AHPETC. The Contracts Manager stated that "*...The objectives are to manage these contracts more effectively and to achieve better cost efficiencies when the next new term renewal is called...*". A copy of his e-mail can be found at **S/No. 1759 of the CB.**
71. On the point made by the Contracts Manager about efficiency, this was self-explanatory as it would be more practical for the Contracts Department to be liaising with one contractor rather than two. I understood this point about better cost efficiencies to mean that an existing contractor having a larger area to manage would achieve higher cost savings when it purchased goods and services to execute its services to the Town Council in bulk. Accordingly, I replied at 10.34 am that same day to give my approval to the Contracts Manager's recommendation. A copy of my e-mail approval can be found at **S/No. 1760 of the CB.**
72. Further to the considerations raised by the Contracts Manager, including PE under the existing contract would have enabled AHPETC to call for a fresh tender upon the expiry of the existing contract for the provision of services in respect of a larger area such that further economies of scale can be enjoyed. To illustrate this, when a tender was called in January 2018 for the pest control services for AHTC, the expiring contract in Hougang division under the Pestman Pte Ltd was combined with the expiring contract for the other divisions under Rentokil Initial Singapore Pte Ltd for the Tender. As a result of the merger, the awarded tenderer's rate at 0% was lower by 20% than the rates for Hougang and the rates enjoyed by AHTC for the other divisions was maintained at the same level for a further term. Overall with the combined divisions, the TC had the benefit of cost savings.

73. In response to the Contracts Manager's email of 28 November 2014, Sylvia raised a further question in her 1 December 2014 e-mail to ask whether there were any cost differences to merge the contracts. In response, Philip confirmed that the costs were *"competitive with no significant differences as we have selected the contracts under AHPETC at 2012 price levels for item 1 & 3 and for item 2 the pricing levels from 2013 covers 5 divisions."* I also note that other TCs such as Bishan-Toa Payoh TC had also similarly constituted a panel of consultants for consultancy services for the implementation of projects in Bishan-Toa Payoh Town Council Estates for the period from 1 August 2017 to 31 October 2020. 4 consultants were appointed to this panel. A copy of this provisional tender result can be found at S/No. 88 of the CB. A copy of Sylvia's e-mail exchanges with the Contracts Manager can be found at **S/No. 733 of the CB**.

Pest Control Management Services: Including PE under the existing contract with Rentokil Initial Singapore ("**Rentokil**")

74. AHTC included PE under its existing contract for pest control services with Rentokil for the period of 1 September 2013 to 31 August 2016 with effect from 1 April 2015 upon the expiry of PE's contract with Clean Solutions Pte Ltd ("**Clean Solutions**") on 31 March 2015. PRPTC alleges at paragraph 103(b) of the Statement of Claim in Suit 716 that AHPETC did not invite a new tender or quotation upon the expiry of the contract with Clean Solutions and included PE under the contract with Rentokil as described above that this was allegedly in breach of the TCFR. These allegations are denied.
75. This contract was one of the 3 contracts highlighted by Contracts Manager in his e-mail of 28 November 2014 (see paragraph 70 above) he recommended absorbing within the existing contracts of AHPETC. As mentioned before, the reason provided by Philip, which the T&C Committee agreed with, was that doing so instead of calling for a fresh tender/quotation would allow AHPETC to manage all the wards under its control under the same contractor / contract and achieve greater efficiency and economies of scale. While AHTC may not have the benefit of being able to merge certain works with other Town Councils with the same Managing Agent as other PAP Town Councils do, AHTC could enjoy economies of scale in other forms. For example, where there is a smaller division being added onto a bigger area, the end-result will likely be lower cost for all concerned. In so doing, AHTC would then be able to call for a fresh tender for the provision of services in respect of a larger area, which may thereby invite more competitive bid. A copy of the

e-mail exchange between Jingwen and Rentokil's Mr Nicck Yeong showing that Rentokil was keen to take on AHPETC's request to extend its coverage under the existing contract can be found at **S/No. 1787 of the CB**.

Pest Control Management Services: Appointment of Rentokil instead of Pest-Pro Management Pte Ltd ("**Pest-Pro**")

76. In relation to the appointment of Rentokil on 22 August 2013 instead of Pest-Pro pursuant to the tender that was called on 12 July 2013, PRPTC alleges at paragraph 89 of the Statement of Claim in Suit 716 that AHPETC awarded the contract to Rentokil without providing any proper reasons and/or justification and that this was in breach of the TCFR. PRPTC further alleges at paragraph 109(b) of the Statement of Claim in Suit 716 that PRPTC could have saved its share of the \$2,700.21 in fees for the period 1 April 2015 to 31 August 2016 if the contract was awarded to Rentokil instead. PRPTC's allegations are misconceived.
77. On 22 August 2013, Rentokil was appointed by AHTC pursuant to a tender for pest control services called by AHTC on 12 July 2013. Tender bids were received from Rentokil and Pest-Pro and the tender was eventually awarded to Rentokil on 22 August 2013. The Tender Evaluation Report setting out the award of the contract to Rentokil can be found at **S/No. 1791 of the CB**.
78. The tender was awarded to Rentokil even though Pest-Pro had a lower rate and a higher "Price Quality Method" or PQM score. AHTC was fully aware of this at the material time. However, AHTC's reasons for awarding the contract to Rentokil was fully justified given the assessments that were made of the 2 tenderers which are stated in the Minutes of the T&C Committee Meeting held on 17 August 2013. The Rentokil tender was discussed at this meeting which was held immediately after the tender interviews of Rentokil and Pest-Pro by the T&C Committee earlier on the same day:
- (a) During the tender interview with Mr Glen Aw of Pest-Pro, he commented that "it was a learning experience" and "it was a culture shock" when he was asked about being awarded the Rat Attack contract by Bishan-Toa Payoh Town Council. This showed the T&C Committee that Pest-Pro may lack the necessary experience to run a Rat Attack programme. The contractor's ability to deal with a rat problem

was especially important to AHTC because the Property Managers of all divisions except Eunogs and Serangoon confirmed that they were facing a serious problem with rodents. This is recorded in paragraph 2 of the Minutes of the T&C Committee Meeting held on 17 August 2013.

- (b) Pest-Pro was also unfamiliar with the requirements and/or documentation that needed to be submitted to the National Environmental Agency (“NEA”) in order to make a claim for the subsidies under the “Rat Attack” programme. However, Rentokil confirmed that their clients had been successful in their NEA subsidy claims.
- (c) Rentokil’s team was more impressive as it was better qualified and included a Senior Technical and Operations Manager who had a Bachelor in Vectors and Parasite Biology and an Assistant Technical Manager who was a field biologist.
- (d) Rentokil was well-established and had gained a “Superbrand” status which is a recognition that it is an outstanding brand in its field. It has a world-wide presence and is well-known in the industry whereas Pest-Pro was only incorporated in 2010.
- (e) The difference in the tender sums for the routine work of \$641,190 with respect to Rentokil and \$628,000 with respect to Pest-Pro is only \$13,190 over a period of 2 years.
- (f) The difference in the adjustment to the Schedule of Rates for inspection, extermination and eradication of termites, bees’ nests, rodents and other pests of 26% (-26% for Pest-Pro and 0% for Rentokil) would probably not have a significant impact on the total costs because these rates only applied to ad-hoc (i.e. non-routine) work which AHTC only incur costs for when it specifically requests for them.

79. In any event, a contractor’s PQM score is not entirely determinative of the contractor’s capabilities and suitability for a particular project. The PQM score is simply one of the various factors that the Contracts Department takes into consideration when assessing contractors and thereafter awarding contracts. “PQM” stands for Price Quality Method. It

is an indicia that AHTC uses to assess the contractors that have submitted tender bids or quotations for AHTC's consideration. In preparing the tender documentation, the Contracts Department would prepare a PQM in which we would define the generic criteria that will be used to give a score to the tenderer. The PQM is usually included in the tender documentation which all the tenderers will receive a copy of such that they are aware of the Contracts Department's selection criteria. The criteria defined in a PQM would typically cover both aspects of the contractor's pricing and quality of work. The Contracts Department will then give the tenderer a score for each criterion and a total score is tallied thereafter. Exhibited hereto at **Tab 3 of PS-1** is a copy of the PQM scores for various contractors in relation to repair works to external façade and external wall for water seepage for AHTC.

80. However, using the PQM as a form of assessment is not simply a mathematical exercise because the fact that one contractor has a higher PQM score than another does not necessarily mean that the tenderer will be awarded the contract. This is because the PQM does not capture all factors or reasons that may be relevant to the awarder's specific consideration at hand. In the instance involving Pest-Pro and Rentokil for example, the PQM would not capture factors such as the contractor's familiarity with rat control programs specifically or with other documentation that the NEA would require. Other factors such as the AHTC's assessment of managing risks is also not captured by a PQM score. There are other times where the contract may not be awarded to the tenderer with the highest PQM score because it would be risky to award all contracts to that vendor which already has many existing contracts with the awarder such that risks are better spread by awarding that contract to another vendor instead.
81. As such, the PQM score is not entirely determinative and cannot be relied without more in the process of assessing the tenderers when awarding contracts. An assessment will still have to be made of other factors. Otherwise, there will be no utility in having committees such as the T&C Committee or conducting tender interviews of the tenderers. It is during such interviews that assessment of the contractor's ability can be made, such as whether they appear competent and hold themselves out to the qualifications that they or the company professes to have.

- (1) Conservancy and Cleaning Works Contract: Awarding Contract No. OT/0338/14 ("OT/0338/14") to Titan Facilities Management Pte Ltd ("Titan") through a fresh tender instead of extending the term of Contract No. PE 26 ("PE 26"); and,
 - (2) Servicing and Maintenance of Fire Protection Systems Contract: Awarding Contract No. OT/0337/14 ("OT/0337/14") to J Keart Alliances Pte Ltd ("J Keart") through a fresh tender instead of extending the term of Contract No. PE 40 ("PE 40")
82. Copies of the Tender Evaluation Report and the Minutes of the T&C Committee's Meeting on 17 August 2013 can be found at **S/No. 1789 and 1790 of the CB**. It is also clearly reflected in Paragraph 3 of the said Minutes that the members of the T&C Committee (all of whom were present at this meeting) gave its approval for the award of the tender at this meeting. In this regard, Rule 74 of the TCFR does not require all members of the T&C Committee to sign off on the Tender Evaluation Report to approve the award of the tender.
83. Titan was contracted by PRPTC under PE 26 to provide conservancy and cleaning works for PE Estate – Zone SK2 for a period of 3 years from 1 April 2012 to 31 March 2015. The contract was handed over to AHTC from 1 May 2013 onwards. The contract provided for an option to extend the contract term by an additional 12 months after its expiration on 31 March 2015 under the existing terms and conditions and at the same rates. AHPETC did not exercise the option to extend PE 26. AHPETC invited a fresh tender for the provision of conservancy and cleaning works and accordingly awarded a new contract, Contract No. OT/0338/14 ("**OT/0338/14**") to Titan for the period of 1 April 2015 to 31 March 2018. Out of the 3 tenderers that came forward, Titan tendered the lowest bid. Copies of the documents relating to Titan being awarded OT/0338/14 in 2015 (including the Tender Evaluation Report) and PE 26 earlier in 2012 can be found at **S/No. 1798 of the CB**.
84. PRPTC alleges at paragraph 109(c) of the Statement of Claim in Suit 716 that if AHPETC had exercised the option to extend PE 26 for an additional 12 months instead of calling for a new tender, PRPTC could have saved \$423,147 in fees for the period of 1 April 2015 to 31 March 2016 as Titan's rates under OT/0338/14 were higher than its rates in PE 26.
85. Similar to Titan, J Keart was contracted by PRPTC under PE 40 to provide servicing and maintenance of fire protection systems for PE constituency. Prior to PE 40 expiring on 31 March 2015, AHPETC did not exercise its option under this existing contract to extend the term of the contract for an additional 12 months. Instead, AHTC invited a new tender for

the servicing and maintenance of fire protection systems for PE constituency. Pursuant to the tender, AHTC awarded a new contract to J Keart ("**OT/0337/14**") under which J Keart's charges were higher. Of the 3 tenderers that submitted bids (i.e. J Keart, Red-Power and FYH Integrated Pte Ltd), J Keart submitted the lowest bid of \$130,320. The Tender Evaluation Report for OT/0337/14 can be found at **S/No. 1534 of the CB**.

86. PRPTC's allegations at paragraph 109(d) of the Statement of Claim in Suit 716 is that AHPETC did not exercise its option under its existing PE 40 contract with J Keart to extend the term of the contract for an additional 12 months, during which J Keart would have been bound by the contract price, Schedule of Rates and all other terms and conditions of the PE 40 and that this could have allegedly saved \$27,249.20 in fees for the period of 1 April 2015 to 31 March 2016. These allegations are denied.
87. In deciding not to extend the existing contracts with Titan and J Keart and calling a fresh tender instead, AHTC's T&C Committee relied on the Contracts Department's representation that there was no option to extend the contracts:
- (a) On 3 December 2014, the Contracts Manager e-mailed the T&C Committee to inform us that the PE 26 and PE 40 would expire on 31 March 2015 and that approval of the T&C Committee was sought to publish a tender for another term of 3 years.
 - (b) On 8 December 2014, Sylvia replied to the Contracts Manager's e-mail to ask if there was an option to extend PE 26 and PE 40.
 - (c) The Contracts Manager replied on the same day to say that there was no option to extend both PE 26 and PE 40. This email was copied to all the T&C Committee members including myself. Accordingly, the T&C Committee instructed the Contracts Manager to proceed to call for a tender. The abovementioned e-mail exchange can be found at **S/No. 735 of the CB**.
88. In any event, there is no requirement be it under the TCFR or otherwise, for AHTC to justify in writing why it chose not to exercise the option under the existing contract with Titan to extend the contract term by an additional 12 months.

89. Further, I wish to highlight that the calculations which PRPTC sets out in tables at paragraph 103(c) and paragraph 109(c) of its Statement of Claim in Suit 716 to allege that it could have saved \$423,147 in fees that were paid to Titan are incorrect.
90. For ease of reference, I set out a copy of the said table at paragraph 103(c) of the Statement of Claim:

	Contract No. PE 26	Contract No. OT/0338/14
Contract period	1 April 2012 to 31 March 2015 (36 months)	1 April 2015 to 31 March 2018 (36 months)
Contract sum	\$2,070,230	\$3,150,852
Number of Equivalent Dwelling Units ("EDUs")	9,128	8,297
Rate per EDU per month	\$6.30	\$10.55
Increase in rate	$(\$10.55 - \$6.30) / \$6.30 \times 100\% = 67\%$	

91. I also set out a copy of the table at paragraph 109(c) of the Statement of Claim:

	Contract no. PE 26	Contract no. OT/0338/14
Contract period	1 April 2012 to 31 March 2015 (36 months)	1 April 2015 to 31 March 2018 (36 months)
Contract sum	\$2,070,230	\$3,150,852
Number of Equivalent Dwelling Units ("EDUs")	9,128	8,297
Rate per EDU per month	\$6.30	\$10.55
Difference in rate per EDU per month	\$4.25	
Amount which could have been saved	12 months x \$4.25 x 8,297 EDUs = \$423,147	

92. PRPTC's calculations in the above table at paragraph 103(c) of its SOC which form the basis of its claim that Titan's rates of \$10.55 under OT/0338/14 were 67% higher than the rates of \$6.30 under PE 26 are based on the erroneous assumption that the number of equivalent dwelling units ("EDUs") for zone SK2 decreased from 9,128 (under PE 26) to 8,297 (under OT/0338/14). This is not possible because Punggol East SMC is a young, growing town. The figure of 8,297 adopted by PRPTC in the above table also fails to take into account car park lots managed under OT/0338/14. A copy of the relevant pages from the contract documents of OT/0338/14 and PE 26 can be found at **S/No. 1009 of the CB** (see Tab 7 and Tab 8 of the Bundle of Response). In fact, HDB's property master list shows that the residential units in Punggol East SMC grew from 14,677 in May 2013 (i.e. when AHTC took over Punggol East SMC) to 14,949 in April 2015 (i.e. when the new Titan contract commenced) and to 15,629 in November 2015 (i.e. just before AHTC handed over control of Punggol East SMC to the Plaintiff). A copy of HDB's property master list for May 2013, April 2015 and November 2015 can be found at **S/No. 1419 of the CB**.

Payments made under 22 invoices in November 2015 amounting to \$536,059.92

93. Where AHTC's payment processes are concerned, I am one of the co-signatories required for certain payments as one of the Vice-Chairmen of AHPETC and now Chairman of AHTC. I understand that AHTC's payment processes are dealt with in greater detail in Vincent's AEIC.
94. The payment made by AHPETC for the 22 invoices were made with sufficient supporting documents and/or evidence of work done and that the documents alleged to be missing were all handed over to PRPTC.
95. In my role as Chairman of the Town Council, I, or the Vice-Chairman, have to sign all cheques above \$50,000. In signing the cheques, I have to rely on the payment process and the officers in AHTC who were part of the process. From time to time if the payments are large, I would review the documents in greater detail. The overwhelming majority of payments involved monthly payments specific to term contracts which are fixed payments arising out of existing term-contracts that were already approved by the T&C Committee at the time when the contracts were awarded. In this regard, I refer to the approach of Mr Baey Yam Keng, MP and Vice-Chairman of a PAP TC, Tampines Town Council. In an entry that Mr Baey posted on Facebook on 16 December 2014, Mr Baey states:

"The weekly stack of documents and cheques I have to sign as town council chairman. I am unable to check through everything but I will ask questions randomly. We need to have the system in place and the right staff to do their work properly. However, ultimately, I am still responsible."

A copy of this Facebook post can be found at **S/No. 1490 of the CB**.

Payments made under 56 invoices amounting to \$674,388.70

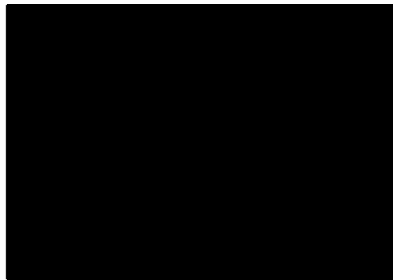
96. PRPTC alleges at paragraph 122 of its Statement of Claim that AHPETC had made payments on 56 invoices in November 2015 amounting to \$674,388.70 even though they were not properly authorised and/or certified by the Head of Department, i.e. the Property Manager, as required under Rule 56(4) of the TCFR. This allegation is incorrect. I understand that Vincent has dealt with this in his AEIC.

Conclusion

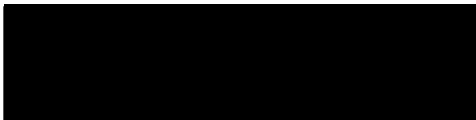
97. Notwithstanding the political ecology of the Town Councils Act, I, alongside the other Town Councillors, have always prioritised our residents' interests in the decisions that we have made. However, the Plaintiffs are seeking to penalise us for decisions that we have made in good faith, through the initiation of these suits.

98. In light of the matters stated above, I humbly urge this Honourable Court to dismiss the Plaintiffs' claims with costs.

Affirmed by the abovenamed
PRITAM SINGH
on this the 14th day of September 2018
at Singapore



Before me



A COMMISSIONER FOR OATHS

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

