

**A. INTRODUCTION**

1. The Plaintiff in Suit 668 is AHTC which acts on the instructions of an Independent Panel (“**IP**”) appointed pursuant to a consent order made by the Court of Appeal.<sup>1</sup> Pasir Ris-Punggol Town Council (“**PRPTC**”) is the Plaintiff in Suit 716.
2. The Plaintiffs allege, inter alia, that the Defendants are liable for alleged improper payments made by AHTC and “Aljunied-Hougang-Punggol East Town Council” (“**AHPETC**”) to the Managing Agent (“**MA**”) and third party contractors during the period 27 May 2011 to 27 November 2015 (the “**Review Period**”<sup>2</sup>). This is denied by the Defendants. A chronology of the key events in the matter is attached as “**Annex A**”.

**B. BACKGROUND****The Plaintiffs**

3. AHTC manages the Housing and Development Board (“**HDB**”) estates in the electoral divisions of Aljunied Group Representation Constituency (“**GRC**”) and Hougang Single Member Constituency (“**SMC**”). Aljunied GRC and Hougang SMC were won by 5 candidates from WP and a single candidate from WP respectively, in the General Elections held on 7 May 2011 (“**the 2011 GE**”). After the 2011 GE, Aljunied Town Council (“**ATC**”) and Hougang Town Council (“**HTC**”) were amalgamated on 27 May 2011 to form AHTC.
4. A by-election was held for Punggol East SMC (“**PE**”) on 26 January 2013. The WP candidate won PE. On 22 February 2013, PE became part of AHTC which then became known as AHPETC.
5. At the General Elections held on 11 September 2015 (“**the 2015 GE**”), the WP candidates were re-elected to Aljunied GRC and Hougang SMC. The People’s Action Party (“**PAP**”) won PE which then left AHPETC and became part of PRPTC on 1 October 2015. All references to AHTC will, unless the context otherwise requires, include AHPETC.

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<sup>1</sup> CA/CA 114 of 2015, See copy of Consent Order at S/No. 1560 of Core Bundle (“**CB**”).

<sup>2</sup> As defined in KPMG’s “Report on Improper Payments” dated 31 October 2016 (the “**KPMG Report**”).

6. With effect from 1 December 2015<sup>3</sup>, all property, rights and liabilities of AHPETC that related to or were connected with PE were transferred to PRPTC (the “**Transferred Undertaking**”). Any proceedings or cause of action that related to the Transferred Undertaking and that were pending or existing immediately before that date may be continued and enforced by or against PRPTC.

#### **The 1st to 3rd Defendants**

7. The 1st to 3rd Defendants, Ms Sylvia Lim, Mr Low Thia Kiang and Mr Pritam Singh respectively, are 3 of the 5 candidates from WP who contested and won Aljunied GRC in the 2011 GE. The other 2 WP candidates are Mr Muhamad Faisal bin Abdul Manap and Mr Chen Show Mao.
8. Prior to the 2011 GE, Mr Low Thia Kiang had been the MP for Hougang SMC from 1991.
9. At all material times, Ms Sylvia Lim was also the Chairman of the WP. Mr Low Thia Kiang was the Secretary-General of the WP at all material times until 8 April 2018 when Mr Pritam Singh took over as Secretary-General.
10. As stated above, Ms Sylvia Lim, Mr Low Thia Kiang and Mr Pritam Singh are all Elected Town Councillors of AHTC. Their relevant roles in AHTC are set out in the chart at paragraph 15 below.

#### **The 4th to 5th Defendants**

11. The 4th and 5th Defendants, Mr Chua Zhi Hon (also known as David Chua) (“**Mr David Chua**”) and Mr Kenneth Foo Seck Guan (“**Mr Kenneth Foo**”) respectively, are resident volunteers who became Appointed Town Councillors of AHTC on 27 May 2011. David Chua ceased to be an Appointed Town Councillor of AHTC on 1 December 2016.

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<sup>3</sup> Pursuant to the Town Councils (Declaration of Towns) Order 2015 (S 577/2015).

### The 6th to 8th Defendants

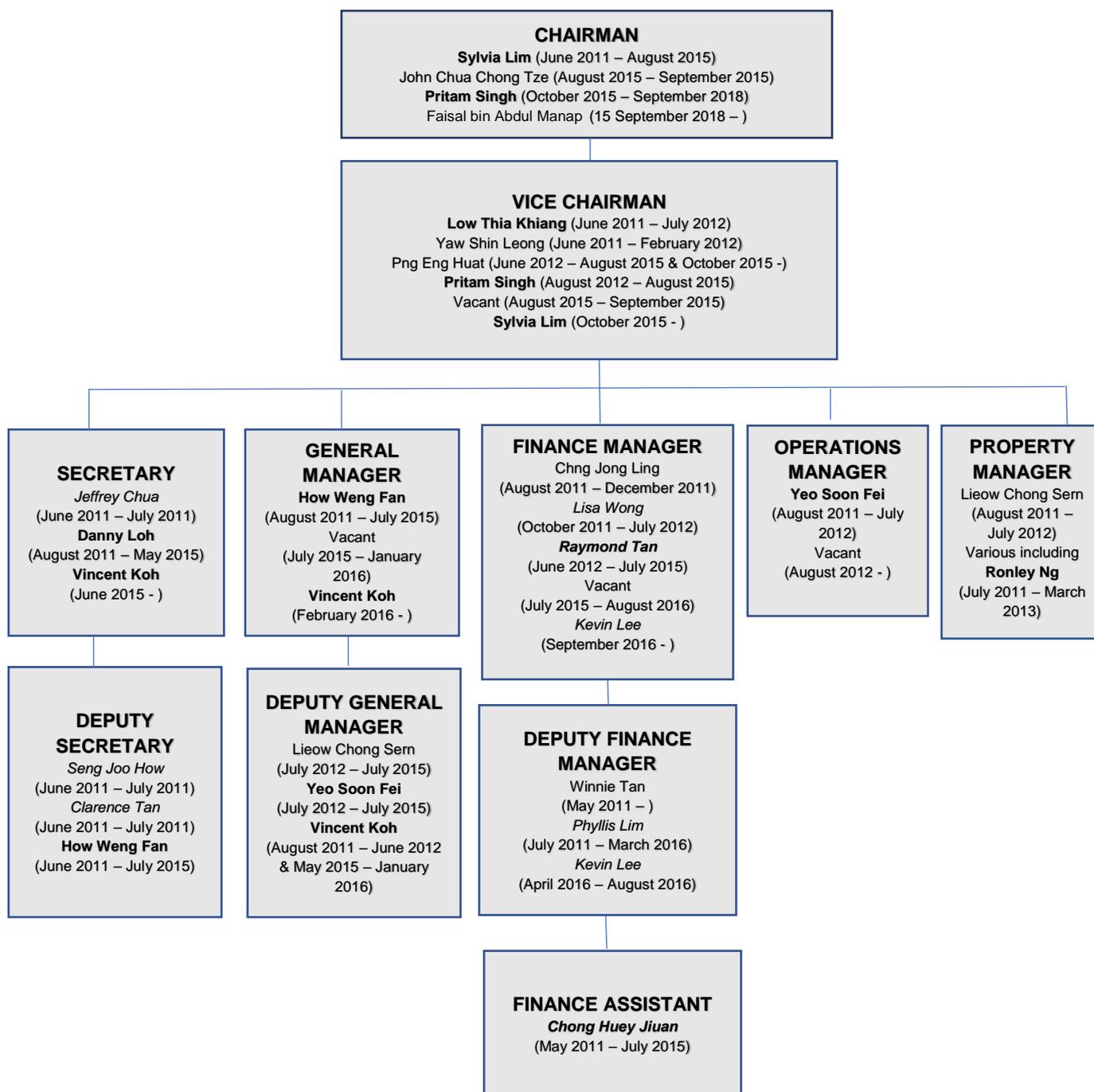
12. The 6th Defendant is Ms How Weng Fan ("**Ms How**"). She worked as the General Manager/Secretary of HTC until HTC was amalgamated with ATC on 27 May 2011. She thereafter worked as the General Manager/Deputy Secretary of AHTC. She is the widow of the late Mr Danny Loh ("**Mr Danny Loh**") and the Personal Representative of his estate.
13. The 7th Defendant is the estate of the late Mr Danny Loh who passed away on 27 June 2015. Mr Danny Loh was providing Essential Maintenance Services Unit ("**EMSU**") services for Hougang SMC between 15 October 2007 to 14 October 2012 under his sole-proprietorship, FM Solutions & Integrated Services ("**FMSI**"). He was also the Secretary of AHTC until he passed away.
14. The 8th Defendant is FM Solutions & Services Pte Ltd ("**FMSS**") which was incorporated by Mr Loh on 15 May 2011. Mr Loh was also the Managing Director and a shareholder of the 8th Defendant, until he passed away on 27 June 2015. In June 2011, Ms How and 3 others also became directors and shareholders of FMSS. FMSS was the MA of AHTC from 15 July 2011 to 14 July 2015.

### Constitution of AHTC

15. The following chart<sup>4</sup> sets out the organisational structure of AHTC and its key appointment holders. The appointment holders who are **parties and/or witnesses** in the 2 Suits are **highlighted in bold**.

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<sup>4</sup> Adapted from the chart in the KPMG Report dated 31 October 2016.



16. In addition to the above, the relevant Sub-Committee of AHTC which is referred to in the Suits is AHTC's Tenders and Contracts Committee ("**T&C Committee**"). Its members are:

- (a) Chairman, Pritam Singh;
- (b) Member, David Chua (until 1 December 2016);
- (c) Member, Kenneth Foo; and,
- (d) Member, Sylvia Lim.

### Procedural History

17. On 19 February 2014, the Deputy Prime Minister and Minister of Finance appointed the Auditor-General's Office ("**AGO**") to conduct an audit on AHPETC's financial accounts, records and books for the financial year 2012/2013 ("**the AGO Audit**"). Following the AGO Audit, the AGO released a report on 9 February 2015 ("**the AGO Report**") stating that it had found several lapses in governance and compliance with the Town Councils Act (Cap 329A, 2000 Revised Edition) ("**the TCA**") and the Town Councils Financial Rules (Cap 329A, R1, 1998 Revised Edition) ("**the TCFR**") by AHPETC.
18. On 20 March 2015, the Ministry of National Development ("**MND**") commenced proceedings<sup>5</sup> in the High Court seeking various declarations, including the appointment of independent accountants. MND's application was dismissed in its entirety by the High Court which, *inter alia*, held that MND is not entitled to seek relief under the TCA. The matter was appealed by the Attorney-General acting on behalf of the Government. On appeal, HDB was granted leave to join the proceedings as a party.
19. The Court of Appeal in its judgment<sup>6</sup> ("**CA 114**") ordered, *inter alia*, AHPETC (as it then was) to appoint accountant(s) for specific purposes as set out below:
  - (a) *AHPETC shall make all outstanding sinking fund transfer(s) within a period of three months from the date of this order or such other time as the Court of Appeal may permit upon application being made to it. Within that time, AHPETC must decide whether to accept the grants-in-aid made by the Minister or to take such other measures as it may determine, such as to raise the conservancy and service charges and/or to liquidate its investments (if any) in order to put itself in a position to make the required transfer(s).*
  - (b) *AHPETC must take steps to comply with s 35(c) of the TCA.*
  - (c) *To this end, AHPETC shall:*
    - (i) *appoint accountant(s) to*
      - (A) *assist in identifying the outstanding non-compliances with s 35(c) of the TCA and*
      - (B) *advise on the steps that must be taken to remedy those outstanding non-compliances;*

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<sup>5</sup> Originating Summons No. 250 of 2015.

<sup>6</sup> Civil Appeal No. 114 of 2015.

- (ii) require the accountant(s) to produce monthly progress reports until the accountant(s) is or are reasonably satisfied that AHPETC is fully compliant with s 35(c) of the TCA;
- (iii) ensure that the monthly progress reports, which are to be submitted to the HDB, which in turn may make these publicly available on the first day of every month (starting on 1 January 2016), provide sufficient details of
  - (A) the outstanding non-compliances with s 35(c) of the TCA, and
  - (B) the steps that AHPETC is taking to remedy those outstanding non-compliances.
- (d) Without prejudice to the generality of (c) above, the terms of reference of the accountant(s) who is/are appointed should extend to **establishing whether any past payments made by AHPETC were improper and ought therefore to be recovered.**
- (e) To ensure transparency and efficacy in the execution of these duties, the identity and, if necessary, the terms of reference of the accountant(s) to be so appointed shall be subject to the consent of the HDB, which consent shall not be unreasonably withheld and in respect of which there shall be liberty to apply.”

(emphasis added)

- 20. Pursuant to the above Order, AHTC appointed KPMG LLP (“**KPMG**”) which produced its report on 31 October 2016 (“**the KPMG Report**”).
- 21. PRPTC appointed PricewaterhouseCoopers LLP (“**PwC**”) as their accountants, and they produced their report dated 30 April 2017 (“**the PwC Report**”).
- 22. Suit 668 was commenced on 21 July 2017 by the IP. Suit 716 was commenced on 3 August 2017 by PRPTC.

**C. PRELIMINARY POINTS**

**History and Nature of Town Councils (“TCs”)**

- 23. The history and nature of TCs show that:
  - (a) TCs are institutions with a strong political dimension. They were set up to fulfil a political purpose. The elected MPs are responsible for leading the

management of the TCs. They are accountable to their constituents who voted them in<sup>7</sup>; and,

- (b) The elected MPs were given full latitude and autonomy to manage their TCs with little intervention from the Government.<sup>8</sup>

24. The Court of Appeal in CA 114 summarises the role of TCs as follows:<sup>9</sup>

*“Town councils are a somewhat unique feature of our system of local government, established to control, manage, maintain and improve the common property of our public housing estates. Almost 80% of the population of Singapore reside in or own homes in housing estates built and managed by the Housing and Development Board (“HDB”), a statutory board established in 1960 and charged with the responsibility of addressing and meeting the housing needs of the general population of Singapore. Historically, the HDB was also responsible for the maintenance and management of the common property of these housing estates. By common property, in broad terms, we refer to those parts of the estate that are not encompassed within each individual unit, such as corridors, stairs and lifts. Town councils were formed in 1989 to take over these functions from the HDB...”*

25. In the 2nd reading of the Town Councils Bill in Parliament on 29 June 1988, Mr S. Dhanabalan, the then-Minister for National Development, reiterated that TCs were to be run with little intervention from the Government. They were to be given as much latitude as possible to manage their areas, including the people they employ and the salaries and fees that the TC paid to its employees and service providers respectively:<sup>10</sup>

***“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...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...***

*The allowances for Chairman and for Town Councillors may be prescribed by the Minister. But if the full-time workers, for example, if the Chairman of a Town Council or a Town Councillor becomes a full-time Councillor, then I think it is up to the Town Council to work out what is necessary. We would not intervene in it. And if disparities arise, it will arise because of the Town Councils themselves making the decision... **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***

<sup>7</sup> AEIC of Low Thia Khiang at [13(a)].

<sup>8</sup> AEIC of Low Thia Khiang at [13(b)].

<sup>9</sup> Tab 5 of the 1st to 5th Defendants' Bundle of Authorities (“DBOA”) at [1].

<sup>10</sup> Singapore Parliamentary Debates, Official Report (29 June 1988) vol 51 at cols 441 – 444, see S/No. 1440 of CB.

*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)

26. The purpose for the creation of TCs was therefore to achieve two objectives:
- (a) First, to hand over management of the HDB estates from the HDB to the TCs which are made up of MPs for that area and their appointed members to manage alongside the residents.
  - (b) Second, it would encourage residents to vote carefully when choosing MPs as they (the MPs) would be responsible for the management of their estates.<sup>11</sup>
27. In this framework where TCs were designed to operate with as much latitude as possible, ultimately, it is for the electorate to bear the responsibility of their choice in electing the MPs who would represent them. This is simply a manifestation of the design of TCs serving as an indicator of the elected MPs' effectiveness. Parliament's purposive intent behind the TCA was also articulated by Mr S. Dhanabalan as follows:<sup>12</sup>

*"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." At the time when the HDB comes in, of course, whatever they collect from that point on will have to be used to manage the constituency, to provide the services in the constituency. And what has been misspent in the past, well, it is a loss. I think the responsibility and the onus must be very clear, and very clearly laid on the Chairman as well as on the Town Council as a whole. I think that is an important principle that we should not deviate from. If the Government holds out that this is an experiment, if you make a mess of it, we are going to come in and pick up the pieces, then I think we are not going to start off this whole project on the right basis. We should make the responsibility very clear."*

(emphasis added)

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<sup>11</sup> Singapore Parliamentary Debates, Official Report (28 June 1988) vol 51 at cols 378-381 and 388, see S/No. 1440 of CB.

<sup>12</sup> Singapore Parliamentary Debates, Official Report (29 June 1988) vol 51 at col 443-444, see S/No. 1440 of CB.

28. The above passage in paragraph 25 were referred to in CA 114 where the Court of Appeal concluded as follows:

***“50 ... In our judgment, it is evident from the debates that the Town Council was seen as a political measure that would deepen the connection between Members of Parliament (especially in their capacity as town councillors (“Town Councillors”)) and the residents they were elected to serve in their constituency. What was unquestionably clear from the debates was that neither the Town Councils nor the residents could expect that either the Government or the HDB would bail them out with financial assistance of any sort in the event a given Town Council sustained financial or other losses due to mismanagement. To this extent, it was contemplated that the residents would have to bear the consequences, even the adverse ones, of electing, as their representatives in Parliament and as those who would oversee the operations of their Town Council, persons who discharged their duties in such a way that it caused financial and other losses to their Town Council.***

***51 In our judgment, the broad philosophical thrust of the legislation was to emphasise that Town Councils would enjoy a measure of independence in the manner in which they discharged their duties but on no analysis could it be said that such latitude or independence extended to permitting them to act unlawfully or contrary to the many stipulations imposed by the TCA and the TCFR without any recourse at law. It is one thing to say that the Town Councils would have latitude in developing their plans and operations. It is entirely another thing to say on this basis that there is either no duty to comply with the TCA and the TCFR, or, which in substance comes to the same thing, that there is no remedy to speak of in the event of a breach of such a duty. Section 21(1)(f) of the TCA casts upon Town Councils the duty to comply with the provisions of the TCA and the rules made thereunder, and the TCA is replete with provisions that impose obligations of proper governance on the Town Council. Brief reference may be made in this connection to ss 21 and 33–38 of the TCA which set out the obligations of a Town Council to manage its funds as well as the estate under its charge properly. Indeed, taken together with the provisions of the TCFR, it is simply unarguable that there is nothing to constrain the governance of the Town Councils.***

***52 In our judgment, it is clear from this that such latitude or independence was to be exercised subject to the safeguards that were incorporated in the TCA and the TCFR. But having accorded this degree of independence and latitude on the Town Council, the residents would have to bear the consequences of this. What this means in particular, as we have already noted, is that they would not be entitled to expect the Government to bail them out in the event of mismanagement.”***

(emphasis added)

29. It is against this backdrop that the present suits have been commenced.

### **The Legislation**

30. The TCA and TCFR reflect the political nature of TCs. The elected MPs are given as much latitude as possible to run TCs within broad and general rules laid down in the TCA and TCFR to ensure proper governance and safeguard public interest. This was

stated by the MND in the MND Town Council Review Report dated 30 April 2013 (“**the MND Report**”)<sup>13</sup> 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)

31. The self-contained nature of the TCA and the TCFR is evident in the provisions setting out the duties owed by the Town Councillors and the remedies for the breach of such duties. These provisions are set out and discussed at paragraphs 53 to 54 under Issue (I) below. The Court of Appeal in CA 114 held that “*such latitude or independence was*

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<sup>13</sup> MND Town Council Review Report dated 30 April 2013, S/No. 1075 of CB.

to be exercised subject to the safeguards that were **incorporated in the TCA and the TCFR.**<sup>14</sup>

32. The Court of Appeal also explicitly recognized that under the TCA, it was not for the Court to step into the shoes of the TC or to substitute its own decisions for those of the TC in question as to how the various requirements and duties are to be carried out:<sup>15</sup>

**“What can the court do?”**

**85 The answer to this is circumscribed by the terms of s 21(2) of the TCA which provides that an interested person may apply to the High Court for “an order compelling the Town Council to carry out the requirement or perform the duty”, and s 21(3) of the TCA which provides that on such application, the High Court may “make such order as it thinks proper”.** Relying on the wide terms of s 21(3) of the TCA, Ms Kam [on behalf of the AG] submitted that the court has power not only to compel the Town Council to carry out the requirement or perform the duty in question but also to prescribe the manner in which this should be done. She submitted that the court’s power is not constrained such that it can only grant a mandatory order, but can do whatever is necessary to remedy the breach of statutory duty, including in the present context, appointing independent accountants to step in and do what is necessary to ensure compliance (see prayer 3 at [17] above).

86 As against this, Mr Low [representing AHTC] submitted that under s 21 of the TCA, the court only has the power to order AHPETC to abide by the provision or declare that it has not done so. As Mr Low put it, all the court can do is to declare that the Town Council is obliged to carry out the duty or requirement in question and perhaps also that the Town Council is and has been in breach of this requirement or duty.

87 In our judgment, there are difficulties with both sets of contentions. **While we accept that s 21(3) is drafted in wide terms, we do not consider that the intention underlying that section was for the court to step into the shoes of the Town Council or to substitute its own decisions for those of the Town Council in question as to how the various requirements and duties are to be carried out.** The nature of the orders that were sought by the HDB in effect extended to the court taking steps to see to it that the specified duties were carried out in a particular way by an actor, namely, the independent accountants who, Ms Kam submitted, would be acting on behalf of and be accountable to the court as its agents for the conduct of those duties. **In our judgment, this reveals the flaw in the argument because it is inconceivable that the court could be put in such a position in a matter that involved an aspect of local government.** On the other hand, Mr Low’s contention reduced the court to an irrelevant and ultimately toothless observer. As we pointed out to Mr Low, the issue was not one of the Town Council being unaware of its duties so that it needed to be reminded of them by the court. Hence, here again we are driven to construe the provisions of ss 21(2) and (3) to determine just what the court may do in a situation such as this.”

(Words in square brackets and emphasis added)

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<sup>14</sup> Tab 5 of the DBOA, at [52].

<sup>15</sup> Tab 5 of the DBOA, at [85]-[87].

33. It is trite law that the court will not examine the merits of the administrative decision made as this will involve a court second-guessing the said decision. This position was set out at [10.037] of *Halsbury's Laws of Singapore (2017, Reissue (Vol. 1) LexisNexis)*:<sup>16</sup>

*"... Where an authority is vested with a discretion in carrying out an administrative function, the courts ensure the power is exercised within the boundaries of the discretion entrusted to it, and for the purposes intended. This enables them to investigate the manner in which the discretion was exercised, and the motives for its exercise. **They decline, however, to examine the merits of an administrative decision, as this will involve a court substituting its own view for that of an authority.**"*

(emphasis added)

### **Lack of Personal Knowledge**

34. The main claims in the 2 Suits are the claims made in Suit 668. This Suit was commenced by the IP in the name of AHTC. The IP comprises of 3 members, Mr Philip Antony Jeyaretnam, SC, an Advocate & Solicitor and Chairman of the IP, Mr N Sreenivasan, an Advocate & Solicitor, and Mr Ong Pang Thye, the Managing Partner of KPMG, an accounting firm.
35. PRPTC's action in Suit 716 is purportedly to recover sums due to PE when it was in AHPETC. Suit 716 is commenced presumably at the direction of the current Town Councillors of PRPTC.
36. It will thus be immediately apparent that the 2 Suits have been commenced and maintained by parties who have no personal knowledge of the material facts which form the basis of the claims in the 2 Suits. The legal proceedings are being maintained on the sole basis of the Accountant's Reports prepared by KPMG and PwC. The makers of these Reports also do not have personal knowledge of the relevant facts and circumstances then existing<sup>17</sup> which caused the 1st to 5th Defendants to act in the manner which they did. It bears highlighting that the decisions and actions of the Town Councillors, which are being impugned in the 2 Suits, were made unanimously by the Town Councillors either at the Town Council Meetings or the meetings of the T&C Committee.

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<sup>16</sup> Tab 16 of the DBOA.

<sup>17</sup> During the Review Period from 27 May 2011 to 27 November 2015.

**D. THE PLAINTIFFS' CLAIMS****Suit 668**

37. In Suit 668, AHTC claims the following:

- (a) Alleged improper payments made to FMSS and FMSI in respect of FMSS's appointment as Managing Agent ("**MA**") under 2 MA Contracts and 2 EMSU Service Contracts and the appointment of FMSI for an EMSU Service Contract. AHTC had paid to FMSS a total sum of \$33,275,335 as MA fees (including project management fees) and EMSU charges during the period from July 2011 to July 2015. AHTC had also paid FMSI a sum of \$442,200 for EMSU charges. AHTC has made a total claim of **\$33,717,535 (\$33,275,335 + \$442,200)** ("**\$33.7 million**"). This is set out in the table<sup>18</sup> below:

<b>S/No.</b>	<b>Description</b>	<b>Amount</b>
1.	FMSS's fees for 1st MA Contract for the period from 15 July 2011 to 14 July 2012.	\$5,447,603
2.	FMSS's fees for 1st EMSU Contract for the period from 1 October 2011 to 30 June 2012.	\$583,641
3.	FMSS's fees for 2nd MA Contract for the period from 15 July 2012 to 14 July 2015.	\$23,654,053
4.	FMSS's fees for the 2nd EMSU Contract from 1 July 2012 to 30 June 2015.	\$4,354,517
5.	FMSI's fees for the EMSU Contract for the period from 15 October 2007 to 14 October 2012.	\$442,200
6.	Less unpaid fees	(\$764,479)
7.	<b>Total paid to FMSS and FMSI:</b>	<b>\$33,717,535</b>

- (b) Payments to LST Architects for provision of consultancy services for construction projects in Aljunied, Hougang and Punggol East constituencies.<sup>19</sup> AHTC had allegedly made an overpayment of **\$2,794,560** ("**\$2.7 million**") to LST Architects for 7 construction projects which AHTC claims should have been awarded to another firm of architects, Design Metabolists ("**DM**") whose charges would allegedly have been lower. This is set out in the table<sup>20</sup> below:

<sup>18</sup> Based on information pleaded in the Suit 668 Statement of Claim ("**SOC**") at [5.3.2].

<sup>19</sup> The 1st to 5th Defendants deny that LST Architects' fees were charged to Punggol East constituency. See AEIC of Sylvia Lim at [216].

<sup>20</sup> Based on the table set out in the Suit 668 SOC at [5.4.8].

S/No.	Contract Number of Construction Project	Sums paid to LST Architects	Alleged Sums payable, if DM had been appointed	Alleged Additional Cost of Appointing LST Architects over DM
1.	OT/285(A)/12	\$509,087	\$210,000	\$299,087
2.	OT/285(B)/12	\$673,767	\$210,000	\$463,767
3.	OT/307/13	\$393,750	\$210,000	\$183,750
4.	OT/316/13	\$584,745	\$210,000	\$374,745
5.	OT/322/14	\$71,500	\$57,000	\$14,500
6.	OT/303/13			
7.	OT/331/14	\$1,668,711	\$210,000	\$1,458,711
8.	<b>Total Alleged Overpayment:</b>			<b>\$2,794,560</b>

38. AHTC's purported causes of action for its claim for \$33.7m in Suit 668 are based on the following:
- (a) Against Ms Sylvia Lim and Mr Low Thia Kiang for alleged breach of fiduciary duties and duty of care and skill in tort.
  - (b) Against Ms How and Mr Loh for alleged dishonest assistance of Ms Sylvia Lim and Mr Low Thia Kiang in their breach of fiduciary duties and for alleged breach of their own fiduciary duties owed to AHTC.
  - (c) Against FMSS and FMSI for alleged knowing receipt and/or dishonest assistance.
39. AHTC's purported cause of action for its claim for \$2.7m is based on breach of an alleged duty of care in tort by Ms Sylvia Lim, Mr Pritam Singh, Mr David Chua and Mr Kenneth Foo.

### **Suit 716**

40. PRPTC's allegations in its Statement of Claim cover the following:
- (a) Payment of **\$92,000** to FMSS under Invoice FMSS/0601 for MA Services for Hougang SMC for the month of June 2011.<sup>21</sup>

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<sup>21</sup> Suit 716 SOC at [28].

- (b) Payment of **\$515,773** to FMSS under the 1st MA Contract which is allegedly the higher cost of engaging FMSS as compared to CPG Facilities Management Pte Ltd ("**CPG**") as MA.<sup>22</sup>
- (c) Payment of **\$347,265** to FMSS between 1 October 2011 to 30 June 2012 (based on \$38,585 per month for 9 months) pursuant to the 1st EMSU Contract.<sup>23</sup>
- (d) Payment of **\$16,752,314** and a separate **project management fee of 3.5%** of the value of projects managed to FMSS between 15 July 2012 to 14 July 2015 pursuant to the 2nd MA Contract, and payment of **\$3,972,816** to FMSS between 1 July 2012 to 30 June 2015 (i.e. \$110,356 per month for 36 months) pursuant to the 2nd EMSU Contract.<sup>24</sup>
- (e) Payment of **\$2,689,434.15** to FMSS between 15 July 2011 and 24 January 2013 pursuant to the 1st and/or 2nd MA Contract and/or the 1st and/or 2nd EMSU Contracts in circumstances where there was allegedly no meaningful oversight by AHTC.<sup>25</sup>
- (f) Calling a tender in or around April 2012 and appointing Red-Power on 7 June 2012 for the period of 1 July 2012 to 30 June 2015 instead of exercising the option to extend the existing contracts with Digo Corporation Pte Ltd ("**Digo**") and Terminal 9 Pte Ltd ("**Terminal 9**").<sup>26</sup> PwC has alleged that the cost for maintenance of transfer pumps for Red-Power were at rates that were higher by **607%** and **775%** for Digo and Terminal 9 respectively. PwC further alleges that the cost for maintenance of booster pumps for Red-Power were at rates that were higher by **508%** and **463%** for Digo and Terminal 9 respectively.
- (g) Alleged improper payment of **\$2.7 million** which is the alleged higher cost paid to LST Architects.<sup>27</sup>

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<sup>22</sup> Suit 716 SOC at [39(h)].

<sup>23</sup> Suit 716 SOC at [41].

<sup>24</sup> Suit 716 SOC at [47].

<sup>25</sup> Suit 716 SOC at [53].

<sup>26</sup> Suit 716 SOC at [59] and [62] and PwC Report at [5.69].

<sup>27</sup> Suit 716 SOC at [71].

- (h) Payment of **\$20,610,049.12** to FMSS between 29 January 2013 and 14 July 2015 pursuant to the 2nd MA Contract and/or the 2nd EMSU Contract.<sup>28</sup>
- (i) Calling a tender in or around 12 July 2013 and appointing Rentokil Initial Singapore Pte Ltd ("**Rentokil**") for the period of 1 September 2013 to 31 August 2016 instead of Pest-Pro Management Pte Ltd ("**Pest-Pro**"). The alleged loss arising from the difference between the higher amount paid to Rentokil as compared to Pest-Pro is **\$2,700.21**.<sup>29</sup>
- (j) Alleged losses arising from higher rates charged by contractors appointed by AHPETC as follows:
- (i) A sum of **\$25,920** assuming AHPETC included PE under the contract with Tong Lee Engineering Works Pte Ltd instead of Red-Power Electrical Engineering Pte Ltd for the period from 1 April 2015 to 31 March 2016.<sup>30</sup>
- (ii) A sum of **\$423,147** assuming AHPETC had extended its existing contract with Titan Facilities Management Pte Ltd ("**Titan**") for conservancy and cleaning works for PE instead of calling a new tender and awarding a new contract to Titan for the period from 1 April 2015 to 31 March 2016.<sup>31</sup>
- (iii) A sum of **\$27,249.20** assuming AHPETC had extended its existing contract with J Keart Alliances Pte Ltd ("**J Keart**") for servicing and maintenance of fire protection systems for Punggol East Constituency instead of calling a new tender and awarding a new contract to J Keart for the period from 1 April 2015 to 31 March 2016.<sup>32</sup>
- (k) Alleged improper payments of **\$536,059.62** to third parties under 22 invoices in November 2015.<sup>33</sup> However, PRPTC's claim is now only in respect of 12 invoices totalling **S\$171,112.62**.<sup>34</sup>

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<sup>28</sup> Suit 716 SOC at [82].

<sup>29</sup> Suit 716 SOC at [87] to [90], [109(b)].

<sup>30</sup> Suit 716 SOC at [103(a)] and [109(a)].

<sup>31</sup> Suit 716 SOC at [103(c)] and [109(c)].

<sup>32</sup> Suit 716 SOC at [103(d)] and [109(d)].

<sup>33</sup> Suit 716 SOC at [116].

<sup>34</sup> AEIC of Goh Thien Phong at [61].

- (l) Alleged improper payments of **\$674,388.70** to third parties under 56 invoices in November 2015.<sup>35</sup>

**E. THE ACCOUNTANTS' REPORTS**

41. The KPMG Report forms the genesis and sole basis for the claims by AHTC while PRPTC's claims are based on both the KPMG Report and the PwC Report.
42. The following highlights the key observations made by KPMG in its Report:
- (a) AHTC's appointment of FMSS and FMSI exposed the TC "*to serious conflicts of interest as the direct owners of FMSS and FMSI (with a profit motive) concurrently held key management and financial control positions in the [TC] (charged with a service motive).*"<sup>36</sup> It proceeds to define such persons as "Conflicted Persons".<sup>37</sup>
  - (b) The Town Councillors allegedly "*relinquished an unacceptably high degree of responsibility to the Conflicted Persons.*"<sup>38</sup>
  - (c) Alleged "*payments with an aggregate financial value of at least SGD23m involved approvals by the Conflicted Persons of payments in effect to themselves through payment vouchers.*"<sup>39</sup>
  - (d) "*In the context of these serious conflicts of interests and the failed control environment, there was a series of improper payments to FMSS and FMSI... Such improper payments have an aggregate financial value of approximately SGD1.5m, of which at least **SGD0.6m** ought to be recovered by the Town Council.*"<sup>40</sup>
  - (e) The "*tender process for FMSS's initial appointment was waived without proper justification, For the Second Managing Agent Contract, the Town Council failed*

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<sup>35</sup> Suit 716 SOC at [122].

<sup>36</sup> KPMG Report at [1.4.2].

<sup>37</sup> KPMG Report at pg (iii).

<sup>38</sup> KPMG Report at [1.4.4].

<sup>39</sup> KPMG Report at [1.4.8].

<sup>40</sup> KPMG Report at [1.4.9].

to a) apply itself effectively to securing competitive rates, and b) address the serious conflicts of interest in FMSS's relationship with the Town Council."<sup>41</sup>

- (f) FMSS was allegedly more expensive than the former MA of ATC. The increase in MA costs under the 1st MA was approximately S\$0.5m and under the 2nd MA was S\$0.7m.<sup>42</sup>
- (g) In relation to payments made to third-party vendors such as consultants, contractors and vendors (other than FMSS and FMSI), KPMG only identified an alleged sum of **S\$1,965** that in their view ought to be recovered from payments totalling S\$5,409,123.<sup>43</sup>
- (h) *"In most instances, it is clear that services have been rendered or goods supplied but due to the nature of the Control Failures, coupled with the lack of other objective records or documents, it is often impossible to ascertain whether these improper payments ought to be recovered, and to what extent."*<sup>44</sup>

43. In respect of the PwC Report, PwC has stated that it limited itself to matters that were not already covered in the KPMG Report and did not perform a "full review".<sup>45</sup> PwC made the following conclusions based on its limited review:<sup>46</sup>

- (a) The circumstances surrounding the award of the 1st MA Contract to FMSS, and the terms of both the 1st and 2nd MA Contracts, have allegedly put the propriety of all payments made under the two MA Contracts to FMSS into question. PwC alleged that it is for FMSS to fully account for all the payments received under the MA Contracts.<sup>47</sup>
- (b) The alleged total costs savings that the AHTC could have saved amount to **\$506,562.06**, where tenders were awarded to a single bidder, tenders were not awarded to the lowest priced bidder and contracts were not extended to the

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<sup>41</sup> KPMG Report at [1.4.11].

<sup>42</sup> KPMG Report at [1.4.12].

<sup>43</sup> KPMG Report at [6.1.4].

<sup>44</sup> KPMG Report at [1.5.5].

<sup>45</sup> KPMG Report at [1.13].

<sup>46</sup> PwC's Past Payments Review Report dated 30 April 2017 ("**PwC Report**") at [3.1.3].

<sup>47</sup> PwC Report at [1.36(b)].

maximum allowable period (resulting in AHTC allegedly paying a higher price).<sup>48</sup>

- (c) Alleged payments totalling **\$1,240,395.30** were made in the following circumstances:
  - (i) without supporting evidence of work done (\$536,059.92);
  - (ii) where payment documents were not approved by the appropriate persons (\$680,559.18); and
  - (iii) where documents were not approved on a timely basis (\$23,776.25).<sup>49</sup>
- (d) Alleged common expenses wrongly allocated to PE were tantamount to improper payments.<sup>50</sup>

- 44. It would be apparent from the above that the allegations in the pleadings in the 2 Suits are not entirely supported by the KMPG and PWC Reports.
- 45. KPMG has stated that it is for the management team running the TC's operations that can determine the loss suffered by AHTC and pursue the recovery of that loss.<sup>51</sup> PwC has stated that it is for FMSS to fully account for all the payments received under the MA Contracts and to justify these payments.<sup>52</sup>
- 46. Although KPMG and PwC did not find impropriety in most of the payments that were made during the Review Period, AHTC and PRPTC have asserted in their Suits that it is for the Defendants to account for all these payments. In other words, the presumption is that all payments are improper unless the 1st to 5th Defendants can show otherwise. This shifting of the evidential burden has been described by AHTC and PRPTC as occurring upon establishing a breach of fiduciary duties and where there is some evidence to connect the loss to the breach.<sup>53</sup> These allegations are misconceived and are dealt with at paragraphs 112 to 113 below.

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<sup>48</sup> PwC Report at [5.110(e)].

<sup>49</sup> PwC Report at [5.122] to [5.136].

<sup>50</sup> PwC Report at [5.158].

<sup>51</sup> KPMG Report at [5.2.21].

<sup>52</sup> PwC Report at [5.48(b)].

<sup>53</sup> SLB's Submissions for HC/SUM 3472/2018 at [3.2.2] and D&N's Submissions for HC/SUM 3482/2018 at [53].

**F. ISSUES**

47. The issues in this matter were generally set out in the respective “List of Agreed /Non-Agreed Issues in HC/S 668/2017” and “List of Agreed/Non-Agreed Issues in HC/S 716/2017” both filed on 23 May 2018 by the Plaintiffs. The 1st to 5th Defendants propose to deal with all the issues under the following 7 headings:

- (I) Whether the 1st to 5th Defendants as Town Councillors owe fiduciary duties to the Town Council.**
- (II) Whether the appointments of FMSS and FMSI and the payments totalling \$33.7 million to FMSS and FMSI were improper.**
- (III) Whether the appointment of LST Architects for 7 construction projects and the payments made to LST Architects were improper.**
- (IV) Whether the appointments and payments made to third party contractors were improper.**
- (V) If any of the appointments and/or payments were improper as alleged, whether the 1st to 5th Defendants had acted in good faith and are therefore not liable.**
- (VI) Whether any of the Plaintiffs’ claims are time-barred under the Limitation Act.**
- (VII) Whether the Plaintiffs are entitled to the reliefs as pleaded.**

**ISSUE (I) Whether the 1st to 5th Defendants as Town Councillors owe fiduciary duties to the Town Council.**

48. As stated above, TCs were designed to operate with as much latitude as possible and it is for the electorate to bear the responsibility of their choice in electing the MPs who would represent them. It is critical to bear this in mind in considering the obligations of the 1st to 5th Defendants as Town Councillors.

**Duties of Town Councillors and the Remedies for Breaches under TCA and TCFR**

49. As Town Councillors, the 1st to 5th Defendants owe statutory duties as provided for in the TCA and TCFR. There is no basis for implying common law fiduciary duties on the 1st to 5th Defendants over and above the duties set out in the TCA and TCFR given that the relationship between the TC and the Town Councillors is one that is created entirely by statute. A review of the provisions in the TCA and TCFR show that they are self-contained legislations which set out the duties owed by the Town Councillors to the Town Council and the remedies for the breaches of such duties.
50. In the TCA:
- (a) Section 10 sets out the duties of the Chairman and Vice-Chairman in presiding at meetings and performing such other duties as are prescribed in this Act.
  - (b) Section 20 states that a Secretary shall be responsible to the Town Council for the proper administration and management of the functions and affairs of the Town Council in accordance with this Act.
  - (c) Section 33(6A) states that where a Town Council is guilty of an offence under subsection (6)(a), (aa) or (b) relating to the disbursement of moneys from any sinking fund, lift replacement fund or the Town Council Fund, it shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000. Section 33 (6B) goes on to state that where that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of its chairman or secretary, or any person who was purporting to act in any such capacity, he, as well as the Town Council, shall also be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
  - (d) Section 52 states that no suit or other legal proceedings shall lie personally against any member, officer or employee of a Town Council or other person acting under the direction of a Town Council for anything which is in good faith done or intended to be done in the execution or purported execution of this Act or any other Act.

51. In the TCFR, officers are held liable for breaches of the rules under the following provisions:
- (a) Section 21(1) states that all collections received by authorised officers must be deposited as soon as possible in the safe or vault provided for the purpose, or paid into a bank account of the Town Council; and negligence in this respect will place the entire responsibility for any loss upon the officer concerned.
  - (b) Section 56(1) and (2) states that any officer allowing or directing any disbursement without proper authority shall be responsible for the amount. Further, in the event of any wrongful payment being made in consequence of an incorrect certification on a voucher, the certifying officer shall be responsible for the wrongful payment.
  - (c) Section 104(1) and 105 states that if any loss is due to the negligence or fault of any officer or Committee authorised by the Town Council, that officer or Committee may be liable, upon such negligence or fault being reported, to be surcharged with all or any part of the loss. Where there is no negligence or fault, the amount lost may be written-off.

### **No Fiduciary Duties**

52. The distinguishing obligation of a fiduciary is the obligation of loyalty. This was set out by the Singapore Court of Appeal in Tan Yok Koon v Tan Choo Suan and another and other appeals [2017] 1 SLR 654<sup>54</sup> at [192]:

*“192 This brings us to the first important principle of fiduciary law, which is that the hallmark of a fiduciary obligation is that the fiduciary is to act in the interests of another person. A brief summary of what this entails can be found in Millett LJ’s speech in the English Court of Appeal decision of Bristol and West Building Society v Mothew [1998] Ch 1 (“Bristol”) at 18A–18C:*

*... A fiduciary is someone who has undertaken to act for or on behalf of another in a particular manner in circumstances which give rise to a relationship of trust and confidence. The distinguishing obligation of a fiduciary is the obligation of loyalty. The principal is entitled to the singleminded loyalty of his fiduciary. This core liability has several facets. A fiduciary must act in good faith; he must not make a profit out of his trust; he must not place himself in a position where his duty and his interest may conflict; he may not act for his own benefit or the benefit of a third person without the informed consent of his principal. This is not intended to be an exhaustive list, but it is sufficient to indicate the nature of fiduciary obligations. They are the*

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<sup>54</sup> Tab 13 of the DBOA.

*defining characteristics of the fiduciary. As Dr. Finn pointed out in his classic work *Fiduciary Obligations* ..., he is not subject to fiduciary obligations because he is a fiduciary; it is because he is subject to them that he is a fiduciary.*"  
(emphasis added)

53. Given the fundamental obligation of loyalty of a fiduciary, applying fiduciary concepts in the sphere of public law is fraught with doctrinal difficulties. This was explained in an article "*The False Promise of Fiduciary Government*" by Seth Davies as follows:<sup>55</sup>

*"... Two principles animate fiduciary law. **First, private fiduciaries owe a single beneficiary or a discrete class of beneficiaries a duty of undivided loyalty. It is difficult, however, to specify how politicians and bureaucrats are fiduciaries for a discrete class of beneficiaries. Second, in discharging her duties, the fiduciary must pursue one or a set of agree-upon ends, which are measured by a specific set of doctrinal maximands. By contrast, in public law there is no agreement upon specific maximands.** This distinction is significant because the existence of a rough consensus on specific ends mediates between the general, indeterminate concepts of "loyalty" and "care" and the outcomes that courts reach in fiduciary litigation. As a result, the thick analogy between private fiduciaries and public officials fails as a formal matter, whether the analogue is the parent-child, trustee-beneficiary, or corporate manager-shareholder relationship."*

(emphasis added)

54. The Court of Appeal in CA 114 cited with approval the House of Lord's decision in *Swain v The Law Society* [1983] 1 AC 598 where the Law Society, acting on behalf of all solicitors required to be insured, took out insurance to provide indemnity against loss arising from claims made against solicitors in respect of liability for professional negligence. The plaintiffs, who were solicitors, argued that the Law Society was accountable for the share of the commission it secured from the brokers. The argument turned on whether the Law Society was a trustee for the solicitors in respect of their share of the commission. The House of Lords said it was not, holding that the Law Society was performing a public duty in exercising the power conferred on it by the statute, for which there was no remedy in breach of trust or equitable account, and on that basis, the Law Society was not liable.<sup>56</sup>

*"...if a public duty is breached, there is the remedy of judicial review. There is no remedy in breach of trust or equitable account. The latter remedies are available and available only, where a private trust has been created ...**The duty imposed on the possessor of a statutory power for public purposes is not accurately described as fiduciary because there is no beneficiary in the equitable sense.**"*

(emphasis added)

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<sup>55</sup> Seth Davies, "*The False Promise of Fiduciary Government*" 89 Notre Dame L. Rev. 1145, see Tab 14 of the DBOA.

<sup>56</sup> Tab 12 of the DBOA, at pg. 618E-F.

55. In CA 114, the Court of Appeal was concerned with, *inter alia*, the issues of what remedies avail an interested party when the TC fails to act in accordance with the TCA and TCFR and who may apply for relief in such circumstances and what are the limits of the court's power to act<sup>57</sup>. The Court in applying *Swain* concluded that ***“any remedy for any failure to apply any such money in accordance with the TCA must rest in the TCA as a matter of public law and be based upon it.”***<sup>58</sup>

56. In dealing with MND's application, the Court of Appeal in CA 114 construed Section 21(2) of the TCA which is as follows:<sup>59</sup>

***“Duties of Town Council***

21. –

...

*(2) Where a requirement or duty is imposed on a Town Council by this section, the Board or any person for whose benefit, or for the benefit of whose flat that requirement or duty is imposed on the Town Council, may apply to the High Court for an order compelling the Town Council to carry out the requirement or perform the duty, as the case may be.”*

57. The Court of Appeal in dealing with the issue of whether MND is entitled to rely on Section 21(2) held that MND's position must be construed by reference to the TCA and not on the application of private law concepts.<sup>60</sup>

***“...The entire relationship between the MND and AHPETC arises out of the TCA, and can only be analysed by reference to the TCA. There may be recourse available to the MND as provided in the statute, such as pursuant to s 50 of the TCA. The MND may also be able to apply for judicial review, subject to the usual legal prerequisites that apply in the context of such applications. But we do not think that it can fundamentally alter the very basis of the relationship from one founded in and regulated by statute to one in trust, agency or any other private law concept. It is not appropriate, on the facts of the present case, to add such private law overlays to the statutory relationship between the Minister and the Town Councils. Indeed, there is nothing at all in the TCA to suggest otherwise. This also forecloses the MND's alternative contention based on a legal interest pursuant to a contractual mandate and a beneficial interest under a Quistclose trust.”***

(emphasis added)

58. KPMG, though not part of its ambit, has ventured to comment on the issue of the duties owed by the 1st to 5th Defendants as Town Councillors. KPMG refers to case law in apparent support of its claim that Town Councillors are public officers, who are fiduciaries to the government generally and the public at large. These statements

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<sup>57</sup> Tab 5 of the DBOA, at [1].

<sup>58</sup> Tab 5 of the DBOA, at [128].

<sup>59</sup> Tab 2 of the DBOA.

<sup>60</sup> Tab 5 of the DBOA at [123].

misrepresent the law. They are unsupported by the authorities cited as will be shown below.

59. At Paragraph 4.5.2 of KPMG's Report, *R v Whitaker* [1914] 3 KB 1283<sup>61</sup> ("*Whitaker*") was cited as authority for the proposition that public officers are fiduciaries to the public at large. This is misconceived. Firstly, the Court in *Whitaker* does not even deal with the issue of whether public officers are fiduciaries. It is also incorrect to rely on *Whitaker* as an authority for whether Town Councillors are public officers. *Whitaker* was a case concerning a lieutenant-colonel's conviction for conspiracy in having accepted monies as an inducement, in violation of his official duty, to show favour to certain contractors. In disagreeing with the appellant's submission that the lieutenant-colonel was not "a public and ministerial officer", the English Court of Appeal held that "a public officer is an officer who discharges any duty in the discharge of which the public are interested, more clearly so if he is paid out of a fund provided by the public." However, Town Councillors such as the 1st to 5th Defendants are not public officers. This is the position of the executive as stated by MND:<sup>62</sup>

*"... The members, officers and employees of a TC and all employees of its managing agent are not public officers, although they are given the same powers as public officers to enable them to perform their duties under the Town Councils Act."*  
(emphasis added)

60. Further, Section 56 of the TCA which provides that "all members, officers and employees of a Town Council and all employees of its managing agent shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224)" is not meant to impose an additional burden on Town Councillors, but to protect them in the discharge of their duties, as clarified by Mr S. Dhanabalan, the then Minister for National Development, in Parliament on 29 June 1988 during the Parliamentary debates on the Town Councils Bill:<sup>63</sup>

*"...In the discharge of their duties, they will be considered as public servants under the Penal Code. This means that anybody furnishing false information to a Town Councillor or anybody causing obstruction to a Town Councillor in the course of carrying out his duties, or threatening a Town Councillor will be liable to be prosecuted under the Penal Code, just as if the Town Councillor were a public servant. So it is not meant in any way to put an additional burden on the Town Councillor but it is really meant to protect the Town Councillor in discharging of his duties."*  
(emphasis added)

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<sup>61</sup> KPMG Report at [4.5.2].

<sup>62</sup> MND Report at [4] of the main body of the Report, and KPMG Report at [4.5.6]

<sup>63</sup> Singapore Parliamentary Debates, Official Report (29 June 1988) vol 51 at col 444, see S/No. 1440 of CB.

61. At Paragraph 4.5.2 of the KPMG Report<sup>64</sup>, *Porter v Magill* [2002] 2 WLR 37<sup>65</sup> ("*Magill*") and *Attorney General for Hong Kong v. Reid* [1993] 3 WLR 1143<sup>66</sup> ("*AG v Reid*") were cited as authorities for the proposition that public officers are fiduciaries to the government generally. These authorities are again inapplicable to the present case.
62. *Magill* was an appeal to the House of Lords against a decision that the leader and deputy leader of the ruling Conservative party in Westminster City Council were guilty for wilful misconduct in making decisions concerning the sale of certain properties that caused the council financial loss and therefore liable to make good the loss. On appeal, the Court laid out certain legal principles, *inter alia*, regarding the misconduct of councillors,<sup>67</sup> and noted that if loss is caused to the local authority, the councillors' obligation to make good such losses were under the relevant statutory provisions of the applicable legislation.<sup>68</sup> The Court's analysis in this decision did not proceed on the basis that the councillors were fiduciaries.
63. *AG v Reid* was a case concerning a constructive trust where the Attorney-General sought to recover bribes that were used to purchase properties by a solicitor who had joined the legal service of the Government of Hong Kong and became successively a Crown Counsel, Deputy Crown Prosecutor and ultimately Acting Director of Public Prosecutions. The assumption made by the Court in *AG v Reid* that the solicitor employed in the legal service was a fiduciary to the Crown, has no bearing on the issue of whether a Town Councillor is a fiduciary.

### **Resident Volunteers**

64. The 4th and 5th Defendants are resident volunteers and Appointed Town Councillors of AHTC. They are lay persons who have no knowledge or expertise in estate management. It is submitted that in such circumstances, there is no basis to imply fiduciary duties. It appears that the sole basis for the suits against the 4th and the 5th Defendants is that they were both members of T&C Committee which decided on, *inter alia*, the vetting of tenders and awarding of contracts to the MA and third party

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<sup>64</sup> See also KPMG Report at [4.7.1].

<sup>65</sup> Tab 10 of the DBOA.

<sup>66</sup> Tab 6 of the DBOA.

<sup>67</sup> *Magill* at [19(2)], see Tab 10 of the DBOA.

<sup>68</sup> *Magill* at [19(4)], see Tab 10 of the DBOA.

contractors of AHTC. However, these decisions were made collectively by the T&C Committee and were reported to the Town Councillors at the TC Meetings.

65. The responsibilities and duties of Town Councillors both elected and appointed are based on the TCA and TCFR. To hold that appointed Town Councillors owe fiduciary duties runs contrary to the intent of the TCA which was to encourage ownership amongst the residents by devolving some of the powers of township management into the hands of grassroot leaders and their elected MPs and to specify the extent of their duties when doing so. Section 8(2) of the TCA requires two-thirds of the appointed members to be residents. This intent is also reflected in the Parliamentary Debates on the Town Councils Bill that took place on 28 June 1988 in the speech of the First Deputy Prime Minister, Mr Goh Chok Tong (as he then was)<sup>69</sup>:

*“First, it [TCA] transfers some power from the HDB to the MPs and grassroots leaders. It gives them, and the residents, greater power and responsibility to manage their own affairs and to participate in their estate's development. Second, because MPs will have increased authority and responsibility, voters will be more likely to vote carefully and sincerely, and to choose honest and effective MPs.”*

(emphasis added)

66. Further, it would be unduly onerous to saddle appointed Town Councillors such as the 4th and 5th Defendants with fiduciary duties as they are laymen volunteering their services for the common good. Both these Defendants were only paid an honorarium of \$300 a month each. In the Singapore High Court decision of *Koh Keow Neo and others v Chee Johnny and others* [2004] 3 SLR(R) 385<sup>70</sup>, it was alleged that the 5 defendants who were members of a committee that co-ordinated the privatisation exercise of a HUDC Estate had breached their fiduciary duties by, *inter alia*, leading the plaintiffs (who were owners of other units in the HUDC Estate) to believe that the requisite mandate had been obtained on voting day. In holding that the defendant volunteers did not owe fiduciary duties, the High Court stated as follows at [93]:

*“93 Were there other duties which the defendants owed to the plaintiffs as gratuitous agents? It bears remembering at this juncture that the defendants are all laymen. In volunteering their services for the common good, on their own time and without payment, in what has turned out to be a thankless task, I believe it would be unduly onerous and unfair to saddle them with fiduciary duties of the standard imposed on the accountants in Winnifred Wai Yue Yu by the Supreme Court of New South Wales. The facts there showed the parties had a past relationship of accountant and client, since 1978. In our case, the privatisation exercise was the only occasion that the five defendants (and other pro-term committee members) got together to represent their fellow flat owners. The principles in Hedley Byrne & Co Ltd*

<sup>69</sup> Singapore Parliamentary Debates, Official Report (29 June 1988) vol 51 at col 444, see S/No. 1440 of CB.

<sup>70</sup> Tab 8 of the DBOA.

*v Heller & Partners Ltd [1964] AC 465* relied on by the plaintiffs clearly cannot apply. I also disagree that the defendants have duties akin to those of promoters of companies. No authorities were cited by the plaintiffs to support this proposition.”

(emphasis added)

**ISSUE (II) Whether the appointments of FMSS and FMSI and the payments totalling \$33.7 million to FMSS and FMSI were improper.**

What is “improper”?

67. As stated above, pursuant to the Order of Court made in CA 114, KPMG was appointed by the IP to establish, inter alia, “whether any payments made by AHPETC were improper and ought therefore to be recovered.”
68. KPMG defines “improper payments” as payments which are “in breach of the Town Council’s policies or procedures, the TCA, the TCFR or any other applicable duties imposed on the Town Council and Town Councillors by law”<sup>71</sup>.
69. It will be apparent from the matters set out under the heading of “History and Nature of TCs” in paragraphs 23 to 29 that TCs are political in nature and intended to be managed by MPs with little government intervention. The purpose of the TCA and TCFR is to set broad rules and principles. Given this regulatory framework, the 1st to 5th Defendants will show that the appointments of FMSS and FMSI and the subsequent payments made to them are in conformity with the policies, procedures and the law applicable at the material time. KPMG’s allegations that these payments are improper are misconceived.

The Circumstances under which FMSS and FMSI were Appointed

70. WP’s takeover of ATC from the PAP in 2011 was the first time in the history of TCs in Singapore that there had been a change in management of a TC from Government MPs to Opposition MPs of that scale. There was no precedent for such a takeover. The 1st to 5th Defendants’ evidence will show that:
- (a) The Town Councillors are expected to undertake the task of managing HDB estates which were, until 1989, managed by HDB which had the resources of the State at its disposal. Estate management involved various critical services such as ensuring that essential services such as water supply, lights and lifts

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<sup>71</sup> KPMG Report at [4.2.1].

in the common areas are maintained and functioning properly, lift rescue and maintaining the cleanliness of the estate.

- (b) Unlike HDB, Town Councillors are lay persons who more likely than not have little or no experience in estate management. As such, it was common practice for TCs to be managed by MAs which had the expertise in estate management.
- (c) In the entire industry of TC estate management, there were only 3 players providing MA services for TCs at the material time: (1) EM Services Pte Ltd ("**EM Services**"), (2) CPG Facilities Management Pte Ltd and (3) Cushman & Wakefield (which was previously known as Emasco Township Management Pte Ltd). EM Services was 75% owned by HDB with the remainder owned by Keppel Land Limited. CPG was formed when the Statutory Board, the Public Works Department, was corporatized.<sup>72</sup>
- (d) When the WP won Aljunied GRC in the 2011 GE, it was the first time that they had won a GRC. PAP was previously managing the GRC using CPG which was also managing some of the other PAP TCs.
- (e) Given his experience when he first took over Hougang SMC in 1991, Mr Low Thia Kiang initiated a contingency plan after the 2011 GE for an alternative MA by seeking the assistance of Ms How and Mr Loh. Ms How was the General Manager of HTC. Her husband, Mr Loh was previously managing the EMSU services for Mr Low's Hougang ward for about 14 years since 1997<sup>73</sup>. Mr Loh incorporated FMSS on 15 May 2011.
- (f) In confirmation of rumours that had been circulating at that time<sup>74</sup>, CPG informed the WP MPs towards the end of May 2011 that CPG did not wish to continue as MA as it "would be bad for CPG's business to be serving PAP TCs as well as a TC run by an opposition party"<sup>75</sup>.

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<sup>72</sup> AEIC of Low Thia Kiang at [38] to [39].

<sup>73</sup> AEIC of Low Thia Kiang at [41].

<sup>74</sup> AEIC of Low Thia Kiang at [43] and [45].

<sup>75</sup> AEIC of Sylvia Lim at [46], and AEIC of Low Thia Kiang at [47].

- (g) Given CPG did not wish to continue, the Town Councillors were of the view that it would not be wise to insist that CPG continue as MA.<sup>76</sup>
- (h) Despite the urgent need for a replacement MA, the Town Councillors carried out due diligence to determine if the alternative, FMSS could undertake the role of the MA.<sup>77</sup>
- (i) The impending exit of CPG and the appointment of FMSS was discussed with all the Town Councillors at the 1st AHTC Meeting on 9 June 2011. As there was a deadline for the handover from the PAP to the WP where MND informed the newly-elected MPs that after the gazetting of the new towns by 24 May 2011 the new towns would assume responsibility for the new areas with effect from 1 August 2011<sup>78</sup>, the Town Councillors granted Ms Sylvia Lim the authority to exercise the powers of the TC in the interim to better facilitate the handover.<sup>79</sup>
- (j) Due to the short deadline for handover, it was decided in the interests of the residents to appoint FMSS as MA for an interim period of just 1 year. A tender would be called thereafter. Ms Sylvia Lim accordingly appointed FMSS as AHTC's MA on 8 July 2011.<sup>80</sup>
- (k) Ms Sylvia Lim's appointment of FMSS was discussed and ratified by the Town Councillors at the next TC meeting, the 2nd AHTC Meeting on 4 August 2011.
- (l) The issue of a potential conflict of interest in having an officer of the MA being employed as the Secretary and/or General Manager of the TC, which was the practice of ATC under the PAP prior to the handover to WP, was discussed with the outgoing MA on 30 May 2011.<sup>81</sup> CPG's Managing Director and Secretary of ATC, Mr Jeffrey Chua, stated at the meeting on 30 May 2011 that there was a system in place to address this concern:<sup>82</sup>

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<sup>76</sup> AEIC of Sylvia Lim at [53], and AEIC of Low Thia Khiang at [53].

<sup>77</sup> AEIC of Sylvia Lim at [57] to [59], AEIC of Low Thia Khiang at [68] to [72].

<sup>78</sup> AEIC of Sylvia Lim at [32].

<sup>79</sup> AEIC of Sylvia Lim at [62] to [63].

<sup>80</sup> AEIC of Sylvia Lim at [70] to [72].

<sup>81</sup> AEIC of Sylvia Lim at [47].

<sup>82</sup> AEIC of Sylvia Lim at [47], AEIC of Low Thia Khiang at [60].

- (i) The job specifications for the MA were drawn up in the MA contract by an independent firm of quantity surveyors. The job scope was not determined by the MA;
- (ii) MND was informed of the contracts which ATC entered into with the MA through the regular quarterly declarations made by the TC. This was a requirement of the MND;
- (iii) As Secretary and General Manager, Mr Jeffrey Chua's role was *executive* in nature. The decision-making authority lay with the TC and all he did was execute the decisions made by ATC; and,
- (iv) ATC was subject to annual audits by external auditors.

The Town Councillors however put in place an additional check by requiring all payments to FMSS to be signed by the Chairman or Vice-Chairman.<sup>83</sup>

- (m) It will be shown that the alleged issue of "conflict of interest" is a red-herring given the roles performed by the MA's officers in the TC and the processes that were in place.<sup>84</sup>
- (n) The evidence will show that the rates charged by FMSS were not higher than CPG for the 1st MA Contract. KPMG's Report refers to a difference of 10% in the rates.<sup>85</sup>
- (o) The TCMS, which was the computerised management system used to run ATC, was terminated soon after WP took over ATC.<sup>86</sup> The TCMS was provided by Action Information Management Pte Ltd ("**AIM**") which was owned by the PAP.<sup>87</sup> The evidence will show that the lack of a proper computerised system greatly hampered the management of the TC in its early days.<sup>88</sup>

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<sup>83</sup> AEIC of Sylvia Lim at [199].

<sup>84</sup> AEIC of Vincent Koh at [25] to [39].

<sup>85</sup> AEIC of Sylvia Lim at [106] to [109].

<sup>86</sup> AEIC of Sylvia Lim at [111] to [123].

<sup>87</sup> AEIC of Sylvia Lim at [110].

<sup>88</sup> AEIC of Sylvia Lim at [126].

- (p) The Plaintiffs and their accountants have chosen to ignore the above circumstances (some of which were acknowledged by MND) in seeking to hold the Town Councillors to standards that are higher than that practised by other TCs.<sup>89</sup> The Honourable Court's attention is drawn to the AGO Audits of various other entities which show breaches more serious than that of AHTC which did not result in any civil suit unlike the present case.<sup>90</sup>
- (q) The unmeritorious nature of the allegations in the 2 Suits would be apparent when the Honourable Court considers the evidence that only FMSS tendered for the MA contract when a tender was called in the second year.<sup>91</sup>
- (r) The evidence will show that AHTC had carried out due diligence for the tender for the MA in the second year which included the review of the tender process by an independent audit firm.<sup>92</sup>
- (s) After the 2011 GE when AHTC was formed on 27 May 2011, AHTC inherited HTC's contract with FMSI and continued to make payments to FMSI pursuant to the existing contract.

### **"Ultra Vires"**

71. The doctrine of ultra vires has been described as the juristic or constitutional basis for judicial review. In the case of bodies exercising statutory powers, the underlying principle is that the powers may only be exercised in the way in which Parliament intended, and it is presumed that Parliament must have intended those powers to be exercised lawfully. This is further explained in the following commentary from *Halsbury's Laws of England (2018 (Vol. 61A), LexisNexis)*<sup>93</sup>:

*"The courts will intervene to ensure that the powers of public decision-making bodies are exercised lawfully. Such a body will not act lawfully if it acts ultra vires or outside the limits of its jurisdiction. The term 'jurisdiction' has been used by the courts in different senses. A body will lack jurisdiction in the narrow sense if it has no power to adjudicate upon the dispute, or to make the kind of decision or order, in question; it will lack jurisdiction in the wide sense if, having power to adjudicate upon the dispute, it abuses its power, acts in a manner which is procedurally*

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<sup>89</sup> AEIC of Sylvia Lim at [124] to [126].

<sup>90</sup> AEIC of Sylvia Lim at [219].

<sup>91</sup> AEIC of Sylvia Lim at [131].

<sup>92</sup> AEIC of Sylvia Lim at [132] to [144].

<sup>93</sup> Tab 15 of the DBOA at [11].

***irregular, or, in a Wednesbury sense, unreasonable, or commits any other error of law. In certain exceptional cases, the distinction between errors of law which go to jurisdiction in the narrow sense and other errors of law remains important.***

*A body which acts without jurisdiction in the narrow or wide sense may also be described as acting outside its powers or ultra vires. If a body arrives at a decision which is within its jurisdiction in the narrow sense, and does not commit any of the errors which go to jurisdiction in the wide sense, the court will not quash its decision on an application for judicial review even if it considers the decision to be wrong.*

***There is a presumption that acts of public bodies, such as orders, decisions and byelaws, are lawful and valid until declared otherwise by the court. Although some acts or measures may be described as being ‘void ab initio’ or as ‘nullities’, the modern view is that it is for the court to determine both whether an act is unlawful and what the consequences of that finding of unlawfulness should be.”***  
(emphasis added)

72. By reason of the facts set out at paragraph 70 above, there is no basis for the Plaintiff in Suit 668 to conclude that the decisions by AHTC to enter into the FMSS Contracts and/or the FMSI EMSU Contract were made in bad faith, for improper purposes, without ensuring adequate safeguards for AHTC’s best interests and of public monies, and were so unreasonable and/or irrational that no reasonable Town Councillor would have made the same decision. Similarly, by reason of the facts set out at paragraph 70 above, the Plaintiff’s allegations in Suit 716 that the appointment of FMSS in respect of the MA and EMSU Contracts and the payments made under these contracts are ultra vires, are without basis.
73. Even if the Court holds that AHTC’s decision to enter into the FMSS Contracts and the FMSI EMSU Contract were ultra vires the powers of AHTC, this does not render these contracts void in public law<sup>94</sup> such that AHTC is entitled to set aside and/or rescind these contracts<sup>95</sup> and/or seek restitution of all payments that were made by AHTC<sup>96</sup> regardless of the work that was done pursuant to these contracts. It is for the Plaintiffs to satisfy the Court why they are entitled to recover the full amount of the contractual sums paid to FMSS and FMSI given that the Plaintiffs’ accountants in their respective reports have not made any findings that the services have not been performed.

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<sup>94</sup> Suit 668 SOC at [6.6].

<sup>95</sup> Suit 668 SOC at [6.6.2(b)].

<sup>96</sup> Suit 668 SOC at [6.6.2(c)].

**Legislative changes in 2017 after the release of the KPMG Report**

74. Recent changes to the TCA and TCFR serve as an explicit recognition of the fact that the actions of the Town Councillors were not in contravention of the law. It is apparent that the changes highlighted below are intended to address some of the issues arising in the present case:<sup>97</sup>

- (a) Disclosure of interests; and
- (b) “Double-hatting” i.e. holding dual appointments in the TC and the MA.

We shall examine each of the above in turn below.

- (a) Disclosure of Interests

75. Previously, Section 15(1) of the TCA provided as follows:

***“Disclosure of interest by members***

*15.—(1) A member of a Town Council who is in any way, directly or indirectly, interested in a transaction or project of the Town Council shall disclose the nature of his interest at a meeting of the Town Council.”*

76. The above section has now been amended to provide that where a member of a TC “becomes aware of a conflict of interest in a question that has arisen or is about to arise before the Town Council, the member must disclose in writing the fact, nature, character and extent of the personal or financial interest that gives rise to the conflict”. Sub-section (4) of Section 15 of the TCA goes on to state that a conflict of interest is where a member has a “*personal or financial interest in how the question is decided*”.

77. The new Section 15 of the TCA significantly increases the number of scenarios where a member would have to comply with the disclosure requirement, as a “question” would include more than just transactions or projects undertaken by the Town Council, and seems to extend to many of the daily decisions that are made by members of a Town Council.

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<sup>97</sup> Singapore Parliamentary Debates, Official Report (10 March 2017) Vol. 94, sitting no. 43, Tab 21 of the DBOA. See also the news report in the Today edition of 19 October 2016 entitled “Changes to Town Councils Act designed to safeguard residents’ interests: Experts”, see S/No. 1307 of CB.

78. Significantly, it is also now stated in sub-section (8) of Section 15 of the TCA that the section “*is in addition to, and not in derogation of, the operation of any rule of law restricting a member of a Town Council from having any interest in contracts with the Town Council or from holding offices or possessing interests in conflict with his duties as such a member*”.
- (b) Double-hatting i.e. holding dual appointments in the TC and the MA.
79. Another legislative change brought about by the Town Councils (Amendment) Bill in 2017 addresses the issue of “double-hatting”, a situation where an employee of the MA is also a key officer of the TC. Under Section 20 of the TCA, an individual is disqualified from being a key officer of the TC if the individual is appointed as auditor of the TC, is or becomes the MA of the TC, or is in a position to exercise a significant influence over or with respect to the management or operation of the business of the MA of the TC.
80. As reported in a newspaper article published in the Straits Times on 31 December 2016, such “*double-hatting by the staff of the managing agent companies allows for efficient operations and is a common practice, said observers, who added that robust safeguards must be in place to prevent conflicts of interest.*”<sup>98</sup> It was also reported in a newspaper article entitled “*How changes to law will improve town councils*” published in the Straits Times on 12 February 2017 that such “double-hatting” was not unusual as such overlapping of roles is a product of how TCs have evolved over time:

*“AHTC has said that double-hatting was “not unusual”, according to a report in The Straits Times last November.*

***Indeed, it turns out that at most town councils here, the general manager - an employee of the managing agent, and the most senior executive of the town council - also double-hats and sits on the council as its secretary. The secretary serves as a link between the decision-making council and its operating staff.***

***Thirteen of the 16 town councils here are entirely managed and operated by managing agents.***

*The exceptions are Bishan-Toa Payoh and Aljunied-Hougang, which self-manage, and Jurong-Clementi, which this month embarked on a hybrid management model (see other report).*

***The overlapping of roles, it seems, is a product of how town councils have evolved.***

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<sup>98</sup> A copy of the said newspaper article entitled “*Overlapping roles can be efficient but safeguards needed; Concern raised over having council officers who also work for estate’s managing agents*”, see S/No. 1341 of CB, and S/No. 108 of D1-D5 2nd SLOD.

*The first councils started out already engaging the use of managing agents - back then, it was the HDB-owned subsidiary EM Services, formed with HDB staff, that had handled estate management, says NUS real estate professor Yu Shi Ming.*

*"This was the easiest thing to do. You already had people doing these things day in, day out - take them out and form a company with these people to offer services to town councils," he says, adding that the main consideration was to ensure a seamless transition from one model of estate governance to the next. ..."*

*This model has stuck because it affords town councils several advantages.*

***Dr Teo Ho Pin, coordinating chairman of town councils run by the People's Action Party, says the use of managing agents to run estates is a common industry practice in the public and private sectors.***

*Dr Teo highlighted some advantages that managing agents offer, such as professional support in areas, including engineering, human resources and contracts.*

*For instance, managing agents would know the track record of companies tendering for town council contracts.*

*Says Prof Yu: "If you self-manage, how would you know these things?"*

*There could also potentially be a lack of job continuity for staff directly hired by town councils when political boundaries that constitute different towns are redrawn during general elections."*

(emphasis added)

**ISSUE (III) Whether the appointment of LST Architects for 7 construction projects and the payments made to LST Architects were improper.**

81. The Defendants' evidence is that LST Architects was paid the sums due for the services that it had performed. LST Architects was appointed over Design Metabolist ("DM") as they were considered to be the better consultant. AHTC's experience with DM was that they were significantly less efficient than LST, resulting in project delays to the detriment of the residents.<sup>99</sup>
82. The Defendants will show that there was no impropriety in the appointment of consultants onto a panel. LST and DM were appointed onto a panel of consultants pursuant to a tender and this process is compliant with the TCA and TCFR. The appointment of consultants onto a panel was a past practice of ATC as well as other TCs under the management of the PAP. Following this past practice, the decision to have a panel of consultants was made by AHTC.<sup>100</sup> The decision as to which consultant to appoint to the panel was made by the T&C Committee.

<sup>99</sup> AEIC of Sylvia Lim at [204] to [210].

<sup>100</sup> AEIC of Sylvia Lim at [205].

83. Once LST and DM were appointed to the panel of consultants, it was left for the MA to award projects to the consultants on the panel. In this regard, the T&C Committee were not part of the decisions to award 7 out of the 10 construction projects to LST as such decisions were left to the MA.<sup>101</sup> As such, it is a misconception that the T&C Committee was responsible for the award of 7 out of the 10 projects to LST over DM.

**ISSUE (IV) Whether the appointments and payments made to third party contractors were improper.**

**Appointment of Red-Power**

84. Digo and Terminal 9 were providing services for the maintenance of pumps for the Bedok Reservoir-Punggol, Serangoon and Kaki Bukit divisions of AHPETC. The Digo and Terminal 9 contracts were for the period from 1 July 2009 to 30 June 2012. The Digo contract could have been extended from 30 June 2012 to 30 June 2013 and the Terminal 9 contract could have been extended from 30 June 2012 to 30 June 2014. The evidence is that the Defendants were not informed by the Contracts Department of AHTC of this option to extend the contracts.<sup>102</sup> The contracts were not extended and a tender was called. Red-Power was the sole tenderer and was awarded the contracts.
85. At the material time, PE had an existing maintenance services contract with EM Services which only expired on 31 March 2015. It is important to highlight that even if the Defendants had exercised the option to extend the Digo and Terminal 9 contracts, such extension of either the Digo or Terminal 9 contracts would not accrue to PE.<sup>103</sup>

**Appointment of Rentokil**

86. Pursuant to a tender for pest control services that was called on 12 July 2013, Rentokil was appointed over Pest-Pro which had bid lower. It is alleged that the Defendants caused AHPETC to award the contract to Rentokil without providing any proper reasons or justification for doing so.

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<sup>101</sup> AEIC of Pritam Singh at [56].

<sup>102</sup> AEIC of Pritam Singh at [63].

<sup>103</sup> Suit 716 Defence (Amendment No. 1) at [77], and AEIC of Pritam Singh at [64].

87. The Defendants' evidence is that Rentokil was appointed as it was the better contractor. Rentokil was better qualified and had more experience than Pest Pro. The Defendants will also show that the reasons for awarding the contract to Rentokil were justified and this justification was set out in the Minutes of the T&C Committee Meeting held on 17 August 2013.<sup>104</sup>

**Inclusion of PE under AHPETC's contracts with Red-Power, Rentokil, Titan and J-Keart**

88. AHPETC did not invite a new tender but included PE under its existing contract with Red-Power even though Tong Lee offered lower rates. The Defendants evidence is that Tong Lee's performance was unsatisfactory and that Tong Lee was also not willing to extend its coverage to include PE. The T&C Committee also agreed with the recommendation of the Contracts Department that the appointment of Red-Power will allow AHPETC to achieve better economies of scale.<sup>105</sup>
89. The existing pest control contract with Clean Solutions Pte Ltd for PE would expire on 31 March 2015. AHPETC did not call for a new tender and included PE under the existing contract with Rentokil. The same reasoning for allowing AHPETC to achieve better economies of scale also applies to the issue of PE being included in the Rentokil contract. By including PE under the contract with Rentokil, AHPETC would be able to call for a fresh tender in respect of a larger area which would allow tenderers to put in a more competitive bid.<sup>106</sup>
90. The Defendants will show that AHPETC did not extend its existing contracts with Titan (which provided cleaning works) and J-Keart (which provided servicing and maintenance of fire protection systems) as it was advised by the Contracts Department of AHPETC that there was no option to extend the contractual period for both contracts. Instead, AHPETC invited fresh tenders and awarded new contracts to Titan and J-Keart. It should be noted that Titan and J-Keart submitted the lowest bids for the respective tenders.<sup>107</sup>

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<sup>104</sup> AEIC of Pritam Singh at [77] to [81].

<sup>105</sup> AEIC of Pritam Singh at [68] to [72].

<sup>106</sup> AEIC of Pritam Singh at [75].

<sup>107</sup> AEIC of Pritam Singh at [83], [85] and [87].

91. It is alleged that AHPETC could have saved \$423,147 if it had exercised the option to extend the contract with Titan instead of awarding Titan with the new contract.<sup>108</sup> The Defendants' evidence is that the Plaintiff's calculations in this regard are incorrect as they are based on an erroneous assumption of the number of "Equivalent Dwelling Units" ("EDUs") for PE.<sup>109</sup> In the AEIC of Mr Goh Thien Phong, PwC now appears to accept that there was an error in its computation.<sup>110</sup>

### **Payments to Third Parties in November 2015**

92. The Defendants' evidence will show that AHPETC's payment of the 22 invoices were made based on sufficient supporting documents and/or evidence of work done. The documents relating to these invoices were handed over to PRPTC.<sup>111</sup> The payments on the 22 invoices would only have been made after verification of the relevant supporting documents. If the supporting documents were missing, they could be retrieved from AHTC or the archives maintained by the relevant third party contractor. It was only during the audit by PwC that it was brought to the Defendants' attention that the supporting documentation for some of the said 22 invoices could not be found. Notwithstanding AHTC's earlier provision of all documents to PRPTC, if AHTC was informed by PwC that they did not have the supporting documentation in question, these documents could have been provided for purposes of their audit.<sup>112</sup> The Defendants will also show that PRPTC had done a detailed review of the documentation and subsequently confirmed to AHPETC that the documentation in relation to the 22 invoices was handed over or deemed to have been handed over to PRPTC.<sup>113</sup>
93. However, PwC's present position is that out of the said 22 invoices, copies of the supporting documents or evidence of work done for 10 invoices have been produced by the Defendants in discovery. As such, PwC has now revised the alleged improper payments from \$536,059.92 down to \$171,112.62.

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<sup>108</sup> AEIC of Pritam Singh at [84].

<sup>109</sup> AEIC of Pritam Singh at [89] and [92].

<sup>110</sup> AEIC of Goh Thien Phong at [53].

<sup>111</sup> AEIC of Pritam Singh at [94].

<sup>112</sup> AEIC of Vincent Koh at [45].

<sup>113</sup> AEIC of Vincent Koh at [43].

94. Additionally, it should be noted that the payment approval process requires more than the provision of paperwork and supporting documents. Some of the other items in the said payment approval processes would include daily ground checks conducted by the Property Officers of AHPETC during their regular walkabouts and the imposition of liquidated damages on third party contractors who had performed their work unsatisfactorily.<sup>114</sup>
95. With respect to AHPETC's payment of the 56 invoices, all of the invoices save for one were endorsed by a Property Manager of AHPETC in the accounting document known as Voucher Journal Report. The Plaintiff's allegation in relation to these 56 invoices appears to be based on the signatories of the Payment Vouchers only. The Defendants' evidence is that this is incorrect as the Payment Vouchers were manually prepared based on various Voucher Journal Reports which are properly certified pursuant to the requirement under Rule 56(4) of the TCFR.<sup>115</sup>
96. Further, the absence of a signature by the Property Manager on the Voucher Journal Report or payment voucher does not mean the contractor's work was not completed or inspected. The Deputy General Manager at the time, Mr Vincent Koh, will give evidence that the relevant contracted works were satisfactorily completed and would permit payment only after he had sight of the relevant supporting documentation. He will testify that the contracted works were duly completed and that the services were rendered and that the goods were received for all 56 invoices<sup>116</sup>.

**ISSUE (V) If any of the appointments and/or payments were improper as alleged, whether the 1st to 5th Defendants had acted in good faith and therefore not liable.**

97. Given that the claims by AHTC and PRPTC against the 1st to 5th Defendants are in relation to and/or arising out of their acts as town councillors, it is submitted that they are entitled to rely on Section 52 of the TCA which states as follows:<sup>117</sup>

***"Protection from personal liability***

**52.** *No suit or other legal proceedings shall lie personally against any member, officer or employee of a Town Council or other person acting under the direction of a Town*

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<sup>114</sup> AEIC of Vincent Koh at [52].

<sup>115</sup> AEIC of Vincent Koh at [54].

<sup>116</sup> AEIC of Vincent Koh at [55].

<sup>117</sup> Tab 2 of the DBOA.

*Council for anything which is **in good faith done or intended to be done in the execution or purported execution of this Act or any other Act.***

(emphasis added)

98. In the article referred to at Paragraph 4.5.2 of the KPMG Report, *'Liability for Misfeasance in a Public Office'* (1992) 14 Sydney L. Rev 137, the author identified 2 instances when the statutory protection afforded by "good faith" provisions would apply:

- (a) The person honestly thought that he was acting lawfully and whose general purpose conformed with the general purpose of the statute.
- (b) The acts were not done with malice *"in the sense of spite or ill-will, an intent to injure the plaintiff or [the official] continues to act knowing he or she does not have [the] power..."*<sup>118</sup>

99. In *G. Scammell and Nephew, Limited v Hurley and Others* [1927] 1 K.B. 419<sup>119</sup>, the court considered the issue of when a public authority is said to have carried out an act in execution of a statute. There, the plaintiff was a company carrying on business in the borough of Stepney, and was entitled by statute and by contract to receive from the Stepney Borough Council a supply of electrical power. When the plaintiff was deprived of this supply on certain days, they sued members of the Electricity Supply Committee of the Council. The court found that the acts and neglects complained of were done in execution of a statutory duty and the defendants were entitled to the protection of the Public Authorities Protection Act 1893. Lord Scrutton stated as such at page 429:<sup>120</sup>

*"...when a defendant appears to be acting as a member of a public body under statutory authority..., the plaintiff can defeat the claim by proving on sufficient evidence that the defendant was not really intending to act in pursuance of the statutory authority, but was using his pretended authority for some improper motive, such as spite, or a purpose entirely outside statutory justification. When defendants are found purporting to execute a statute, the **burden of proof in my opinion is on the plaintiffs to prove the existence of the dishonest motives above described and the absence of any honest desire to execute the statute, and such existence and absence should only be found on strong and cogent evidence.**"*

(emphasis added)

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<sup>118</sup> Tab 17 of the DBOA, See Page 151 and section (g) from page 149 generally.

<sup>119</sup> Tab 7 of the DBOA.

<sup>120</sup> Tab 7 of the DBOA, at pg. 429.

100. Applying these authorities to the facts, the 1st to 5th Defendants are entitled to rely on Section 52 of the TCA as the Plaintiffs have no evidence that the 1st to 5th Defendants acted for a purpose other than in the execution of the Act. Further, there is no allegation that 1st to 5th Defendants have acted under any malice in the discharge of their duties.

**ISSUE (VI) Whether any of the Plaintiffs' claims are time-barred under the Limitation Act.**

101. The relevant provisions of Section 6 of the Limitation Act (Cap. 163) are as follows:<sup>121</sup>

***“Limitation of actions of contract and tort and certain other actions***

*6.—(1) Subject to this Act, the following actions shall not be brought after the expiration of 6 years from the date on which the cause of action accrued:*

- (a) actions founded on a contract or on tort;*
- (b) actions to enforce a recognizance;*
- (c) actions to enforce an award;*
- (d) actions to recover any sum recoverable by virtue of any written law other than a penalty or forfeiture or sum by way of penalty or forfeiture*

*(2) An action for an account shall not be brought in respect of any matter which arose more than 6 years before the commencement of the action.*

...

*(7) Subject to sections 22 and 32, this section shall apply to all claims for specific performance of a contract or for an injunction or for other equitable relief whether the same be founded upon any contract or tort or upon any trust or other ground in equity”*

102. It is submitted that AHTC's alleged causes of action which accrued more than 6 years before the commencement of Suit 668 on 21 July 2017, including causes of action arising from the following events, are time-barred:<sup>122</sup>

- (a) AHTC's appointment of FMSS on 8 July 2011 as MA on the terms as set out in the 1st MA Contract; and/or,
- (b) FMSI's provision of EMSU services to AHTC following Hougang Town Council's amalgamation with Aljunied Town Council to form AHTC on 27 May 2011.

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<sup>121</sup> Tab 1 of the DBOA.

<sup>122</sup> Defence (Amendment No. 1) at [79(a)].

103. It is submitted that PRPTC's alleged causes of action which accrued more than 6 years before the commencement of Suit 716 on 3 August 2017, including causes of action arising from the following events, are time-barred:<sup>123</sup>

- (a) AHTC's appointment of FMSS on 8 July 2011 as MA on the terms as set out in the 1st MA Contract; and/or,
- (b) AHTC's approval of payment to FMSS on or before 21 July 2011 of the sum of \$92,000 under Invoice FMSS/0601 dated 30 June 2011, which payment was made on 21 July 2011.<sup>124</sup>

104. In response, AHTC and PRPTC rely on Section 22(1) and/or Section 24A(3)(b) of the Limitation Act which are as follows:<sup>125</sup>

***"Limitation of actions in respect of trust property***

**22.—** (1) *No period of limitation prescribed by this Act shall apply to an action by a beneficiary under a trust, being an action —*

- (a) *in respect of any fraud or fraudulent breach of trust to which the trustee was a party or privy; or*
- (b) *to recover from the trustee trust property or the proceeds thereof in the possession of the trustee, or previously received by the trustee and converted to his use.*

(2) *Subject to subsection (1), an action by a beneficiary to recover trust property or in respect of any breach of trust, not being an action for which a period of limitation is prescribed by any other provision of this Act, shall not be brought after the expiration of 6 years from the date on which the right of action accrued.*

(3) *The right of action referred to in subsection (2) shall not be deemed to have accrued to any beneficiary entitled to a future interest in the trust property until the interest fell into possession.*

...

***Time limits for negligence, nuisance and breach of duty actions in respect of latent injuries and damage***

**24A.—**(1) *This section shall apply to any action for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under any written law or independently of any contract or any such provision).*

(...)

<sup>123</sup> Defence (Amendment No. 1) at [174(a)].

<sup>124</sup> See S/No. 849 of CB.

<sup>125</sup> Tab 1 of the DBOA.

(3) *An action to which this section applies, other than one referred to in subsection (2), shall not be brought after the expiration of the period of —*

- (a) *6 years from the date on which the cause of action accrued; or*
- (b) *3 years from the earliest date on which the plaintiff or any person in whom the cause of action was vested before him first had both the knowledge required for bringing an action for damages in respect of the relevant damage and a right to bring such an action, if that period expires later than the period mentioned in paragraph (a).*

(4) *In subsections (2) and (3), the knowledge required for bringing an action for damages in respect of the relevant injury or damage (as the case may be) means knowledge —*

- (a) *that the injury or damage was attributable in whole or in part to the act or omission which is alleged to constitute negligence, nuisance or breach of duty;*
- (b) *of the identity of the defendant;*
- (c) *if it is alleged that the act or omission was that of a person other than the defendant, of the identity of that person and the additional facts supporting the bringing of an action against the defendant; and*
- (d) *of material facts about the injury or damage which would lead a reasonable person who had suffered such injury or damage to consider it sufficiently serious to justify his instituting proceedings for damages against a defendant who did not dispute liability and was able to satisfy a judgment.*

(5) *Knowledge that any act or omission did or did not, as a matter of law, involve negligence, nuisance or breach of duty is irrelevant for the purposes of subsections (2) and (3).*

(6) *For the purposes of this section, a person's knowledge includes knowledge which he might reasonably have been expected to acquire —*

- (a) *from facts observable or ascertainable by him; or*
- (b) *from facts ascertainable by him with the help of appropriate expert advice which it is reasonable for him to seek.*

(7) *A person shall not be taken by virtue of subsection (6) to have knowledge of a fact ascertainable only with the help of expert advice so long as he has taken all reasonable steps to obtain (and, where appropriate, to act on) that advice."*

105. It is submitted that Section 22(1) does not apply for reasons that include the following:

- (a) There is no allegation of fraud or fraudulent breach of trust against the Defendants.
- (b) The Plaintiffs actions are not to recover trust property from the 1st to 5th Defendants or the proceeds of the trust property. Nor is there any allegation that the Defendants have converted any trust property or its proceeds to their own use.

106. It is further submitted that Section 24A(3)(b) does not apply for reasons that include the following:

- (a) The relevant knowledge must be based on when the transactions giving rise to the alleged causes of action were carried out and not based on when the KPMG Report was issued. AHTC functioned through the Town Councillors who knew of the appointment of FMSS and FMSI more than 6 years before the 2 Suits were commenced on 21 July 2017 and 3 August 2017 respectively.
- (b) It is also not the Plaintiffs' case that the appointment of FMSS and the provision of EMSU services by FMSI were done secretly or without the knowledge of the Town Councillors of AHTC.
- (c) The appointment of FMSS and the provision of EMSU services by FMSI were done with the unanimous approval and consent of all Town Councillors who constituted AHTC at the material time.

107. It is submitted that the acts of the Town Councillors represent the act of the Town Council. This position is consistent with that of decisions made by directors vis-à-vis their company:<sup>126</sup>

*"...if the members pass a resolution pertaining to a matter in their sphere of competence in a general meeting, that resolution represents the decision of the company. Similarly, the members by approving a course of action by the directors will make that act the act of the company. An act which commands the unanimous approval of the members, even if that approval is informally given is a corporate act and binding on the company. **If the board of directors, acting within its sphere of competence, passes a resolution, that resolution may also be taken to be the company's decision. In certain circumstances (see below), the intention of a company's organs is deemed to be the company's intention. When the board or the general meeting acts within its sphere of competence, it is acting as the company, not just on behalf of the company; there is no question of agency involved.**"*

(emphasis added)

108. In any event, it is submitted that AHTC had the requisite knowledge required under Section 24A(3)(b) to bring an action since the appointment of FMSS/FMSI. The requisite knowledge required is defined in Section 24A(4), which the Court of Appeal in Lian Kok Hong v Ow Wah Foong and another [2008] 4 SLR(R) 186<sup>127</sup> has interpreted to mean as where the claimant "*knew or might reasonably have known of the factual*

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<sup>126</sup> "Walter Woon on Company Law" (Rev 3rd Edition, 2009) at pg. 84, see Tab 20 of the DBOA.

<sup>127</sup> Tab 9 of the DBOA.

essence of his complaint” and that the degree of knowledge required “does not mean knowing for certain and beyond the possibility of contradiction”.

109. Given that the “factual essence” of AHTC and PRPTC’s claims relate to the appointment of FMSS/FMSI, it is submitted that AHTC and PRPTC would have had sufficient knowledge to initiate the Suits since the appointment of FMSS/FMSI.

**ISSUE (VII) Whether the Plaintiffs are entitled to the reliefs as pleaded.**

110. The relief sought by the Plaintiffs in both Suits include an account of profits and in the case of Suit 668, an account and inquiry.

111. An account of profits is sought in the following context:<sup>128</sup>

*“A fiduciary is bound to account for any profit **that he or she has received** in breach of fiduciary duty. The principal’s entitlement to an account of profits which have been made in breach of fiduciary duty is virtually as of right.”*

...

*“The profits for which the fiduciary must account must bear some reasonable relationship to the breach of fiduciary duty. **The obligation is to account for profits which have been made in breach of fiduciary duty, not simply to account for profits in the abstract.**”*

(emphasis added)

112. By an order for an account, the Court compels the defendant to produce documents and records of his dealings with the relevant property and explain such dealings. The essential feature of the cause of action for an account is that the defendant is an “accounting party” someone who is or has been in such a relation to the claimant that he is obliged to render an account<sup>129</sup>. Such a liability arises when the defendant is a trustee or agent who holds assets for others in a custodial fiduciary capacity, i.e. fiduciaries who are “*stewards of property from whom an account can sensibly be taken*”.<sup>130</sup> The accounting procedure serves the informative purpose of allowing the beneficiaries to know the status of the fund and what transformations it has undergone and what they are entitled to claim for.<sup>131</sup>
113. The Plaintiffs do not require an account from the Defendants to know what amounts they are entitled to claim for as their claims in both Suits are quantified. Further, it is

<sup>128</sup> *Snell’s Equity*, 33rd Edition (Sweet & Maxwell) (“Snell’s Equity”) at [7-054] and [7-055], see Tab 18 of the DBOA.

<sup>129</sup> *Snell’s Equity* at [20-014], see Tab 19 of the DBOA.

<sup>130</sup> *Snell’s Equity* at [7-058], see Tab 18 of the DBOA.

<sup>131</sup> *Snell’s Equity* at [20-013], see Tab 19 of the DBOA.

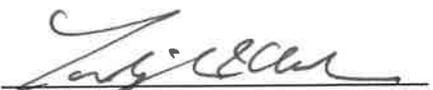
submitted that the claim for equitable compensation of \$33.7 million "subject to" an account and inquiry is incorrect and without any basis. This claim requires the Town Councillors to show which of the payments made were proper in a purported account and inquiry. It proceeds on the basis that the Defendants are liable for \$33.7 million unless otherwise proven. Such a claim is clearly misconceived.

**G. CONCLUSION**

114. In summary, the Honourable Court's attention is drawn to the following:

- (a) TCs are political in nature and intended to be managed by the elected MPs with little intervention from the Government.
- (b) Subject to the duties and remedies set out in the TCA and TCFR, the accountability of the MPs are to the constituents who voted them in.
- (c) The Plaintiffs' sole basis for their claims in the 2 Suits are the KPMG and PWC Reports. The Plaintiffs have no personal knowledge of the facts and circumstances existing at the material time when the 1st to 5th Defendants made the decisions and carried out the actions which are being impugned in the 2 Suits.
- (d) The appointments of FMSS, FMSI and the third-party contractors and the payments that were made to them were done in accordance with the processes in AHTC and with the consent and approval of all the Town Councillors. There is nothing improper about these appointments and payments.
- (e) The 1st to 5th Defendants owe no fiduciary duties to AHTC, only statutory duties under the TCA and the TCFR, which the 1st to 5th Defendants have acted in accordance with.
- (f) At all material times, the 1st to 5th Defendants acted in good faith and in the best interests of the residents.

Dated this the 28th day of September 2018.



**Messrs Tan Rajah & Cheah**  
**Solicitors for the 1st to 5th Defendants**

**CHRONOLOGY OF KEY EVENTS FOR HC/SUIT No. 668 of 2017 and HC/SUIT No. 716 of 2017**

S/N	DATE	EVENT	REFERENCE
1.	07.05.2011	2011 General Elections.	-
2.	09.05.2011	Meetings between MPs-elect of Aljunied GRC.	AEIC of Sylvia Lim ("SL") at [35].
3.	15.05.2011	Incorporation of FM Solutions & Services Pte Ltd ("FMSS").	Serial Number ("S/No.") 1459 of the Core Bundle ("CB").
4.	27.05.2011	Aljunied Town Council ("ATC") becomes Aljunied Hougang Town Council ("AHTC").	Town Councils (Declaration of Towns) Order 2011 (S 263/2011).
5.	30.05.2011	Meeting between elected MPs and Ms How Weng Fan ("Ms How") with Jeffrey Chua, Ms Pan Wanjing and Mr Seng Joo How.	AEIC of SL at [45].
6.	Early June 2011	Ms How informed by Mr Jeffrey Chua that AIM would be withdrawing the TCMS from AHTC.	AEIC of SL at [114].
7.	09.06.2011	1st AHTC Meeting.	S/No. 871 of the CB.
8.	10.06.2011	<ul style="list-style-type: none"> <li>Ms How was informed by AIM's Mr Sasidharan that AIM will definitely give a Notice of Termination.</li> <li>AHTC wrote to AIM for 1 month extension until 31 August 2011.</li> </ul>	AEIC of SL at [115].
9.	15.06.2011	FMSS Letter of Intent to AHTC.	S/No. 211 of the CB.
10.	22.06.2011	AIM gave AHTC Notice of Termination of the AIM-TCMS.	AEIC of SL at [117]; S/No. 218 of the CB.
11.	15.07.2011	Ms Sylvia Lim Swee Lian ("Ms Sylvia Lim") signed the Letter of Intent appointing FMSS as Managing Agent ("MA"). ("1st MA Contract")	S/No. 211 of the CB.
12.	01.08.2011	<ul style="list-style-type: none"> <li>Deed of Mutual Release between AHTC and CPG.</li> <li>Takeover of AHTC by WP from PAP.</li> </ul>	S/No. 29 of the CB.
13.	04.08.2011	2nd AHTC Meeting.	S/No. 878 of the CB.
14.	29.08.2011	AHTC wrote to AIM to request for further extension until 9 September 2011.	S/No. 302 of the CB.
15.	08.09.2011	3rd AHTC Council Meeting.	S/No. 879 of the CB.
16.	01.10.2011	1st EMSU Contract between FMSS and AHTC (Contract Period: 1 October 2011 to 30 June 2012).	S/No. 319 of the CB.
17.	14.06.2012	Formation of Tenders & Contracts Committee ("T&C Committee") with Mr Pritam Singh as Chairman.	S/No. 890 of the CB.
18.	21.06.2012	1st T&C Committee Meeting.	S/Nos. 891 and 892 of the CB.
19.	01.07.2012	2nd EMSU Contract between AHTC and FMSS. (Contract period from 1 July 2012 to 30 June 2015).	S/Nos. 38 and 40 of the CB.
20.	15.07.2012	2nd Contract for Managing Agent services by FMSS for AHTC (Contract period from 15.07.2012 to 14.07.2015).	S/Nos. 33 and 39 of the CB.

S/N	DATE	EVENT	REFERENCE
21.	21.07.2012	2nd T&C Committee Meeting.	S/No. 897 of the CB.
22.	10.08.2012	Pritam Singh appointed as Vice-Chairman of AHTC.	Singapore Government Gazette No. 2045 – S/No. 1471 of the CB.
23.	07.11.2012	T&C Committee Meeting.	S/No. 906 of the CB.
24.	26.01.2013	By-election held in Punggol East Single Member Constituency (“PE”).	-
25.	22.02.2013	AHTC becomes Aljunied-Hougang-Punggol East Town Council (“AHPETC”).	Town Councils (Declaration of Towns) (Amended) Order 2013 (S 97/2013)
26.	17.08.2013	T&C Committee Meeting.	S/No. 927 of the CB.
27.	06.02.2015	AGO Audit Report issued.	S/No. 1091 of the CB.
28.	27.05.2015	High Court Judgment in <i>AG v AHPETC</i> [2015] 4 SLR 474.	-
29.	11.09.2015	2015 General Elections.	-
30.	01.10.2015	<ul style="list-style-type: none"> <li>• Pritam Singh appointed as Chairman of AHTC.</li> <li>• Ms Sylvia Lim appointed as Vice Chairman.</li> </ul>	AEIC of Pritam Singh at [12]; AEIC of SL at [16(b)].
31.	01.10.2015	AHPETC reverts to AHTC.	Town Councils (Declaration of Towns) Order 2015 (S 577/2015)
32.	27.11.2015	Court of Appeal Judgment in <i>AG v AHPETC</i> (“CA 114/2015”).	S/No. 1499 of the CB.
33.	01.12.2015	All property, rights and liabilities of AHPETC that related to or were connected with PE were transferred to PRPTC (the “ <b>Transferred Undertaking of PE</b> ”).	Town Councils (Declaration of Towns) Order 2015 (S 577/2015)
34.	31.10.2016	KPMG issues the KPMG Report (“ <b>KPMG Report</b> ”).	S/No. 1107 of the CB.
35.	01.12.2016	David Chua ceases to be a member of AHTC.	AEIC of David Chua at [7(c)].
36.	17.02.2017	Constitution of the Independent Panel (“ <b>IP</b> ”).	S/No. 1506 of the CB.
37.	22.02.2017	Letter from IP	S/No. 813 of the CB.
38.	22.03.2017	AHTC Response to IP (Part 1).	S/No. 1007 of the CB.
39.	03.04.2017	AHTC Response to IP (Part 2).	S/No. 1008 of the CB.
40.	30.04.2017	PwC issues the Past Payments Review Report (“ <b>PwC Report</b> ”).	S/No. 1115 of the CB.
41.	23.05.2017	AHTC Response to IP (Part 3).	S/No. 1009 of the CB.
42.	24.05.2017	AHTC Response to IP (Part 4).	S/No. 1010 of the CB.
43.	21.07.2017	AHTC commences proceedings in HC/S 668/2017.	Writ of Summons
44.	03.08.2017	PRPTC commences proceedings in HC/716/2017.	Writ of Summons