

ANNEX A: SUMMARY OF COURT JUDGEMENT

In its ruling on 27 November 2015, the Court of Appeal ordered AHTC to make good all its outstanding sinking fund transfers within three months and take active steps to rectify breaches and contraventions of section 35(c) of the Town Councils Act. To this end, the Court of Appeal ordered that the Town Council appoint accountant(s), subject to HDB's consent, to:

- (a) Assist the Town Council in identifying its outstanding non-compliances with section 35(c) of the Town Councils Act and advise on the steps needed to remedy them;
- (b) Report on a monthly basis to HDB what the Town Council has done to remedy the breaches, until the contraventions are fully rectified;
- (c) Establish whether any past payments made by the Town Council were improper and if they need to be recovered.

2. To ensure transparency, the Court of Appeal also ruled that the identity and the terms of reference of the accountant(s) shall be subject to the consent of HDB.

3. In arriving at its decision, the Court of Appeal had found that AHPETC had breached the Town Councils Act by failing to “do all things necessary to ensure’ that (a) its payments are correctly made and properly authorised; and (b) adequate control is maintained over its assets and expenditure”. The Court noted, in particular, the following:

- (a) There “were various lapses in internal controls, which exposed AHPETC to the risk of the loss of money or valuables, commitment to expenditure without requisite approval as well as wrong payment for goods and services”.
- (b) There was “inadequate oversight of related party transactions” by AHPETC and “key officers of AHPETC also acted in clear conflict of interests when they approved payment to FMSS (a company in which they were themselves the directors and shareholders)”.
- (c) It did not appear that AHPETC “had (or has as yet) seriously considered whether and, if so, what steps need to be taken to recover possible sums due from wrong payments”.
- (d) AHPETC “did not have a system to monitor the scale of its conservancy and service arrears accurately” and “did not have a proper system to ensure that documents were properly accounted for and safeguarded, and its accounting systems and procedures were inadequate”.