

ITEM FOR FINANCE COMMITTEE

CAPITAL WORKS RESERVE FUND

HEAD 701 – LAND ACQUISITION

Home Purchase Allowance and Ex gratia Allowance for Owners and Legal Occupiers of Commercial Properties

Members are invited to approve –

- (a) a revision to the basis for calculating the Home Purchase Allowance payable to owners of domestic properties affected by land resumption and the eligibility criteria for the Home Purchase Allowance;
- (b) the retitling of the Home Purchase Allowance for owners of a tenanted flat (or tenanted area) as Supplementary Allowance; and revision to the basis and eligibility criteria for the Supplementary Allowance; and
- (c) a revision to the ex gratia allowance payable to owners, owner-occupiers and tenants of commercial properties affected by land resumption.

PROBLEM

The current Home Purchase Allowance (HPA) and the ex gratia allowance (EGA) for commercial property owners and tenants affected by land resumption are perceived as being inadequate by many owners and residents in older urban areas.

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PROPOSAL

2. We propose to revise the basis for calculating the HPA for owner-occupiers of domestic properties and the Supplementary Allowance (SA) for owners of tenanted flats; the eligibility for HPA/SA; and the EGAs for owner-occupiers, owners and tenants of commercial properties affected by land resumption, as set out in paragraphs 6 and 10 to 12 below.

JUSTIFICATION

(A) Revised basis for calculating HPA

3. At present, owners of domestic properties are eligible for statutory compensation if their properties are resumed by the Government. Under the Lands Resumption Ordinance (Cap. 124), this statutory compensation will be the open market value of the resumed properties. The open market value is the amount which a property, if sold in the open market by a willing seller, might reasonably be expected to realize. Owner-occupiers are also eligible for the HPA, which is an EGA payable to enable them to purchase a relatively new replacement flat of a similar size in the locality of the resumed flat. Owners of tenanted flats are eligible for the HPA at 50% of the full rate for their first tenanted flat. The eligibility for the HPA and the amount payable were last approved by the Finance Committee of the Legislative Council on 25 April 1997, vide FCR(97-98)7.

4. The amount of HPA payable to individual owners is the difference between the cost of a replacement flat and the amount of statutory compensation. As part of the package approved in April 1997, the cost of a replacement flat is based on a flat of about ten years' old of a size similar to the one being resumed and in the same locality. Examples on how the current eligibility criteria work in practice are in Enclosure 1.

Encl. 1

5. In the course of examining the Urban Renewal Authority (URA) Bill, the relevant Bills Committee requested the Administration to review the basis for calculating the HPA.

6. Having reviewed the HPA and taking into consideration the views of property owners and Members of the Legislative Council, we propose to revise the package as follows –

- (a) the basis for calculating the HPA should be revised from a replacement flat of about ten years' old to one of about seven years' old;

/(b)

- (b) the HPA for owners of a tenanted flat (or tenanted area) should be retitled as the SA to make it clear that it is a supplement to the open market value of the resumed flat, and to avoid confusion or any misunderstanding that the existing EGA for owners of a tenanted flat is actually for home purchase;
- (c) the HPA or SA should be payable for a maximum of three flats per owner per resumption exercise, instead of two per owner as at present;
- (d) the full HPA should be paid to an owner-occupier, i.e. an owner who is occupying the entire flat;
- (e) the full HPA should be paid to an owner if he can prove that the entire flat is occupied by his immediate family members, including children, parents and dependent brothers and sisters, grandparents, grandchildren, step-parents, spouse's parents and spouse's step-parents;
- (f) an owner who partially occupies his flat and lets out part of it should be paid the HPA for the area he occupies and the SA at 75% of the HPA for the tenanted area on a pro rata basis;
- (g) for a flat partially occupied by an owner's immediate family members and partially tenanted, the HPA should be paid for the area occupied by the immediate family members and the SA at 75% of the HPA for the tenanted area on a pro rata basis;
- (h) the SA should be paid at 50% of the HPA for a first wholly-tenanted flat;
- (i) the SA should be paid at 25% of the HPA for a second wholly-tenanted flat; and
- (j) no SA should be paid for a third wholly-tenanted flat.

Encl. 2 Some examples of how the proposed revised HPA/SA scheme would work in practice are set out in Enclosure 2.

(B) Proposed new EGA for owners and tenants of commercial properties

7. At present, owner-occupiers of commercial properties resumed by the Government are offered the open market value of their properties plus one of the following additional payments –

/(a)

- (a) an EGA based on a formula consisting of the rental cost for the removal period (during which no business is conducted), removal costs, decoration costs, stamp duty, legal fees and agent's fees. This EGA package was last approved by the Finance Committee of this Council on 9 December 1988, vide FCC(88-89)21; or
- (b) the right to claim business loss (if substantiated) under section 10(2)(d) of the Lands Resumption Ordinance, removal costs under section 10(2)(e)(i) and professional fees under section 10(2)(e)(ii) of that Ordinance (disturbance payments).

8. Just like owner-occupiers, tenants of commercial properties resumed by the Government have the right to make statutory claims for disturbance payments under the Lands Resumption Ordinance as described in paragraph 7(b) above. They may also receive the same EGA as set out in paragraph 7(a) above.

9. The current arrangement has two less-than-satisfactory aspects. First, many owner-occupiers and tenants of commercial properties resumed by the Government encounter a problem with statutory claims as they find it difficult to produce documentary evidence to prove business loss. Second, when compared with owner-occupiers and tenants of domestic properties who are entitled to the HPA and rehousing respectively, the amount of EGA for owner-occupiers and tenants of commercial properties is relatively modest.

10. Having reviewed the existing ex gratia payment policy, we propose that owner-occupiers of commercial properties be offered the open market value of their properties, plus an EGA equivalent to four times the amount of rateable value of the resumed properties^{Note 1}. The new EGA would be paid partly in lieu of the right to claim disturbance payments (deemed to be equivalent to three times the amount of the rateable value) and partly as a solatium (set at the amount of the rateable value).

11. We also propose that owners of tenanted or vacant commercial properties be offered the open market value of their properties, plus an EGA of the amount of the rateable value of the resumed properties as a solatium. This EGA is partly to cover any temporary loss of rental income as a result of the resumption and partly to make up for the fact that the owner is forced to give up his property.

/12.

^{Note 1} The rateable value of a property is the reasonable annual rental value of that property as assessed by the Rating and Valuation Department. Rateable values are reviewed annually. The rateable value is a reliable measure of the commercial worth of a property.

12. For tenants of commercial properties, we propose to pay the open market value of their lesser interest in the properties, if any (for example, long term lease at below market rent), plus an EGA equivalent to three times the amount of the rateable value of the resumed properties they are occupying. The new EGA would be paid in lieu of the right to claim disturbance payments.

13. The proposed EGA for owners and tenants of commercial properties is generally more generous than the current EGA.

(C) Application

14. We expect that most of the future resumption of land under the Lands Resumption Ordinance would be carried out for projects of the URA. However, there would be other cases of resumption for public works, rail or other non-URA projects. For equity reasons, we propose that the new HPA and SA and the new EGA for owners and tenants of commercial properties should be made applicable to all land resumption exercises under any relevant ordinance.

FINANCIAL IMPLICATIONS

15. The proposal to revise the calculation basis of the HPA from a replacement flat of about ten years' old to one of about seven years' old is likely to increase the HPA or SA for the 200 priority projects and the 25 uncompleted projects of the Land Development Corporation in the 20-year urban renewal programme by \$1.8 billion, from \$19.2 billion to \$21 billion at today's prices.

16. If the Government's existing compensation package for owners and tenants of commercial properties is applied to the 20-year urban renewal programme, the amount would be in the order of \$2.8 billion. The new package now proposed in paragraphs 10 to 12 above will increase this amount by \$1.2 billion to about \$4 billion at today's prices.

17. Extending the proposed URA compensation package to cover resumption of domestic or commercial properties for non-URA projects, such as public works and rail projects, would have additional financial implications. However, it is not possible to estimate the additional costs for a 20-year period.

BACKGROUND INFORMATION

18. The URA Bill was passed by the Legislative Council on 27 June 2000. Members had views on our earlier proposed compensation package for owners and tenants affected by land resumption. Accordingly, we undertook to review the package and to invite the Finance Committee to approve a revised proposal before bringing the URA Ordinance into operation.

19. We briefed the Legislative Council Panel on Planning, Lands and Works on our proposals on 27 February 2001 and discussed the proposed package with the Panel on 1 March and 2 March 2001.

Planning and Lands Bureau
March 2001

**Examples of How the Current Eligibility Criteria for
HPA Work in Practice**

Resumption case		Amount
1.	A single owner-occupied flat.	Full HPA for the flat.
2.	One owner-occupied flat and one flat occupied by the owner's immediate family.	Full HPA for both flats.
3.	One owner-occupied flat and one wholly-tenanted flat.	Full HPA for the first flat and 50% HPA for the second.
4.	A wholly-tenanted flat.	50% HPA for the flat.
5.	More than one wholly-tenanted flat.	50% HPA for one flat and no HPA for the others.
6.	A flat partially occupied by the owner and partially tenanted.	Full HPA for the area occupied by the owners and/or his immediate family, and 50% HPA for the tenanted area.
7.	One flat partially occupied by the owner and partially tenanted, and one wholly-tenanted flat.	As in Item 6 above for the first flat and 50% HPA for the second.
8.	One flat wholly occupied by joint owners or a company where each individual owner/shareholder owns another one or more tenanted flats.	Full HPA for the first flat to each joint owner/shareholder pro rata, 50% HPA for the second flat to each joint owner/shareholder pro rata and no HPA for the remaining flats.

**Examples of How the Proposed Eligibility Criteria
for the New HPA and SA Would Work in Practice**

One flat

	Resumption case	Amount
1.	A flat occupied by the owner or the owner's immediate family members.	Full HPA for the flat.
2.	A flat partially occupied by the owner and partially tenanted.	Full HPA for the area occupied by the owner and SA at 75% of HPA for the tenanted area.
3.	A wholly-tenanted flat.	SA at 50% of HPA for the flat.

Two flats

	Resumption case	Amount
4.	One owner-occupied flat and one flat occupied by the owner's immediate family members.	Full HPA for both flats.
5.	One owner-occupied flat, and one flat partially occupied by the owner's immediate family members and partially tenanted.	Full HPA for the owner-occupied flat. For the partially-occupied flat, full HPA for the area occupied by the owner's immediate family members and SA at 75% of HPA for the tenanted area.
6.	One owner-occupied flat and one wholly-tenanted flat.	Full HPA for the owner-occupied flat. SA at 50% of HPA for the wholly-tenanted flat.
7.	One flat partially occupied by the owner and partially tenanted, and one flat partially occupied by the owner's immediate family members and partially tenanted.	For both partially-occupied flats, full HPA for the area occupied by the owner or his immediate family members and SA at 75% of HPA for the tenanted area.

	Resumption case	Amount
8.	One flat partially occupied by the owner and partially tenanted, and one wholly tenanted flat.	For the partially-occupied flat, full HPA for the area occupied by the owner and SA at 75% of HPA for the tenanted area. SA at 50% of HPA for the wholly-tenanted flat.
9.	Two wholly- tenanted flats.	SA at 50% of HPA for the first wholly-tenanted flat. SA at 25% of HPA for the second wholly-tenanted flat.

Three flats

	Resumption case	Amount
10.	One owner-occupied flat, and two flats occupied by the owner's immediate family members.	Full HPA for all the three flats.
11.	Three flats occupied by the owner's immediate family members.	Full HPA for all the three flats.
12.	One owner-occupied flat, one flat occupied by the owner's immediate family members, and one flat partially occupied by the owner's immediate family members and partially tenanted.	Full HPA for the two flats occupied by the owner and his immediate family members. For the partially-occupied flat, full HPA for the area occupied by the owner's immediate family members and SA at 75% of HPA for the tenanted area.
13.	One owner-occupied flat, two flats partially occupied by the owner's immediate family members and partially tenanted.	Full HPA for the owner-occupied flat. For the two partially-occupied flats, full HPA for the area occupied by the owner's immediate family members and SA at 75% of HPA for the tenanted area.

	Resumption case	Amount
14.	One owner-occupied flat, one flat partially occupied by the owner's immediate family members and partially tenanted, and one wholly-tenanted flat.	Full HPA for the owner-occupied flat. For the partially-occupied flat, full HPA for the area occupied by the owner's immediate family members and SA at 75% of HPA for the tenanted area. SA at 50% of HPA for the wholly-tenanted flat.
15.	One owner-occupied flat, one flat occupied by the owner's immediate family members, and one wholly-tenanted flat.	Full HPA for the two flats occupied by the owner and his immediate family members. SA at 50% of HPA for the wholly-tenanted flat.
16.	One owner-occupied flat and two wholly-tenanted flats.	Full HPA for the owner-occupied flat. SA at 50% of HPA for the first wholly-tenanted flat. SA at 25% of HPA for the second wholly-tenanted flat.
17.	Three flats partially occupied by the owner or the owner's immediate family members and partially tenanted.	For all the three partially occupied flats, full HPA for the area occupied by the owner or his immediate family members and SA at 75% of HPA for the tenanted area.
18.	Two flats partially occupied by the owner or the owner's immediate family members and partially tenanted, and one wholly-tenanted flat.	For the two partially-occupied flats, full HPA for the area occupied by the owner or his immediate family members and SA at 75% of HPA for the tenanted area. SA at 50% of HPA for the wholly-tenanted flat.
19.	One flat partially occupied by the owner and partially tenanted, and two wholly-tenanted flats.	For the partially-occupied flat, full HPA for the area occupied by the owner and SA at 75% of HPA for the tenanted area. SA at 50% of HPA for the first wholly-tenanted flat. SA at 25% of HPA for the second wholly-tenanted flat.

	Resumption case	Amount
20.	Three wholly-tenanted flats.	SA at 50% of HPA for the first wholly-tenanted flat. SA at 25% of HPA for the second wholly-tenanted flat. No SA for the other flat.

- Notes:*
- An owner's immediate family members will be treated the same as the owner in respect of the calculation of the HPA/SA.
 - An owner of a vacant flat will be eligible for the same amount of SA as an owner of a tenanted flat.
 - In the case of company ownership, joint owners or shareholders will be subject to the same principles applicable to individual owners. The HPA/SA will be calculated pro rata to the share of ownership or the shareholding of each joint owner/shareholder.