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Paper for the House Committee meeting on 27 October 2000

**Report of the Panel on Housing
on Cottage Area Clearance**

Purpose

This paper sets out the views of the Panel on Housing on Government's policy concerning the granting of a special ex gratia allowance to residents of Cottage Areas (CA) upon clearance.

Background

2. CA residents were first permitted to live in CA areas in 1952 by the Emergency (Resettlement Areas) Regulations under the Emergency Regulations Ordinance. These Regulations empowered the then Urban Council to set aside areas of Government land as CAs and authorize by permits the erection of structures in these areas at the cost of residents by payment of prescribed fees. The Resettlement Ordinance, enacted in 1958, consolidated these Regulations and defined residents' contractual rights to occupy CAs subject to, inter alia, the payment of prescribed permit fees. With the repeal of the Resettlement Ordinance in 1973, the Housing Authority (HA) became the authority to manage CAs and enforce the conditions of permits under the Housing Ordinance (Cap. 283). Under the permit conditions, CA residents are able to assign their structures to "authorized persons" of public rental housing estates, temporary housing, interim housing and CAs, with the approval of HA.

3. The Government has pledged in the 1997 Policy Address to clear the remaining five CAs by 2001 to provide a more satisfactory living environment to residents. These CAs are situated at Tung Tau, Fo Tan, So Kon Po, Mount Davis and Lai Chi Kok. The Fo Tan CA was cleared in July 2000. There are about 800 units in the four remaining CAs with estimated 3,000 residents.

Deliberations of the Panel of the previous term

4. In the previous legislative term, the Panel on Housing, in the context of considering Government's intended submission for funds for the demolition of CAs, had examined in depth the merits or otherwise of granting a special ex gratia allowance to clearers of CAs on top of the normal domestic removal allowance. Between 1998 and June 2000, three meetings were held on this subject. The Panel had also received oral presentation by the Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong (the Coalition).

5. The arguments put forth by the Coalition to support their claim for compensation were that their structures in CAs were built with the permission of the Administration and the special status of CAs was recognized in the Government's Long Term Housing Strategy Review. Although CA residents did not have legal rights to the land, they should be compensated for the loss of the building structures which were their own assets. The Administration, on the other hand, stressed that as a matter of principle, it was not desirable to use public funds to grant a special ex gratia allowance to CA residents. Legal advice had confirmed that neither the Government nor HA was legally liable to compensate CA residents for the loss of structures. The Administration considered that relaxing the rehousing arrangements for CA residents by, for example, offering public rental housing to eligible households without the income-cum-asset test and domestic property ownership restriction, should suffice.

6. After critically examining the arguments put forward by both parties, the Panel on Housing formed the view that having regard to the distinct historical background of CAs, residents of CAs should be granted a special ex gratia allowance for the loss of structures. The Panel urged the Administration to freeze the clearance of CAs until reasonable compensation arrangements had been worked out. A motion in this regard was unanimously passed by the Panel. The matter was also brought to the attention of the House Committee on 9 June 2000. On behalf of the House Committee, the then Chairman had written to the Chief Executive (CE) urging the Administration to consider the request of the Panel. In his reply to the Chairman of the House Committee on 26 June 2000, CE reiterated the Administration's stance that the payment of a special ex gratia allowance to CA clearers could not be justified.

Deliberations of the Panel of the current term

7. The Panel on Housing of the current legislative term follows up on the matter. At the Panel meeting on 24 October 2000, members re-affirmed the views of the Panel of the previous term and reiterated the request that a special ex gratia allowance should be granted to CA residents for the loss of self-owned structures. Disappointed with the Administration's firm stance on the subject, members of the Panel are unanimous in their support of the passage of the following motion moved by Hon CHAN Yuen-han at the meeting-

“That the LegCo Panel on Housing urges the Administration to grant a special ex gratia allowance to residents affected by clearance of structures in Cottage Areas.”

8. Members of the Panel agreed that the matter should be brought to the attention of the House Committee at its meeting on 27 October 2000. If the views of the Panel have the support of the House Committee, the Panel recommends that the matter be further pursued with the Administration at a higher level.

9. The Panel takes note that the Complaints Division is following up on the rehousing arrangements and the re-provisioning or otherwise of a workshop and a church in connection with the clearance of Tung Tau CA scheduled for September 2000. A case conference has been arranged with the Administration on 7 November 2000.

Advice sought

10. Members are invited to note the deliberations of the Panel and to support its recommendation in paragraph 8 above.

Council Business Division 1
Legislative Council Secretariat
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