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Paper for the House Committee meeting on 3 November 2000

**Report of the Panel on Housing on follow-up actions
to examine the building problems in public housing**

Purpose

This paper reports on the deliberations of the Panel on Housing on the way forward in examining the building problems in public housing.

Background

2. The poor quality of public housing has been a subject of major concern among members of the Panel on Housing (the Panel) of the previous term. Following the spate of building problems unearthed since September 1999, which included the excessive uneven foundation settlements in Tin Chung Court, Tin Shui Wai, the piling problems at Shatin Area 14B Phase 2 (Yuen Chau Kok), suspected use of rejected substandard construction reinforcement in Tung Chung Area 30 Phase 3, and the suspected use of substandard construction materials in the Redevelopment of Shek Yam Estate, the Panel held a series of meetings to explore measures to improve building quality of public housing. A summary of the four incidents is at **Appendix I**. In view of the extent of the problems uncovered in these incidents, the Panel of the previous term decided that the matter ought to be followed up in the next term.

Deliberations of the Panel

3. At the first Panel meeting of the current term on 10 October 2000, the Panel considered that the subject ought to be followed up and the technical aspects involved in an enquiry, should it be conducted, should be set out for the Panel's consideration. A working group comprising five members of the Panel was formed to study, inter alia, the terms of reference of the enquiry should it be conducted. The membership list of the working group is at **Appendix II**.

Areas of concern

4. On the basis on the views of the working group, the Panel deliberated on the subject at its meeting on 24 October 2000. The Panel concurs with the working group that it is important to identify the causes of the four incidents which have not only resulted in substantial loss of public money but have also dampened public confidence in public housing. Members are particularly concerned about the working mechanism within the Housing Department (HD) in the design, tendering and supervision of housing projects, the dual role of the Housing Authority (HA) as a decision-maker on public housing matters and a developer, as well as the exemption of public housing from complying with the building standards specified in the Buildings Ordinance (Cap. 123).

5. The Panel notes that in relation to the incidents and to address public's concern on the poor building quality of public housing, a number of investigations/studies/review have been initiated by the authorities. The relevant investigations/studies/review are as follows:

- (a) two investigations initiated by HA to establish the accountability of the Tin Chung Court and Yuen Chau Kok cases;
- (b) a study on the operation of the construction industry by the Construction Industry Review Committee under the chairmanship of Hon Henry TANG Ying-yen;
- (c) an investigation to establish and collate evidence, if any, of misconduct for undertaking disciplinary proceedings against staff concerned in HD in relation to Tin Chung Court and Yuen Chau Kok incidents by a special panel chaired by Mr Stephen SELBY, Director of Intellectual Property;
- (d) an investigation by the Ombudsman to look into the management of construction projects by HA and HD; and
- (e) a review by the Committee on the Review of the Institutional Framework for Public Housing headed by the Chief Secretary for Administration.

While the two investigations listed in (a) were completed in March/April 2000, the others are still in progress. In reply to the enquiry of the Secretariat, the Secretary for Housing stresses that the focus of the review headed by the Chief Secretary for Administration is the roles and responsibilities of the organizations involved in implementing the public housing programme. It is not a review of housing policy.

6. The Panel notes the view of some members that with the exception of the investigation conducted by The Ombudsman, all investigations/studies are initiated either by HA or the Government. These bodies, except The Ombudsman who conducts her investigations in private, do not have the statutory power to require the attendance of witnesses at hearings or the production of documents by parties concerned.

7. The Panel however also notes the views of some other members that the scope of these investigations/studies may overlap part of the concerns which LegCo Members wish to look into. It is therefore necessary to ensure no overlapping of efforts should Members' time and Secretariat's resources are to be committed for the purpose. Under the circumstances, the Panel concurs with the working group that if any further actions are contemplated by the Legislature, the main purpose should be to address the problems rather than to identify any particular officers for punishment. Reference should also be made as far as possible to all available information from these investigations/studies. However, the timeliness of the completion of these investigations/studies as well as their terms of reference would be important factors for consideration.

8. The Panel also notes that in respect of the four incidents, criminal investigations and/or court proceedings may have been instituted and there may be a case of subjudice should an enquiry be conducted. In this respect, the Panel notes that it has been the practice of previous LegCo enquiries to avoid obtaining evidence on subjudice matters by either adjourning the proceedings of the enquiry until court proceedings/investigations in respect of the relevant persons have been completed or avoid summoning such persons. Hearings may also be conducted in camera if it is considered necessary to ensure fairness to the persons giving evidence or the parties concerned.

Panel's stance on the conduct of an enquiry

9. The Panel considers that, notwithstanding the work of the various investigative or review groups, there remains some important aspects which have not been covered in those studies, e.g. the problems in the Tung Chung and Shek Yam Estate cases. Given the far-reaching impacts of the four incidents and the dire need to tackle building problems in public housing at root, some members of the Panel find it necessary to conduct an independent and comprehensive enquiry into the four incidents by LegCo. The Panel notes that proceedings may be taken in the following manner: -

- (a) that the Panel be authorized to summon witnesses under Rule 80 of the Rules of Procedure by resolution of the Council; or
- (b) that a select committee be formed and authorized to summon witnesses under Rule 80 of the Rules of Procedure by resolution of the Council.

10. Members note that the powers exercised by a Panel or a select committee authorized to order attendance of witnesses under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) are the same. However, if an enquiry is to be conducted by the Panel on Housing, only its members can participate in the proceedings. But if the task is undertaken by a select committee, all LegCo Members including those with the expertise in the conduct of enquiries will have an opportunity to signify membership. Members also note that the membership of a select committee would last for the entire term while membership of Panels is re-opened for signification at the start of each session and there could be a change in the chairmanship.

11. The Panel endorsed at a vote of four voting in favour and three abstaining at its meeting on 24 October 2000 that an enquiry to look into the building problems in the production of public housing units should be conducted by a select committee. The Panel also agreed that setting-up of the select committee together with the draft terms of reference as given in **Appendix III** be put to the House Committee for discussion.

Latest position

12. To facilitate members' deliberation, the Secretariat has written to the respective bodies undertaking the investigations/studies mentioned in paragraph 5 above on their present position. As at 31 October 2000, the responses from these bodies indicate that apart from the investigation by The Ombudsman for which no commitment is given on the completion date, the other studies and review are expected to be completed before the end of March 2001. Details on the terms of reference and the position of these investigations/studies/review are at **Appendix IV**.

Advice sought

13. Members are invited to note the deliberations of the Panel and its proposal in paragraph 11 above.

Council Business Division 1
Legislative Council Secretariat
31 October 2000

Summary of events relating to building problems in public housing

Excessive uneven foundation settlements in Tin Chung Court (TCC), Tin Shui Wai

The problem was revealed when the Housing Authority (HA) requested the contract manager concerned to confirm the compliance status of the relevant blocks upon completion construction. At the same time, the building contractor also reported that they had problems with the installation of lifts in one of the blocks.

2. To probe into the causes of and accountability for the incident, an investigation panel under the chairmanship of Mr Philip NUNN was set up on 23 September 1999 by HA. In its report, the investigation panel concluded that the basic cause of the uneven settlement was that the piles were not installed to the required depth due to incorrect design assumptions. The inadequacy of the foundations was attributed to the neglect of the design and build contractor, the external consultant of HA and the geotechnical sub-consultant. Shortcomings in the contracting system of HA, the lack of precision in the contract documentation and the decision of the Housing Department (HD) to allow the use of pre-stressed pre-cast concrete piles contrary to expert advice also contributed to the problems encountered on the site.

3. The subject was discussed by the Housing Panel on 27 September 1999, 17 and 20 March as well as 19 June 2000. While acknowledging the findings of the investigation report, members expressed concern on the efficacy of the investigation as this was instituted by HA and the investigation panel had no power to insist upon the attendance of nor the production of documents by parties concerned at hearings. Given the extent of the problem, members considered that the Chief Executive should appoint a statutory body under the Commissions of Inquiry Ordinance (Cap. 86) to probe into the incident as was the case with the New Airport. It was also suggested that the Legislative Council should set up a select committee to probe into the case if the Administration declined to establish a commission of inquiry.

4. On 13 June 2000, the Secretary for Housing appointed Mr Stephen SELBY as the Chairman of the Investigation Panel on Staff Discipline in the TCC incident.

Piling problems in the Home Ownership Scheme site at Shatin Area 14B Phase 2 (Yuen Chau Kok (YCK))

5. The problems at YCK were discovered during a bored pile coring test conducted by HD on 3 January 2000. It was found that the recorded length of some of the piles in two of the blocks did not meet the required specification.

6. Apart from establishing an investigation panel under the chairmanship of Mr John E STRICKLAND to probe into the causes of and accountability for the incident, HD also referred the case to the Independent Commission Against Corruption (ICAC) which had subsequently effected a number of arrests, including three HD's staff. According to the findings of the investigation report, the piling problems at YCK was mainly attributed to the failure of the piling contractor to supervise its subcontractor. The lack of the requisite experience and malpractice of HD's staff in supervising construction works on site also contributed to the problems.

7. The subject was discussed by the Housing Panel on 11 January, 20 March, 25 May and 19 June 2000. As the terms of reference of the investigation panel were similar to that of the investigation panel on the TCC case, members expressed reservation at the efficacy of the investigation. To this end, members passed a motion at the meeting on 20 March 2000 to urge the Housing Bureau to convey the view of the Panel to the Chief Executive, requesting him to appoint a statutory committee to undertake a review of the operation of the entire construction industry and to follow up the investigations of the cases of TCC and YCK.

8. On 5 April 2000, the Administration announced the appointment of Hon Henry TANG Ying-yen, Member of the Chief Executive in Council, as the Chairman of the Construction Industry Review Committee to examine the operation of the construction industry and to make recommendations to improve upon the practices of the trade. The issue of staff discipline has been put under the purview of the Investigation Panel under the chairmanship of Mr Stephen SELBY.

Suspected use of rejected substandard reinforcement in the Home Ownership Scheme development at Tung Chung Area 30 Phase 3

9. The problem was disclosed after six people from the main contractor for the contract were arrested by ICAC for suspected corruption involving substandard reinforcement. A driver of the contractor was subsequently charged for corruption.

10. The subject was discussed by the Housing Panel on 1 and 19 June 2000. At the latter meeting, the Administration admitted that substandard reinforcement bars had been used in the construction site. However, as these bars had failed the laboratory tests on yield stress or mass density by a small margin of five to ten percents, their impact on the structural safety of the blocks could be minimal, even if they had been used in the same location of the buildings. To prevent recurrence of similar incident, measures such as using security cameras on site to keep track of what was happening after office hours, obtaining more information on the performance of steel suppliers and using alternative ways of marking reinforcement bars were under consideration.

11. In view of the spate of building problems in public housing, members were requested to consult their respective political parties on the need for setting up a select committee in this regard.

Suspected use of substandard construction materials in the Redevelopment of Shek Yam Estate Phase 2

12. The problem was uncovered after 16 persons, including two from the outside consultant for the contract, were arrested by ICAC for suspected corruption involving substandard works in the project.

13. At the Housing Panel meeting on 4 May 2000, the Administration advised that non-complying works were discovered earlier during routine checking by HD before ICAC's operation. These included the use of sub-standard claddings, prohibited use of semi-dry cement sand floor screeding, sub-standard concreting, formwork and steel reinforcement fixing. Some of these defects had been rectified during the course of construction. Delay in other rectification works such as replacement of sub-standard claddings was due to the time required for importing the required materials from overseas countries. It also confirmed that there were no structural safety problems as the sub-standard works were of a minor nature. Moreover, as Shek Yam Estate Phase 2 was a rental estate, the Administration would take up the maintenance responsibility after the expiry of the maintenance period.

**Legislative Council
Panel on Housing**

List of members who have joined the working group

Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han
Hon Abraham SHEK Lai-him, JP
Hon LAU Ping-cheung

(Total : 5 members)

Appendix III

Proposed term of reference of the select committee to inquire into building problems in public housing

To inquire into the building problems in the production of public housing units having regard to the circumstances surrounding the incidents in Tin Chung Court, Shatin Area 14B Phase 2, Tung Chung Area 30 Phase 3 and Shek Yam Estate Phase 2.

Name of Investigation body	Appointed by	Membership	Terms of reference	Target completion date
Investigation Panel on Accountability in the case of Tin Chung Court, Tin Shui Wai	Housing Authority	Mr Philip NUNN (Chairman) Mr WAN Man-ye Professor Patrick LAU Sau-shing Mr Michael CHOI Ngai-min Dr CHENG Hon-kwan	<ul style="list-style-type: none"> (i) to establish the areas of responsibilities of the officers/parties concerned; (ii) to identify any areas of negligence of each of the officers/parties; (iii) to ascertain whether the laid down procedures and guidelines of various stages have been properly followed with reference to the relevant manual and documents by these officers/parties; and (iv) to determine whether these officers/parties have exercised their professionalism at a reasonable expectation. 	completed on 3 March 2000
Investigation Panel on Accountability (Piling Contract 166/1997 Shatin 14B Phase 2)	Housing Authority	Mr John E STRICKLAND (Chairman) Miss Teresa CHENG Yeuk-wah Professor LEE Chack-fan	<ul style="list-style-type: none"> (i) to establish the facts of the case leading to the suspension of work at Shatin Area 14B Phase 2; (ii) to establish the areas of responsibility of the officers/parties involved, and to identify any areas of negligence, including any misconduct or malpractice of each of the officers/parties; (iii) to recommend to the Chairman of the Housing Authority whether any disciplinary, legal or other action should be taken against any of the officers/parties; (iv) to recommend to the Chairman of the Housing Authority any improvements in responsibilities, contract conditions, and procedures for managing and supervising piling works; and (v) to undertake such discovery as the panel may deem necessary, which may include seeking of independent opinion from technical and or legal experts, and the interviewing of any individuals the panel considers appropriate. 	completed on 27 April 2000

Name of Investigation body	Appointed by	Membership	Terms of reference	Target completion date
Construction Industry Review Committee	Chief Executive	Hon TANG Ying-yen (Chairman) Professor Michael ANSON Mr Francis BONG Shu-ying Mr CHAN Kam-ling Mrs Pamela CHAN Mr Keith KERR Mr KWOK Kwok-chuen Mr Daniel LAM Chun Mr Frederick MA Si-hang Mr Alasdair MORRISON Mr POON To-chuen Mr Albert TONG Yat-chu Mr Robin J WHALLEY Secretary for Housing Secretary for Works Director of Buildings	(i) to examine the current state of the construction industry in respect of quality, quantity, environmental friendliness, manpower, safety and supervision; (ii) to identify specific actions and good practices to improve the efficiency and cost effectiveness of local construction in terms of quality, customer satisfaction, timeliness in delivery and value for money; and (iii) to advise on an order of priority for implementation.	end of 2000
Investigation Panel on Staff Discipline in Yuen Chau Kok and Tin Chung Court Incidents	Secretary for Housing	Mr Stephen SELBY (Chairman) Mr CHOY Kin-kuen Mr CHAN Chiu-ming Mrs WONG MA Wai-mei	(i) to establish and collate evidence, if any, of misconduct to enable consideration of disciplinary proceedings against any staff member concerned in the Housing Department; and (ii) to identify specific acts of misconduct, if any, which warrant administrative or disciplinary action.	mid to end of November 2000
The Ombudsman	N/A	N/A	(i) to investigate into the management of construction projects by the Housing Authority and the Housing Department.	Not yet confirmed
Committee on the Review of the Institutional Framework for Public Housing	Chief Executive	Chief Secretary for Administration (Chairman) Chairman of the Housing Authority Chairman of the Housing Society Secretary for Housing Secretary for Planning and Lands Secretary for the Treasury Director of Housing	(i) to examine the roles and responsibilities of the Housing Bureau, the Housing Authority, the Housing Department and the Housing Society in the delivery of the public housing programme; and (ii) to make recommendations on the best institutional framework for public housing.	end of March 2001