

立法會
Legislative Council

LC Paper No. CB(1) 2216/00-01
(These minutes have been seen
by the Administration and cleared
by the Chairman)

Ref: CB1/PL/HG/1

LegCo Panel on Housing

**Minutes of meeting held on
Monday, 2 April 2001, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** :
- Hon CHAN Kam-lam (Chairman)
 - Hon Albert HO Chun-yan (Deputy Chairman)
 - Hon LEE Cheuk-yan
 - Hon James TO Kun-sun
 - Hon CHAN Yuen-han
 - Hon LEUNG Yiu-chung
 - Hon Andrew WONG Wang-fat, JP
 - Hon Howard YOUNG, JP
 - Dr Hon YEUNG Sum
 - Hon Andrew CHENG Kar-foo
 - Hon SZETO Wah
 - Hon Abraham SHEK Lai-him, JP
 - Hon Albert CHAN Wai-yip
 - Dr Hon LO Wing-lok
 - Hon Frederick FUNG Kin-kee
 - Hon LAU Ping-cheung
- Members absent** :
- Hon David CHU Yu-lin
 - Hon Fred LI Wah-ming, JP
 - Hon NG Leung-sing
 - Hon IP Kwok-him, JP

**Public officers
attending**

: For item IV

Housing Bureau

Miss Joey LAM
Principal Assistant Secretary for Housing (2)

Housing Department

Mrs Doris MA
Assistant Director/Sales

Ms Josephine SHU
Senior Estate Surveyor/Tenants Purchase Scheme

Lands Department

Mr A L Robertson
Assistant Director/Legal
(Kowloon and New Territories East)

Mrs Karen HO
Assistant Principal Solicitor/Kowloon and Conveyancing

For item V

Housing Bureau

Miss Elaine CHUNG
Deputy Secretary (1)

Miss Joey LAM
Principal Assistant Secretary for Housing (2)

Home Affairs Bureau

Mr Francis LO
Principal Assistant Secretary (5)

Mr John DEAN
Principal Assistant Secretary (7)

Housing Department

Mr K H LAU
Business Director/Allocation and Marketing

Mr Joseph LEE
Business Director/Management

Invitation by attending : Concern Group on the Sale of King Lam Estate

Mr KO Wing-luen
Representative

Mr CHING Hok-man
Representative

Miss CHOW Lai-hing
Representative

Concern Group on the Sale of Lei Cheng Uk Estate under
the Lei Cheng Uk Estate Residents Committee

Mr CHAN Yan-kam
Representative

Ms LEUNG Lai-wah
Representative

Ms LEE Siu-yee
Representative

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Ms Erin TSANG
Senior Assistant Secretary (1)3

I Confirmation of minutes of previous meeting
(LC Paper No. CB(1) 920/00-01)

The minutes of the meeting held on 8 January 2001 were confirmed.

II Information papers issued since last meeting

2. Members noted that the following information papers had been issued since last meeting:

LC Paper No. CB(1) 835/00-01(01) -- Referrals from Members after meeting with Wong Tai Sin District Council on 22 February 2001 regarding the prevailing allocation policy on interim housing; release of the Deeds of Mutual Covenant for prospective buyers of Tenants Purchase Scheme flats; and provision of transport and traffic arrangements for newly-built estates;

LC Paper No. CB(1) 835/00-01(02) -- Submission from the Hong Kong People's Council on Housing Policy regarding the Proactive Registration Campaign for the Elderly;

LC Paper No. CB(1) 919/00-01 -- Submission from a Mr CHEUNG Kam-shui expressing his views on compensation for residents affected by clearance of Tung Tau Cottage Area;

LC Paper No. CB(1) 921/00-01 -- Submission from the Society for Community Organization regarding rehousing arrangements for the elderly, disabled and low income tenants affected by the Comprehensive Redevelopment Programme;

LC Paper No. CB(1) 935/00-01 -- Submission from the Hong Kong People's Council on Housing Policy regarding the zero-rent concept for public rental housing estates; and

LC Paper No. CB(1) 936/00-01 -- Progress report of the Proactive Registration Campaign for Elderly Persons provided by the Administration.

III Date of next meeting and items for discussion

(LC Paper Nos. CB(1) 943/00-01(01) and (02))

3. Members agreed to discuss the following subjects at the next meeting scheduled for Monday, 7 May 2001, at 2:30 pm:

- Rent Allowance for the Elderly Scheme;
- Directorate restructuring of the Housing Department and creation of a supernumerary Assistant Director of Housing post for the Independent Checking Unit in the Housing Department;
- Proposed amendment to the Estate Agents (Licensing) Regulations, Cap 511; and
- Construction of seven schools in Tseung Kwan O Area 86 development.

IV Enhancement of transparency in the formulation of Deeds of Mutual Covenant for Tenants Purchase Scheme estates

Meeting with the Concern Group on the Sale of King Lam Estate

(LC Paper No. CB(1) 943/00-01(03))

4. At the invitation of the Chairman, Mr KO Wing-luen highlighted the salient points in the submission of the Concern Group on the Sale of King Lam Estate. He said that King Lam Estate (KLE) was put up for sale under the Tenants Purchase Scheme (TPS) in mid-February 2001. However, tenants found the provisions in the Deeds of Mutual Covenant (DMC) as set out in the sales brochure tabled at the meeting unacceptable. They did not agree that KLE owners should be responsible for the construction and maintenance costs of the MTR station entrances adjoining KLE, and that the Government should be under no liability to owners for any loss or damage arising from ground settlement as a result of reclamation. They considered it unfair that KLE owners had to pay the biggest share of maintenance cost for the common areas within KLE while the use of these areas were open to both Ho Ming Court and Wong Cho Sum Primary School at a nominal fee. It was also unreasonable for the Highways Department to shift the maintenance responsibility for street lamps within KLE to owners. Mr CHING Hok-man further pointed out that the Housing Department (HD) had failed to deliver satisfactory pre-sale maintenance and repair works for KLE. He urged HD to rectify the problem of seepage at roof and replace all the rusty pipes as soon as possible.

Meeting with the Concern Group on the Sale of Lei Cheng Uk Estate under the Lei Cheng Uk Estate Residents Committee
(LC Paper No. CB(1) 943/00-01(04))

5. Mr CHAN Yan-kam expressed dissatisfaction at the lack of transparency in the demarcation of boundary of TPS estates. He said that following the Administration's announcement that Lei Cheng Uk Estate (LCUE) would be put up for sale under TPS in 2002, tenants had repeatedly requested that the neighbouring Han Garden, which was open to the general public, be excluded from the boundary of LCUE. It was disappointed that HD had failed to provide a prompt response to their request. He considered that HD should consult tenants in the formulation of DMC for TPS estates, and that the draft DMC should be made available for reference of tenants at least six months prior to the sale.

Meeting with the Administration
(LC Paper Nos. CB(1) 835/00-01(01) and 943/00-01(05))

6. With the consent of the Chairman, the Senior Estate Surveyor/TPS (SES/TPS) took the opportunity to respond to some of the points raised by the deputations. As regards KLE, SES/TPS clarified that the MTR station entrances referred to were in fact estate entrances connecting KLE to the landscaped podium being constructed by MTR. The construction cost of the estate entrances would be borne by HD while the maintenance cost would be borne by all KLE owners, including HA as one of the owners. On the maintenance of common areas within KLE, SES/TPS noted that as both Ho Ming Court and Wong Cho Sum Primary School fell outside the boundary of KLE, they did not enjoy any legal right to use these common areas. Nevertheless, they would be required to share the maintenance cost, which was calculated on a gross floor area basis, of portions of estate roads in KLE over which they enjoy rights of way. She added that as the street lamps were for the exclusive use of KLE, it was reasonable for KLE owners to maintain such facilities according to the "user-pays" principle. On the provision on ground settlement, SES/TPS advised that this was a standard condition in all land grants of developments built on reclaimed land. To facilitate members' understanding, Mr Howard YOUNG requested and the Administration agreed to provide information on the responsibilities for constructing and maintaining MTR station entrances adjoining a residential development.

(Post-meeting note: The required information was circulated to members vide LC Paper No. CB(1) 1170/00-01.)

7. As regards LCUE, the Assistant Director/Sales (AD/S) agreed that it might not be appropriate to include the Han Garden in the boundary of LCUE. Discussions with concerned Government departments were underway to transfer the management of the Han Garden to the Leisure and Cultural Services Department but a decision had yet to be made.

Maintenance of TPS estates

8. Mr LEUNG Yiu-chung noted with concern that the existing maintenance programme might not be able to tie in with the sale programme of TPS. AD/S advised that apart from the planned maintenance programme, HD would inspect the conditions of TPS estates and carry out necessary repair and maintenance works nine months before the estates were put up for sale. At the same time, tenants would be invited to submit requests for in-flat repair and maintenance. Such an arrangement would give HD sufficient lead-time to complete any necessary repairs and ensure that the repair exercise was as thorough and comprehensive as possible. When TPS flats were on offer for sale, purchasers would be invited again to submit final requests for repair at the time of submitting their applications for purchase. In the case of Phase 4, some 22 000 requests had been received in March 2001. Mr Frederick FUNG asked if HD was able to complete the pre-sale maintenance and repair works before sale. Miss CHAN Yuen-han echoed that HD should provide a definite time-frame for completion of repair works. AD/S advised that HD would ensure the completion of any outstanding repair within three months after receipt of the final requests as far as possible.

9. Mr Abraham SHEK Lai-him considered that HD should apprise buyers of the maintenance cost of their TPS estates over the past five years so that they could make an informed decision. AD/S responded that HD had set up a maintenance fund for TPS estates, amounting to \$14,000 per flat, to cover major maintenance expenses normally good enough for ten years. The amount was set with reference to the average maintenance cost of public rental housing estates over the past ten years and an estimate by HD maintenance surveyors on the possible maintenance works required for the next ten years. Up till now, only a small part of the fund had been used to cover maintenance expenses for TPS Phase 1 estates.

Management of TPS estates

10. Members remained concerned about the demarcation of boundaries of TPS estates. Mr Albert CHAN considered it unfair that the Housing Authority (HA) should include common areas such as footbridges, walkways and open space in the boundaries of TPS estates and require owners to share the management and maintenance costs of these areas. He noted that in some TPS estates, owners were even required to share the management and maintenance costs of ball courts adjoining primary schools which were used by schools during daytime and by residents outside school hours. Expressing similar concern, Mr LEUNG Yiu-chung enquired about the criteria for the demarcation of boundaries of TPS estates. SES/TPS explained that the boundaries of TPS estates set out in Government leases largely followed those indicated in the original Vesting Orders, and included areas and facilities which had been under the control and management of the estates. The rights and obligations of owners were defined in the Government lease and DMC. AD/S added that in drafting DMC, HA would ensure that existing authorized uses in respect of common areas and facilities by residents would continue to be protected, and that their management and

maintenance responsibilities were fully reflected and fairly shared by all owners according to the “user-pays” principle. HA as owner of unsold residential flats and commercial properties such as shopping centres and carparks would contribute to the management expenses for estate common areas and facilities together with all owners in proportion to the management shares it held under the DMC.

11. Mr Andrew WONG questioned why estates roads and recreational facilities were included in the boundaries of TPS estates while shopping centres and carparks were not. Mr Frederick FUNG echoed that HA should exclude the entrances connecting KLE and the MTR landscaped podium from the boundary of KLE taking into account the views of tenants. AD/S clarified that commercial facilities were included in the boundaries of TPS estates and HA as the owner of such commercial facilities would contribute to the management and maintenance expense of estate common areas based on the management shares held. She reiterated that the determination of lot boundaries of developments was based on the original project boundaries, which included any associated slopes formed for the development and areas and facilities, such as estate roads, open space and recreational facilities, built in connection with and mainly served the owners of the development. The lot owners, while enjoying the benefit of ownership and usage, were required to bear the responsibilities for their maintenance in line with the user pays principle. Common areas intended to serve a TPS estate could not be excluded from its boundary.

12. Dr YEUNG Sum noted with concern that prospective TPS buyers had never been consulted in the preparation of DMC. They could only read the relevant DMCs at the estate offices shortly before TPS estates were offered for sale. The Principal Assistant Secretary for Housing(2) (PAS for H(2)) advised that the procedures for the formulation of DMCs for TPS estates followed those for private developments. DMC for TPS estates were drawn up by HA’s appointed legal consultants in accordance with the general principles and guidelines issued by the Legal Advisory and Conveyancing Office (LACO) of the Lands Department. In scrutinizing DMCs, LACO would ensure that the terms were reasonable and fair to all parties before giving approval. On access to DMC prior to sale, PAS for H(2) said that a copy of the approved DMC would be kept in the estate office for inspection by prospective buyers prior to commencement of and throughout the sale period. Salient points in DMC would also be provided in the sales brochures when the estates were launched for sale. Besides, the purchasers’ solicitors had the responsibility to explain the DMC in detail to purchasers at the time of execution of the assignment deed.

13. As DMC was not subject to change after promulgation, Mr Albert HO considered it necessary for HA to consult prospective buyers in the formulation of DMC, particularly on the demarcation of boundaries of TPS estates. Dr YEUNG echoed that HA should make available a draft DMC to gauge the views of TPS buyers before it was finalized. Expressing similar concern, Mr Andrew CHENG stressed the need for HD to explain to buyers the conditions in DMC, particularly those relating to owners’ liability in cases such as ground settlement. AD/S responded that the prevailing mechanism on the preparation of DMC applied to both public and private

housing developments alike and enabled LACO to ensure a fair balance of interests among all parties concerned. Moreover, discussion fora would be held to answer tenants' enquiries before TPS estates were put up for sale. The Chairman asked if HA would review the content of DMC after a certain period of time. AD/S explained that DMCs for TPS estates were drawn up in accordance with the guidelines laid down by LACO which would review the propriety of these guidelines from time to time.

14. Mr HO considered DMCs for TPS estates too rigid. He questioned the rationale for requiring TPS owners, who were in fact sitting tenants, to pay a deposit of three months' management expenses and the need for specifying the manager's remuneration of 10% in DMC. The Assistant Director/Legal (Kowloon and New Territories East) advised that according to the guidelines laid down by LACO, the requirement for three months' deposit was a standard provision in DMCs. The purpose of the deposit was to offer some safeguard to the manager in the event that owners failed to pay their management contributions. As regards manager's remuneration, AD/S clarified that the 10% referred to was the maximum rate which a manager could charge for the management of the development. In fact, tenders for management contracts of TPS estates were at a much lower rate according to past experience. Mr James TO remained unconvinced that DMC should specify the rate of manager's remuneration lest this might discourage competition among tenderers. He also agreed with other members on the need to consult buyers in the formulation of DMCs for TPS estates. He added that as TPS was rolled out to encourage wider home ownership, consideration should be given to setting up a consultative group to gauge the views of prospective buyers and to resolve any discrepancies before finalizing the respective DMCs. PAS for H(2) undertook to liaise with HD regarding arrangements to keep potential TPS buyers better informed of the provisions of the DMC and to gauge their views.

15. Noting that buildings constructed by HA were exempt from the Buildings Ordinance (Cap. 123) (BO), Mr LAU Ping-cheung expressed concern about the compliance of TPS flats with statutory building controls. In reply, AD/S assured members that the buildings were safe in all aspects. Besides, HD would work closely with the Buildings Department to address any BO compliance issues of TPS estates before their sale.

16. Before concluding, the Chairman reiterated that HD should consult prospective buyers in the formulation of DMCs for TPS estates, and that discussion fora should be held to explain to buyers the conditions in DMCs. Consideration should be given to reviewing DMCs from time to time. At members' request, the Administration undertook to respond to the suggestions raised at the meeting.

(Post-meeting note: The Administration response was circulated to members vide LC Paper No. CB(1) 1516/00-01.)

V Report of the Hong Kong Special Administrative Region of the People's Republic of China in the light of the International Covenant on Economic, Social and Cultural Rights

(LC Paper No. CB(1) 730/00-01 and 943/00-01(06))

17. The Deputy Secretary for Housing (1) said that since the submission of the previous report in 1996, remarkable progress had been made in meeting the demand for more and better housing. By way of illustration, the number of inadequately housed households in Hong Kong had fallen from 8% to 5% and the average waiting time for public rental housing (PRH) had been reduced from eight to below five years. The average allocation standard on the other hand had increased from 3.5 square meters in 1973 to nine square meters in 2001. Major squatter areas, cottage areas and temporary housing areas would be cleared by mid-2001. During her recent visit to Hong Kong, the Chairman of the United Nations' Committee on Economic, Social and Cultural Rights had also expressed appreciation on the efforts being made by the Administration in providing interim housing (IH) to the homeless.

18. Mr LEE Cheuk-yan attributed the increase in number of young street sleepers to the high rental in the private sector. He cautioned that the provision of IH in Tuen Mun, which was far away from their work places, would further aggravate their situation having regard to the long travelling time and high transport cost. The Business Director/Allocation and Marketing (BD/A&M) advised that it was the Administration's policy to ensure that no one would be rendered homeless. Persons such as new immigrants from the Mainland who lived in illegal squatters would be rehoused to IH upon clearances. As regards street sleepers, BD/A&M noted that the Health and Welfare Bureau was working with the Social Welfare Department (SWD) on the subject. He added that street sleepers who did not want to be rehoused to IH could choose to live in temporary shelters run by voluntary agencies.

19. Mr Albert HO expressed concern about the rigid approach which HD had adopted in making housing arrangements for PRH tenants and applicants on the Waiting List (WL) undergoing divorce proceedings. He pointed out that the reluctance of HD to provide separate flat to divorcees, particularly to those battered spouses, had forced them to move to accommodation of inferior quality. BD/A&M explained that as tenants were expected to solve their own accommodation problem upon a divorce, no separate flat would be offered to divorce parties. However, if an agreement could not be reached by both parties on the PRH tenancy, HD would generally favour the grant of the tenancy to the party having the custody of children. If the legal proceedings involved in the case were expected to be protracted ones and the party with children had genuine and urgent need for separate accommodation in a PRH estate, a conditional tenancy under the Compassionate Rehousing category would be offered to the party concerned upon recommendation of SWD. After the court had decided on the divorce petition and custody of children, the party without custody of children would be required to move out from his/her matrimonial home. For battered spouses, BD/A&M advised that immediate refuge homes run by voluntary agencies were readily available to needy persons. Mr HO was not convinced that WL

applicants contemplating a divorce could only apply for separate accommodation after flat allocation and upon referral by SWD. He opined that HD should exercise greater flexibility in dealing with divorce matters having regard to the plight of divorcees. BD/A&M replied that it would not be fair to other WL applicants if divorcees could be offered additional flats on ground of divorce. He nevertheless assured members that HD would adopt a flexible approach in considering accommodation arrangements for divorced couples taking into account merits of individual cases.

20. Mr Andrew WONG asked if HD would allow splitting of tenancy of PRH households living in overcrowded condition as a result of addition of family members. BD/A&M advised that for the better caring of the PRH tenant, the spouse of one of the tenant's married children could be added to the tenancy, provided that the married offspring was an authorized occupant of the flat. The second-generation family members thus added would be counted for overcrowding relief. However, they were not permitted under normal circumstances to apply under WL for separate accommodation of their own nor allowed to split from the tenancy. As for the tenant's other children, they were expected to move out upon marriage and could apply for PRH through WL. Mr LEE Cheuk-yan enquired about the latest development in respect of addition of adult children to PRH tenancies of elderly tenants. The Business Director/Management said that under normal circumstances, permission for temporary stay would be given. Nevertheless, approval might be granted to genuine cases where the elderly tenants required the special personal attention of their adult children. Under such circumstances, a larger flat might be allocated to the elderly tenants concerned if necessary.

21. While commending the housing policy which had provided shelter for over three million people in Hong Kong, the Chairman opined that the Administration should avoid policy changes which would affect the eligibility of existing applicants for public housing. He pointed out that the requirement for squatters to undergo a comprehensive means test had been subject to severe criticism as it had deprived many squatters, particularly those registered in the 1984/85 Squatter Occupancy Survey who had been waiting for PRH for a long time, of their opportunity for PRH. He agreed with other members that HD should exercise greater flexibility in handling such cases. Consideration should be given to offering PRH flats to these squatters who would then be subject to various policies applicable to sitting tenants.

VI Any other business

22. There being no other business, the meeting ended at 4:40 pm.