

立法會
Legislative Council

LC Paper No. CB(1) 2204/00-01
(These minutes have been seen
by the Administration)

Ref: CB1/PL/HG/1

LegCo Panel on Housing

**Minutes of meeting held on
Monday, 4 June 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 David CHU Yu-lin
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing
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 Albert CHAN Wai-yip
Dr Hon LO Wing-lok
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
- Member absent** : Hon Abraham SHEK Lai-him, JP

- Public officers attending** : **For item IV**
- Housing Bureau
- Miss Joey LAM
Principal Assistant Secretary (2)
- Housing Department
- Mr C P ROBERTS
Assistant Director/Commercial Properties
- For item V**
- Housing Bureau
- Miss Joey LAM
Principal Assistant Secretary (2)
- Housing Department
- Mr K H LAU
Business Director/Allocation and Marketing
- Invitation by attending** : **For item IV**
- Ngau Tau Kok Proprietors & Inhabitants Association Ltd.
- Mr HUI Kwok-chee
President
- Mr CHOY Tat-shing
Chairman
- Clerk in attendance** : Miss Becky YU
Chief Assistant Secretary (1)1
- Staff in attendance** : Mrs Mary TANG
Senior Assistant Secretary (1)2
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- I Confirmation of minutes of previous meeting and endorsement of the report of the Panel on Housing for submission to the Legislative Council**
(LC Paper No. CB(1) 1396/00-01 -- Minutes of the joint meeting with Panel on Planning, Lands and Works held on 27 February 2001
LC Paper No. CB(1) 1398/00-01 -- Draft report of the Panel on Housing for submission to the Legislative Council)

The minutes of the joint meeting with the Panel on Planning, Lands and Works held on 27 February 2001 were confirmed.

2. Members endorsed the draft report of the Panel for the current session and authorized the Chairman to revise the report to cover discussions at this and further meetings before it was presented to the Council in June 2001.

II Information papers issued since last meeting

3. Members noted that the following information papers had been issued since the last meeting-

LC Paper No. CB(1) 1322/00-01 -- Referral from Duty Roster Members regarding the Housing Authority's prevailing policy and procedures on the letting of non-domestic premises;

LC Paper No. CB(1) 1339/00-01 -- Second report on progress of implementation of the greater private sector involvement scheme provided by the Administration;

LC Paper No. CB(1) 1385/00-01 -- Submission from the Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong; and

LC Paper No. CB(1) 1388/00-01 -- Minutes of the case conference on alleged maladministration in the letting procedures for commercial premises of the Housing Authority held on 27 April 2001 and a letter to the Administration from the Case Convenor.

III Date of next meeting and items for discussion

(LC Paper No. CB(1) 1399/00-01(01) -- List of follow-up actions

LC Paper No. CB(1) 1399/00-01(02) -- List of outstanding items for discussion)

4. Members agreed to discuss the following items at the next meeting scheduled for 9 July 2001 -

- Senior Citizen Residence Scheme;
- Rent allowance for the Elderly Scheme; and
- Rent policy on markets and commercial premises of the Housing Authority (HA).

On the last item, Mr Andrew WONG proposed and members agreed that the Administration be requested to brief the Panel on the mechanism through which rent reduction would be considered; the current vacancy rates of markets and commercial premises of HA; the impact of the introduction of large chain stores on the competitiveness of existing commercial tenants of HA and single operators and tenants of markets.

5. Mr LEE Cheuk-yan wished to raise the subject on control of installation of air-conditioners in private buildings which would impact on energy efficiency. The Clerk advised that she had discussed with the relevant policy bureaux and was given to understand that the issue of energy efficiency fell under the purview of the Environment and Food Bureau. As the issue of control of air-conditioners also fell under the purview of the Planning and Lands Bureau, it would be more appropriate for the Environmental Affairs Panel and the Planning, Lands and Works Panel to hold a joint meeting to follow up the subject raised by Mr LEE.

6. Referring to the submission from the Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong (LC Paper No. CB(1) 1385/00-01), Miss CHAN Yuen-han noted that the subject of compensation arrangements for residents affected by clearances had not been included in the agenda for the next meeting. As the three remaining cottage areas would be cleared shortly, she considered that there was a need for the Panel to follow up the subject. The Chairman advised that the Subcommittee on the Rehousing Arrangements for Residents Affected by Clearance of Temporary Housing Areas, Squatter Areas and Cottage Areas set up under the Panel had been following up the subject. At the last meeting of the Subcommittee, the Administration had been requested to address members' concerns. As the response from the Administration was still awaited, there was no point in holding further Panel meeting to discuss the subject. He suggested that the subject be continuously followed up by the Subcommittee, and that the Coalition be informed of the progress in due course.

(Post-meeting note: The next Panel meeting was subsequently postponed to 18 July 2001 on the advice of the Chairman.)

IV Compensation arrangement for non-domestic tenants upon redevelopment of public rental housing estates

Meeting with the Ngau Tau Kok Proprietors & Inhabitants Association Ltd
(LC Paper No. CB(1) 1399/00-01(03) -- Submission from the Association)

7. Mr HUI Kwok-chee, President of the Ngau Tau Kok Proprietors and Inhabitants Association Ltd (the Association), considered the current policy on tendering of HA commercial facilities discriminatory in that commercial tenants displaced by redevelopment could only participate in tendering for market stalls. Restricted tenders for commercial premises in new shopping centres were no longer made available to these tenants. He also pointed out that despite the fact that the rental value of commercial properties at Lower Ngau Tau Kok Estate was higher than those at Sau Mau Ping Estate, the lump sum of \$73,000 offered to displaced commercial tenants of Lower Ngau Tau Kok Estate in lieu of restricted tender opportunity was much lower than that of \$89,000 offered to those of Sau Mau Ping Estate. Besides, tenants operating in more than one commercial premises were only offered a single lump sum payment. The compensation package had not taken into account the outside seating area of cooked food stores although all along tenants had to pay rents and rates for these areas. Neither had it taken into account the higher grading of some of the premises. He opined that, with the evacuation of some of the premises at Lower Ngau Tau Kok Estate, consideration should be given to lowering the rentals of the remaining premises.

Meeting with the Administration

(LC Paper No. CB(1) 235/00-01 --

Referral from Duty Roster Members regarding compensation arrangements for food stall operators upon redevelopment of Shek Lei (I) Estate

LC Paper No. CB(1) 1399/00-01(04) -- Information paper provided by the Administration)

8. Before commencing discussion, the Assistant Director/Commercial Properties (AD/CP) took the opportunity to respond to the points raised by the Association. He explained that it had been the practice of HA to offer ex gratia allowance and reprovisioning opportunity to commercial tenants displaced by redevelopment. However, in view of the availability of commercial premises in both the private and the public sectors, HA had re-examined such arrangements two years ago and decided that there was no need to reserve particular premises in new public housing estates for commercial tenants displaced by redevelopment. Tenants concerned could participate in open tender exercises and freely compete with others from the private sector. While reprovisioning opportunities restricted to displaced tenants were still available, these would be limited to market stalls in existing estates.

A lump sum payment in lieu of reprovisioning opportunities was also available. The payment, which was reviewed regularly, was based on the average rental foregone during the three-month rent-free period in premises obtained by restricted tender over the past two years increased by one third. Following the review in 1999, the lump sum was reduced from \$89,000 to \$73,000 in the light of the reduction in rental values. The revised payment was applicable to tenants affected by clearance operations announced after November 1999 which included those of Lower Ngau Tau Kok Estate.

9. As regards outside seating areas, AD/CP advised that the use of such areas was not part of the tenancy and thus the Housing Department (HD) had never charged rents for these areas. No compensation had ever been paid for the loss of outside seating areas of any premises since the re-commencement of the Comprehensive Redevelopment Programme in 1988. He further pointed out that rents for commercial premises in older public housing estates were determined with reference to the quality of the premises. The Rating and Valuation Department had graded these premises from A to D with A being the best and D being the worst. Unlike the majority of HA premises where rents were reviewed every three years, rents for graded premises were reviewed every two years and had remained way below the market value. As it was HA's policy to gradually bring commercial rents in line with the market value, rents for graded premises should not be reduced further. Besides, the compensation package for commercial tenants of graded premises was more generous than those of fixed-term tenancies.

Tendering arrangements

10. Dr YEUNG Sum recalled that the disallowance of restricted tender for commercial tenants displaced by redevelopment had created undue hardship for tenants affected by the redevelopment of North Point Estate. He remained unconvinced of the explanation given by the Commercial Properties Committee (CPC) of HA that as these tenants were operating family type businesses, they were unable to compete with other commercial tenants in new estates. He considered such an arrangement unfair since this had deprived the tenants of the chance of continuing business in new estates. As displaced tenants were not able to compete with others in open tender, they would have no choice but to close their business and accept the lump sum payment in lieu of tendering opportunities. He hoped that HA would reconsider its letting policy and re-open restricted tendering exercises for displaced tenants. Members also queried why restricted tender was allowed for tenants of Sau Mau Ping Estate while the same was not extended to those of Lower Ngau Tau Kok Estate and North Point Estate given that all these estates were redeveloped recently.

11. AD/CP advised that according to past experience, some of the commercial tenants in older estates might have difficulties in tendering for premises in new estates which called for heavier capital investment and more commercial expertise. CPC therefore considered that it might not be the best way to set aside a number of shop premises in new estates for restricted tender, and that a lump sum payment for

displaced commercial tenants would be a better alternative so that they could freely compete with others on an equal footing. Following a comprehensive review of the letting policy in November 1999, CPC decided that restricted tender would be restricted in scope for estates due for redevelopment announced after that date. It followed that the new arrangement was not applicable to the redevelopment of Sau Mau Ping Estate which was announced before November 1999, but to Lower Ngau Tau Kok Estate and North Point Estate which were announced at a later date.

12. Mr Fred LI asked whether the decision of not allowing restricted tenders for displaced tenants was made on account of the high rental of new estates and the affordability of tenants. He reminded the Administration that as the displaced tenants had developed a close relationship with the residents over time, the offer of restricted tender to these tenants would allow the continuation of the goodwill in the new estates. The replacement of restricted tender by open tender would undermine such goodwill as displaced tenants would unlikely be able to compete in open tender. Besides, there would not be much impact on the rental income of HA if 10% of the total number of shop premises were allocated to displaced tenants through restricted tender. AD/CP asserted that rent was not a consideration factor in the decision of not allowing restricted tender for premises in new estates. The prime responsibility of HA was to ensure that good quality retail facilities, in shopping centres comparable to those in the private sector, were made available to the residents concerned. Records of the past two years indicated that only a very small proportion of displaced tenants had chosen to take part in restricted tendering. Majority of the tenants preferred the lump sum payment so that they could make arrangements which best suited them. Besides, displaced tenants would have an edge over others given their relationship with the estate community and would be able to outbid the competitors in open tendering. As such, there was no reason to accord priority to these tenants to continue their business in new estates.

13. Mr IP Kwok-him held the view that HA should have due regard to the service provided by displaced tenants who had operated in older estates for a long time and had established close ties with the estate community. He supported that restricted tender should be allowed so that these tenants could continue their business in the same community. AD/CP advised that it was not uncommon for landlords in the private sector to discontinue tenure of premises upon expiry of the relevant tenancies should they wish to change the style of retailing or have different plans for their premises. This was a normal commercial arrangement which was aimed at making the best use of the premises and was acceptable to tenants. Besides, displaced tenants should not have difficulty to find vacant commercial premises for continuation of business given the prevailing market condition.

14. While not objecting the use of commercial principles in the letting of shopping centres in HA housing estates, Mr IP said that as a public organization, HA had the responsibility to allow displaced tenants to choose whether they wished to continue their business or to cease their operation and receive a lump sum in lieu. He was concerned that the livelihood of the tenants would be at stake if they were not

given the chance. Expressing similar concern, the Chairman pointed out that if not for redevelopment, these tenants could continue their business and would not need to lay off their employees. Therefore, HA had the responsibility to provide reprovisioning opportunities to such tenants so that they would not be deprived of the chance to continue their business. AD/CP reiterated that the main objective of HA in the provision of commercial facilities in its housing estates was to ensure that acceptable levels of services and products were made available to the residents concerned. If the standard of HA commercial facilities fell below that of private shopping centres, the operators would lose business. It was therefore reasonable for displaced tenants to compete with others in open tendering should they wish to operate in new shopping centres of HA.

15. Mr Andrew WONG said that he was not supportive of restricted tender as this had given rise to disparity of rents and unfairness. He asked why the Administration did not do away with restricted tender altogether and the role of the Housing Bureau in this regard. AD/CP said that the scale of business in HA existing market stalls was more comparable to that in the premises from which the tenants had been displaced. The Principal Assistant Secretary for Housing (2) (PAS for H(2)) explained that letting and management of HA's shops and market stalls were undertaken by HA with the support of HD along prudent commercial principles. HA had full autonomy in its commercial operations. HB only maintained a watching brief.

16. Mr Fred LI considered that restricted tenders, if allowed, should proceed in parallel with open tendering, and that displaced tenants should be made aware of the reprovisioning opportunities so that they were able to make informed decisions. Quoting the example of the tendering arrangements for Sau Mau Ping Estate, he pointed out that details of restrictive tendering were only made known after open tendering which was unfair to the displaced tenants. AD/CP explained that while there were professional estate surveyors who analyzed market information, there were differences in features for each and every shopping centre within the housing estates, and there had been criticisms that the rents fixed by HA for restricted tenders were either too high or too low. Therefore, putting about 10% of the shop premises for open tendering would give some guidance for determining realistic rent levels for the remaining shop premises. The practice of having open tender exercises before restricted tender exercises had been operating for a number of years.

17. The Chairman asked if it was a change in policy to disallow restricted tenders for displaced tenants. AD/CP said that it was neither helpful to the tenants nor the operation of new HA shopping centres to have the existing arrangements continued. Having considered all the facts, CPC considered that the granting of lump sum in lieu of reprovisioning opportunities would be a better arrangement. As the Chairman of CPC which was established to oversee the resource allocation of HA, Mr NG Leung-sing said that while HA was committed to providing subsidized housing to those in genuine need, it did not have the obligation to subsidize business operators of public housing estates. Commercial facilities were let out on commercial principles and

rental levels were decided by professional estate surveyors taking into account market conditions. Displaced tenants who wished to continue their business would have to compete in the same manner with others. Past records indicated that 90% of displaced tenants who had succeeded in restricted tender for shops in new estates were unable to run a viable business because they were not able to conform to market requirements. The disorderly display of their goods was also a source of complaints by other tenants. This had in turn affected the image and business of the shopping centres. To this end, CPC decided that a lump sum in lieu of reprovisioning opportunities would be a better alternative. With reasonable ex gratia compensation being paid to these tenants, they would be able to make arrangements which were suitable to them. He stressed the need to strike a balance between assisting displaced tenants to continue their business and providing a fair and equitable tendering system. Moreover, CPC had to ensure that its decisions on the allocation of scarce resources were fair and reasonable. He welcomed members' views in this respect.

18. Responding to Mr NG, Mr Andrew WONG said that CPC should not prejudice against displaced tenants as the image of new shopping centres would hinge on proper management. He also considered that if tendering for specialized services was allowed, the rental of the shop premises would need to be lowered.

Review of the lump sum payment in lieu of restricted tender opportunities

19. Given the increase in commercial rents in April 2000, Mr LEE Cheuk-yan enquired if HA would consider adjusting the lump sum payment upward to keep this in line with the market value and if so, whether the revised adjustment would apply to the affected tenants of Lower Ngau Tau Kok Estate. AD/CP advised that the next review of ex gratia allowance was due to take place in November 2001. Any changes in circumstances since the last review would be taken into account in the review. However, as the decisions of HA were normally not retrospective, the existing arrangements for tenants of Lower Ngau Tau Kok Estate would continue unless special consideration was given.

20. Mr LEE remained unconvinced that tenants of Lower Ngau Tau Kok Estate should be granted the existing lump sum which was calculated on the basis of an outdated review in 1999. The 20% rise in rental since April 2000 should have been reflected in the lump sum. AD/CP explained that the ex gratia allowance paid to the majority of displaced tenants of graded shops comprised two components. One was a disturbance payment which reflected the cost associated with the relocation such as removal cost and business losses etc. The other was the amount of profit rent i.e. the difference between the rental value and the actual rent paid. In other words, when the actual rent increased, the value of the profit rent decreased. As the ex gratia allowance represented a multiplier of the profit rent, it followed that the allowance for tenants of graded shops would drop if the increase in rent paid was reflected.

The need for anchor tenants

21. Dr YEUNG Sum said that he did not agree to the tendering arrangement. He considered that restricted tender should be continued to enable displaced tenants to have a better chance to operate their business in commercial premises of new estates on the one hand and to ensure that these premises would not be dominated by major chain stores on the other. In reply, AD/CP emphasized that the current letting policy was equitable. The arrangement to invite certain large firms to bid for anchor premises in new housing estates was on a par with the practice in the private sector. It would ensure that major anchor tenants such as superstores and large restaurants were made available in new estates. Other than the anchor premises, any company or any individual of age above 18 was free to bid for commercial premises in the estates. The decision as to which premises would be let was based entirely on the rents offered by bidders. The larger companies would have no advantage in this respect. The tenants of Lower Ngau Tau Kok Estate would have the same chance to bid for commercial premises as others in open tendering.

22. Mr Albert CHAN noted that most changes in HA's letting policy were in favour of large chain stores and had little regard to the interest of small enterprises. Referring to the case of Tin Shui Wai Estate, he said that the food business was monopolized by a major food chain store. When business was found to be non-viable, the store pulled out and the entire estate was left with no restaurants. AD/CP denied that any change in policy was prejudicial to small operators. He stressed that when making policy changes, CPC always took into account the interest of small operators. The rationale for HA to make available commercial facilities in public housing estates was to provide services and products to meet the need of residents. The letting out of premises to large chain stores would provide anchoring for shopping centres. The outcome of surveys conducted by HD also indicated that residents preferred to have major retailers as anchor tenants. He further pointed out that as the majority of premises were let by tender, the rents were merely a reflection of the market value. Besides, HA had been proactive in adjusting the rent levels with a view to helping small operators to tie over the difficult period as a result of economic downturn.

Way forward

23. Miss CHAN Yuen-han said that CPC should take into account the historical background of commercial tenants affected by redevelopment. She pointed out that some of these tenants were offered commercial tenancies in housing estates in exchange for ownership of land which were then surrendered to the Government. Hence, they should be entitled to treatment different from other commercial tenants. She added that as some of these tenants had been selling very unique products, special tendering arrangements should be made to assist them to continue their business in new estates so that they could co-exist with other chain stores. The Chairman also urged the Administration to re-consider the fact that displaced tenants had all along been enjoying the rights of transfer and inheritance of their commercial tenancies, which were not applicable to other commercial tenants under fixed-term contracts.

24. As a consolidated view of the Panel, Mr Fred LI proposed and Miss CHAN Yuen-han seconded the following motion -

“that this Panel requests the Housing Authority to offer commercial tenants displaced by redevelopment, including those of the Lower Ngau Kok Estate, the opportunity to participate in restricted tender exercises and to retain the amount of lump sum payment in lieu of the restricted tender opportunity at \$89,000.”

Mr NG Leung-sing declared that he would abstain from voting. The motion was voted on and passed.

25. The Chairman requested the Administration to note the motion and to take into account members' views when reviewing the lump sum payment in November 2001.

(Post-meeting note: A letter on the motion was issued to the Administration on 5 June 2001.)

V Enhancement of transparency in the dissemination of housing information

(LC Paper No. CB(1) 1399/00-01(05) --Information paper provided by the Administration)

26. Referring to a press report tabled at the meeting, Mr Frederick FUNG expressed concern about the lack of co-ordination in the dissemination of information on the income and asset limits for nine-person and above households applying for the Home Ownership Scheme (HOS). He noted that while the proposal to lower the income and asset limits for HOS applicants was discussed at the Panel meeting in March 2001, the Administration failed to provide details of the proposed reduction which was approved by HA in February 2001. HOS applicants were only made aware of the limits when they lodged their applications.

(Post-meeting note: A copy of the press report was circulated under LC Paper CB(1) 1435/00-01.)

27. The Business Director/Allocation and Marketing (BD/AM) said that a press release regarding the new income and asset limits was issued on 14 May 2001. These changes were highlighted in the Application Guide of the White Form application as well as the back cover of the information pack for HOS flats. They were also shown on the display panel at the Home Ownership Centre. The reason for not making specific announcement on the income and asset limits of large households was because of the small number of applications received from these households. By way of illustration, of the over 32 000, 25 800 and 19 000 applications received for HOS

Phases 22A, 22B and 23A, only two, one and three were from households in excess of seven persons respectively. Notwithstanding, detailed information on the different limits was clearly shown in the information pack. The Chairman stressed that in making general announcements on housing matters, care should be taken to include all changes which might affect the general public.

28. Mr Albert HO noted with concern that the public was only apprised of the decisions made by HA and not the process of deliberation nor the circumstances leading to such decisions. Besides, HA had the ultimate decision on the type of information to be disseminated. There were also cases where housing information was announced by a third party rather than HA as in the case of the recent disclosure of the reduction in the number of HOS flats to be put up for sale by the Financial Secretary in an informal occasion. He was of the view that such information should be announced by HA instead. Given that HA was a publicly accountable body, and that its decisions would have an immense impact on the community, Mr HO considered it necessary for HA to improve its transparency through measures such as holding open meetings and making available the minutes of meetings for public reference. BD/AM said that for major policy changes, press briefings would be held to explain the background leading to the changes and to answer media enquiries. He added that pre-meetings between committees of HA and deputations to gauge public views were held regularly and HA meetings were mostly open to the public. Major decisions were disseminated to the public in the aforesaid manner and in accordance with the Code of Access to Information. Other than sensitive or secretive information, most discussion papers for HA meetings were made available to the public and media for reference.

29. While agreeing that discussions involving commercial secrets should not be open, Mr HO said that he failed to see why committee meetings could not be conducted as open meetings. He also noted that a lot of documents for HA meetings were restricted and could not be made available for public reference. BD/AM said that the public could have access to information on general housing matters through printed fact sheets and booklets, homepages of Housing Bureau and relevant Government departments. For major changes in housing policies, these would be announced through press releases, briefings for the Legislative Council (LegCo) and the media, as well as printed and electronic publications as appropriate. The Administration would respond to public enquiries as promptly and openly as possible and in accordance with the Code on Access to Information. Enquiry service would also be provided at HA Customer Service Centre, Home Ownership Centre, Housing Information Centres, estate offices and HD's hotlines.

30. Mr Andrew WONG however considered it not necessary for HA to open its meetings to the public. He said that as HA was a statutory and policy-making body accountable to the Government and LegCo, it should issue LegCo Briefs on its policy decisions so that Members could decide whether such decisions should be further deliberated by LegCo. He hoped that the Administration would convey his views to HA. The Chairman concurred that there was a need to strengthen the communication

between LegCo and HA. BD/AM responded that there would be no difficulty in providing LegCo with copies of the press releases which were issued to the media after each HA meeting. PAS for H(2) said that the Administration would keep in view areas where the communication between LegCo and HA could be further strengthened.

VI Any other business

31. There being no other business, the meeting ended at 4:30 pm.

Legislative Council Secretariat
19 October 2001