

立法會
Legislative Council

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LegCo Panel on Housing

**Minutes of special meeting held on
Tuesday, 19 December 2000, at 8:30 am
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 Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon SZETO Wah
Hon Abraham SHEK Lai-him, JP
Dr Hon LO Wing-lok
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
- Members attending** : Hon James TIEN Pei-chun, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Dr Hon TANG Siu-tong, JP
- Members absent** : Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Hon Andrew CHENG Kar-foo
Hon Albert CHAN Wai-yip

Public officers attending : All sessions

Housing Bureau

Mr Dominic S W WONG, GBS, JP
Secretary for Housing

Ms Elaine CHUNG, JP
Deputy Secretary for Housing

Ms Lorna WONG
Principal Assistant Secretary for Housing

Civil Service Bureau

Miss Jennifer MAK, JP
Deputy Secretary for the Civil Service (3)

Department of Justice

Mr Ian WINGFIELD, JP
Law Officer (Civil Law)

Closed session

Mr Stephen SELBY
Chairman, Investigation Panel on Staff Discipline in Yuen
Chau Kok and Tin Chung Court Incidents

Clerk in attendance : Miss Odelia LEUNG
Chief Assistant Secretary (1)1

Staff in attendance : Mr Jimmy MA, JP
Legal Adviser

Ms Pauline NG
Assistant Secretary General 1

Miss Becky YU
Senior Assistant Secretary (1)3

I Report of the Investigation Panel on Staff Discipline in the Yuen Chau Kok and Tin Chung Yuen Court Incidents

The Chairman informed members that the meeting would be divided into two sessions. The first open session would discuss the recommendations of the Investigation Panel on Staff Discipline in the Tin Chung Court (TCC) and Yuen Chau Kok (YCK) Incidents (Investigation Panel) in general terms while the second session would be held in camera to examine the content of the confidential Report. He also advised that the 11 copies of the Report would be deposited at the LegCo Research & Library Division after the meeting for members' perusal only.

Open session

2. At the invitation of the Chairman, the Secretary for Housing (S for H) said that the Report was submitted to members in confidence because it contained recommendations on whether disciplinary proceedings should be taken against certain staff in the Housing Department (HD). In view of the provisions in the Personal Data (Privacy) Ordinance (Cap. 486) and to avoid prejudice to any subsequent administrative or disciplinary actions, the personal data of the HD staff concerned had been excised from the Report. He stressed that the Government took a serious view of any act of misconduct or failure of duty by civil servants and would not hesitate to take appropriate administrative and disciplinary actions against officers concerned. The recommendations of the Investigation Panel had been referred to the Secretariat on Civil Service Discipline for further action. Disciplinary proceedings would be taken against HD staff identified in the Report where prima facie evidence had been established for misconduct or failure of duty. These proceedings would be conducted in accordance with established practices. On the general issue of ensuring quality in public housing projects, S for H advised that 50 initiatives were embarked upon in January 2000 by the Housing Authority (HA) to improve the monitoring and accountability systems in building projects. Of these initiatives, 15 had been implemented and the other 35 would be launched in the coming months. Having regard to the actions taken in the light of the TCC and YCK incidents, S for H considered it not necessary for the Legislative Council (LegCo) to establish a select committee to probe into these two cases.

3. Mr Fred LI questioned the need for deleting the personal data of the HD staff concerned from the Report as these had been revealed in the reports of the investigation panels on the TCC and YCK incidents led by Mr Philip NUNN and Mr John STRICKLAND respectively. The Law Officer (Civil Law) explained that unlike the investigations led by Mr NUNN and Mr STRICKLAND which were specific to individual cases, the current investigation was a civil service investigation for the purpose of taking formal disciplinary proceedings against officers who had defaulted duty. As a formal Tribunal would be established to consider all evidence before reaching a final decision, it was not appropriate to influence the Tribunal with the findings of the investigation, including the identity of the officers concerned. Besides, there might be some ongoing criminal proceedings and those involved would

not want any publicity lest this might prejudice the trial. As to why the names of the Director of Housing (D of H) and the Deputy Director of Housing (Works) (DD of H (W)) were not deleted from the Report, S for H advised that they could easily be identified even if their names were excised from the Report. Moreover, members might wish to know the recommendations of the Investigation Panel on these two officers.

4. Mr Howard YOUNG said that the problems as revealed in the TCC and YCK incidents could not be resolved merely by taking disciplinary action against the officers concerned. He queried how the Administration could jump to the conclusion that a select committee was not necessary. S for H explained that after the revelation of the foundation problems in TCC and YCK, HA had appointed two independent panels to look into these incidents. The panels, led separately by Mr NUNN and Mr STRICKLAND, completed their investigations in March and April 2000 on the TCC and YCK incidents respectively. Their reports were submitted to HA, the Chief Executive (CE) and the LegCo Housing Panel which held a number of meetings to examine the findings. To follow up the findings and recommendations of the two investigations, the Administration had appointed another investigation panel, led by Mr Stephen SELBY, to review the performance of individual HD officers involved in the two incidents for consideration of disciplinary action where appropriate. Apart from these three investigations, CE had appointed the Construction Industry Review Committee (CIRC) to examine the current state of the construction industry, and to identify specific actions and good practices to improve the efficiency and cost-effectiveness of the local construction industry. CIRC was expected to complete its deliberations by mid-January 2001. In addition, the Ombudsman had also launched a direct investigation into the management of HD's construction projects and its report would be ready in the second quarter of 2001. Given that the three investigation panels had thoroughly investigated the TCC and YCK incidents, the Administration held the view that there was no need for LegCo to establish a select committee to probe into these two cases again.

5. As the CIRC's review and the Ombudsman's investigation were still underway, Mr YOUNG considered it premature for the Administration to conclude that a select committee was not necessary. Dr YEUNG Sum also queried the efficacy of the investigations/studies referred to in the preceding paragraph. By way of illustration, the investigation panels led by Mr NUNN and Mr STRICKLAND had no power to insist upon the attendance of nor the production of documents by parties concerned at hearings. The scope of the investigation panel led by Mr SELBY did not cover non-civil servants and those officers who had left the civil service after the TCC and YCK incidents. Furthermore, the review of CIRC only confined to the operation of the construction industry. Expressing similar concern, Mr Albert HO considered it not appropriate for civil servants to investigate into possible misconduct of civil servants. Apart from the question of neutrality, this might also give the public an impression that the Administration was biased in favour of the defaulting officers, particularly the senior management. To ensure neutrality and impartiality, Dr YEUNG and Mr HO insisted that LegCo should establish a select committee to investigate into the TCC and

YCK cases.

6. S for H stressed that the Administration had not shown favouritism towards any civil servants and appropriate disciplinary actions would be taken against the officers concerned for misconduct regardless of their ranks. The Deputy Secretary for the Civil Service (3) (DSCS(3)) supplemented that it had all along been Government practice to appoint civil servants to look into possible misconduct or failure of duty of civil servants. In view of the seriousness of the TCC and YCK cases and to ensure impartiality, special arrangements had been made such that no staff from HD was appointed to sit on the Investigation Panel. Dr YEUNG said that he did not accept the Administration's explanation since a Judge had been appointed to head the commission of the inquiry concerning the opening of the New Airport.

7. Dr TANG Siu-tong expressed concern that the ranking of Mr SELBY might not be senior enough to investigate into possible misconduct of the directorate grade staff of HD involved in the two incidents. S for H advised that Mr SELBY was a very senior ranking officer and his appointment to the Investigation Panel was decided by the Civil Service Bureau. Besides, the Report had confirmed that the Investigation Panel had interviewed all HD officers involved in the projects, including the directorate grade staff, and they all co-operated with the Investigation Panel. S for H considered that the Investigation Panel had already achieved its objectives.

8. On *methodology*, Mr Albert HO was not convinced that the Investigation Panel could establish the causes of the problems and the accountability of individual officers in the TCC and YCK incidents simply by going through all available HD manuals, projects files and documents, site records, drawings, committee papers and reports. He queried if the Investigation Panel, in assessing the accountability of D of H and DD of H (W), had taken into account the problems identified in the reports of the panels led by Mr NUNN and Mr STRICKLAND, such as HD staff directly responsible for construction quality spending most of their time at office desk, the absence of resident engineers on site and the deployment of inexperienced junior staff to inspect construction works. If the Investigation Panel had considered these problems, it could not have reached a conclusion that D of H and DD of H (W) should be absolved of responsibilities for the TCC and YCK incidents.

9. S for H remarked that the Investigation Panel was tasked to establish and collate evidence of misconduct for consideration of disciplinary proceedings against any HD staff involved in the TCC and YCK incidents. That being the case, evidence must be established before the Investigation Panel could make recommendation to take disciplinary action against any officer. In this respect, S for H referred members to HA's paper entitled "Reorganization of the Senior Directorate Structure" dated 14 April 1997 which set out the distinction between responsibility for day-to-day operations and strategic guidance. It made clear that D of H and DD of H (W) should not have direct responsibility for day-to-day operations of HD. Given that the problems as revealed in the TCC and YCK incidents were related to the day-to-day operations of HD, and that both D of H and DD of H (W) had never had knowledge of

any of the details of either of the piling contracts for TCC and YCK until after serious problems at the two sites were reported to the HD management, the Investigation Panel did not consider the duties of both D of H and DD of H (W) at the relevant time to have included direct responsibility for the management of either of the contracts and accordingly did not recommend any disciplinary actions against them. The Investigation Panel had recommended that disciplinary action should be taken against a number of senior HD staff for their role in the TCC and YCK incidents.

10. Mr Frederick FUNG was not convinced that D of H and DD of H (W) should be absolved of responsibilities given that strategic decisions directly affected the day-to-day operations of HD. By way of illustration, the decision to outsource the management of public housing projects to outside consultants had shifted the focus of HD staff from ensuring building quality to controlling the timetable and cost of projects. Miss CHAN Yuen-han and Ir Dr Raymond HO added that the problems as revealed in TCC and YCK incidents were related to both the management and the day-to-day operations of HD. They pointed out that D of H had failed to recognize the manpower shortage in HD to monitor the performance of consultants, particularly at the time when flat production was at its peak. HD professional staff were overloaded with work. It was reported that they were sometimes required to oversee over 100 housing projects at the same time. With such heavy workload, they could not afford the time to inspect each and every project by themselves. The inspection duty was delegated to the junior and inexperienced officers who lacked the expertise to detect sub-standard works. Expressing similar concern, Mr LAU Ping-cheung considered it unfair that HD staff should bear all the blame as many problems revealed in the TCC and YCK incidents arose because of the existing systems. For example, the award of contracts to the lowest tender had encouraged contractors to cut corners in order to save cost.

11. In response, S for H said that the Administration acknowledged the two areas of concern arising from the TCC and YCK incidents i.e. the overall management and the day-to-day administration of housing projects. On the first aspect, HA had in January 2000 launched 50 initiatives to improve the monitoring and accountability system in building projects. These covered housing design, piling reform, procurement policies, site supervision and customer services. The implementation of these initiatives would greatly minimize the risk of recurrence of fraudulent acts and enhance the quality of housing production. On the second aspect, the Investigation Panel found that the problems in TCC and YCK were attributed to the failure of HD staff at various levels to carry out duty despite that adequate checks and balances had been built in the departmental work manuals and instructions to ensure satisfactory completion of a piling contract by a contractor. Should the staff at different levels have discharged their duty properly, problems should not have arisen. The Investigation Panel therefore recommended that consideration should be given to disciplinary proceedings against the officers concerned. As to whether civil servants were aware of their liability in the event of failure of duty, DSCS (3) answered in the affirmative as this was set out in the Civil Service Regulations. She further advised that civil servants who had committed acts of misconduct would be subject to

disciplinary proceedings in accordance with established practices.

12. Noting that a structural engineers association of HD had in 1996 put forward a proposal on the deployment of resident engineers to oversee construction works on site, Ir Dr Raymond HO opined that the TCC and YCK incidents could have been avoided if the senior management of HD had accepted such a proposal. S for H advised that he was not in a position to comment on the subject since this fell under the purview of HA and HD. As the focus of the current meeting was on whether disciplinary proceedings should be taken against HD staff concerned, representatives from HD had not been invited to attend the meeting. He suggested that members might follow up the subject with HD at future meetings of the Panel. Ir Dr HO was disappointed at the Administration's response.

13. On the *TCC incident*, Dr TANG Siu-tong noted that one of the causes of the foundation problems in TCC was the use of cost-cutting piling design and sub-standard piling works. He asked who was responsible for approving the piling design for TCC. The Deputy Secretary for Housing (DS of H) explained that it was the duty of HD to work out the piling design with the contractor concerned. As regards the available course of actions to be taken against non-civil servants concerned, DS for H advised that HD could institute legal proceedings against the contractors according to the terms of contracts if prima facie evidence on malpractice could be established.

Way forward

14. Mrs Selina CHOW and Mr James TIEN considered that the Administration should consolidate the problems as revealed in the three investigations conducted into the TCC and YCK incidents with a view to mapping out comprehensive improvement measures to prevent the recurrence of similar incidents. Mrs CHOW said that special attention should be paid to address the structural problems within HA and HD such as professionals being guided by non-professionals. S for H took note of Mrs CHOW's view and advised that CE had appointed the Committee on the Review of the Institutional Framework for Public Housing to examine the roles and responsibilities of the Housing Bureau, HA, HD and the Housing Society in the delivery of the public housing programmes. Mr LAU Ping-cheung asked if the Committee would also examine the multiple roles of HA, i.e. being the client and the monitoring agent. S for H answered in the affirmative. Mr James TIEN requested and the Administration undertook to provide a paper to summarize the findings, recommendations and follow-up actions on the three investigations conducted into the TCC and YCK incidents.

(Post-meeting note: The relevant information paper was circulated to members vide LC Paper No. CB(1) 383/00-01 on 2 January 2001.)

Legislative Council Secretariat

1 March 2001