

## **Information Paper for Legislative Council Panel on Housing**

### **Maintenance and Management of Tenants Purchase Scheme Estates**

#### **INTRODUCTION**

The purpose of this paper is to provide Members with information on the maintenance and management of Tenants Purchase Scheme (TPS) estates.

#### **MAINTENANCE OF TPS ESTATES**

2. To ensure that estates to be put up for sale under the TPS are in good condition, the Housing Department (HD) carries out pre-sale condition surveys and maintenance works nine to 12 months before the sale. Some minor upgrading works, in particular to ground floor lift lobbies, may also be carried out. Repairs inside flats, as requested by purchasers, are usually completed before the sale.

3. The Housing Authority (HA) provides a seven-year structural guarantee for each TPS estate and undertakes to repair any damages caused by the settlement of reclaimed land for a period of ten years from the date of completion of the estate. The HA has also set up a maintenance fund for TPS estates, amounting to \$14,000 per flat for TPS Phases 1 to 3, which will be adequate to cover major maintenance expenses for ten years.

#### **MANAGEMENT OF TPS ESTATES**

##### ***General principles***

4. The boundaries of TPS estates set out in Government leases largely follow those indicated in original Vesting Orders, and include areas and facilities which have been under the control and management of the estates. The rights and obligations of owners are defined in the Government lease and the Deed of Mutual Covenant (DMC).

5. The costs of managing and maintaining common areas and facilities are shared by all owners in proportion to their shares of ownership. The HA, as the owner of facilities like commercial centres and carparks, also contributes to the payment of management and maintenance expenses of TPS estates.

***Recreational facilities of which Government has reserved rights for development***

6. In some TPS estates, there are ball courts adjoining primary schools, which are used by schools during daytime and by residents outside school hours. In order to maintain this arrangement after the sale of estates, the HA retains the ownership of these ball courts. The costs of management and maintenance are shared between schools and residents on the user-pays principle. To cater for the future need for school expansion, the Government reserves a right under the DMC to take over these ball courts when necessary. If the Government takes over the ball courts, the residents will no longer be required to contribute towards the costs of management and maintenance. This is considered fair and equitable based on the user-pays principle.

***Preparation of DMC***

7. The DMC is a legal document setting out the rights and obligations of owners and the manager. It binds all signatories, assignees and the manager. DMCs for TPS estates are prepared in accordance with the guidelines issued by the Legal Advisory and Conveyancing Office (LACO) of the Lands Department, which are in line with the requirements under the Building Management Ordinance (BMO). DMCs need to be approved by the LACO prior to sale.

8. In scrutinizing DMCs, the LACO ensures that the terms are reasonable and fair to all parties, and determines the maintenance responsibilities for common areas and facilities mainly based on the user-pays principle. This mechanism applies to all developments, both in the public and private sectors, and enables the LACO to ensure the fairness of DMCs. In view of the existence of such a well-established mechanism, it is considered inappropriate and unnecessary to deviate from the established practice and consult prospective purchasers in the preparation of DMCs for TPS estates.

9. When TPS estates are offered for sale, detailed information is provided to prospective purchasers setting out the major rights and obligations of owners under the Government leases and DMCs to facilitate them to decide whether to purchase their own flats.

### ***Management responsibility of Owners' Corporations and Housing Authority***

10. According to DMCs, the HA is the first manager of TPS estates following the completion of the first assignment deed. Being the manager, the HA carries out management duties for, and is responsible to, owners. The HA takes up the management responsibility of TPS estates for an initial period of two years, during which the HD assists owners to form Owners' Corporations (OCs). Its management duty will cease upon the formation of the OC. However, as a responsible manager, the HA assists the OC to select, through an open tender, a suitable private property management company to be the manager of the estate. The OC may choose to retain the services of the HA after the tender exercise.

11. Like OCs of private developments, OCs of TPS estates are independent statutory bodies acting on behalf of all owners to manage the common parts of estates. Both OCs and managers are required to comply with DMCs and the BMO in managing the estates.

### ***Implementation of instructions of OCs***

12. When the HA acts as the manager of TPS estates, it will implement OCs' instructions as soon as possible. A longer period is sometimes required if the matter involves complicated financial, technical and legal issues on which expert advice has to be sought.

### ***Management fees for TPS estates***

13. Management fees charged by the HA, as the first manager of TPS estates, are set to recover full costs. Management expenditures for TPS estates include costs of security services, cleansing, maintenance of common areas and gardening, staff costs of security guards and other workers, insurance, etc. These are similar to those charged by private property management agents for some public housing estates and Home

Ownership Scheme courts, as well as the expenditure pattern for TPS estates before they are sold. The current average management fee level for TPS estates is around \$8/m<sup>2</sup> GFA. Any surplus in the management fee account is accumulated in the management fund of the estate.

14. We understand that the management fees for private developments are set with regard to factors like the facilities, design and age of buildings, number of units, and requirements of residents, and hence vary. We have limited information on management fee scales for private developments. As far as we know, the fees are generally below \$20/m<sup>2</sup> GFA.

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