

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

**Formulation of Vesting Order
and Deed of Mutual Covenant for Tenants Purchase Scheme**

Further to Paper No. CB(1)407/00-01(06) on “Maintenance and Management of Tenants Purchase Scheme Estates”, this supplementary note, submitted at Members’ request, sets out the process involved in the formulation of Vesting Orders and Deeds of Mutual Covenant (DMC).

Vesting Order

2. A Vesting Order defines the boundary of a public rental housing estate, within which the Housing Authority (HA) exercises its powers of control and management. For an estate to be put up for sale under the Tenants Purchase Scheme, a Vesting Order has to be suitably turned into a Government lease prior to sale so that property transactions can proceed in future. The boundary of an estate in the Government lease largely follows that in the original Vesting Order. The ownership as well as responsibilities of management and maintenance of the areas and facilities within the boundary generally belong to the property owners.

3. The main criteria in the drawing up of Vesting Orders have been described in Paper No. CB(1)407/00-01(06). The procedures for the formulation of Government leases for Tenants Purchase Scheme estates are set out below :

- (a) The HA liaises with relevant Government departments to prepare the draft Government lease which sets out the estate boundary and the rights and obligations of the lessee in relation to the areas within the boundary. These are largely based on the estate boundaries enshrined in the Vesting Orders and the existing management and maintenance arrangements for areas and facilities within the estate.

- (b) The HA submits the draft Government lease to the District Lands Conference to seek approval. In vetting and considering the draft Government lease, the District Lands Conference seeks to ensure that the rights and obligations set out in the draft lease are fair to all parties, including the owners, the Government and HA.
- (c) Upon approval by the District Lands Conference, the Legal Advisory and Conveyancing Office (LACO) of the Lands Department will finalise the Government lease accordingly. LACO will then arrange for its execution by the Lands Department on behalf of the Government to complete the process of granting the land to the HA.

Deeds of Mutual Covenant

4. The DMC of a Tenants Purchase Scheme estate, drawn up by the HA, sets out the rights and responsibilities among the HA as the lessee of the Government lease of the estate, the owners and the manager of the estate. It is drawn up on the basis of the existing legal uses and management and maintenance arrangements for different parts and premises within the estate. The maintenance responsibilities of common areas and facilities are determined in accordance with the “user-pays” principle. Its drafting follows the general principles and guidelines laid down in LACO Circular Memorandum No. 41 issued by the Lands Department. In addition, the HA takes into account the as-built situation of the estates and ensures that residents’ established rights and interests are maintained in the DMC.

5. A DMC has to be approved by the LACO. In general, the procedures for the vetting and approval of DMCs for Tenants Purchase Scheme estates by LACO are consistent with those for private sector developments. LACO aims to ensure that the provisions in the DMC are fair and reasonable, that the interests of residents are properly safeguarded, and that the DMC represents the best balance among the interests of various concerned parties.

Housing Department
31 January 2001