

立法會
Legislative Council

LC Paper No. CB(1) 79/00-01(03)

Ref: CB1/PL/HG

**Paper for meeting of the Panel on Housing
on 24 October 2000**

**Follow-up action
to examine the building problems in public housing**

Purpose

This paper outlines the courses of follow-up actions which may be taken to examine the building problems in public housing as revealed in a number of incidents relating to the housing developments of the Housing Authority (HA). The paper also summarizes the scope of concerns in relation to these building problems based on the views expressed by the working group set up by the Housing Panel (the Panel) on 10 October 2000, and highlights the factors to be taken into account when determining the way forward.

Background

2. The poor quality of public housing units has been a subject of major concern among members of the Panel in the previous term. Following the spate of building problems since September 1999, which included the excessive uneven foundation settlements in Tin Chung Court (TCC), the piling problems at Shatin Area 14B Phase 2 (Yuen Chau Kok (YCK)), suspected use of rejected substandard reinforcement in Tung Chung (TC) Area 30 Phase 3, and suspected use of substandard construction materials in the Redevelopment of Shek Yam Estate (SYE) Phase 2, a series of meetings had been held to discuss measures to improve building quality in public housing. A summary of the four incidents is at **Appendix I**. In view of the extent of the problems uncovered in these incidents, the Panel of the previous term was of the view that the matter required follow-up actions. It was suggested by some members that a select committee ought to be established to inquire into the causes of these incidents.

3. At the first meeting of the Panel of the current term on 10 October 2000, members requested the Secretariat to produce a paper providing the background and setting out the courses of actions to be taken in following up the matter. To facilitate

deliberation and in the event that an enquiry is found necessary, the term of reference of the enquiry should be prepared. For this purpose, a working group was set up to provide initial views to the Secretariat. A list of the members who have joined the working group is at **Appendix II**. The working group has held one meeting on 12 October 2000.

Areas of concerns

4. Members of the working group consider the building problems in public housing a very serious matter. Follow-up action is required to find out what has led to the various problems in the construction of public housing in the four incidents which have resulted in substantial loss of public money. Members are particularly concerned about the working mechanism within the Housing Department (HD) in the design, tendering and supervision of housing projects, the dual role of HA as a policy-decision maker on public housing and a developer, as well as the exemption for public housing to comply with the building standards laid down in the Buildings Ordinance (Cap 123). Members are of the view that the main purpose of further actions by the Legislature should aim at addressing the problems rather than penalizing any particular public officers.

5. Members are aware that a number of investigations/studies relating to these incidents have been conducted or are still in progress. These include:

- (a) two investigations on TCC and YCK cases instituted and completed by HA;
- (b) a study on the operation of the construction industry by the Construction Industry Review Committee under the chairmanship of Hon Henry TANG Ying-yen;
- (c) an investigation to establish and collate evidence of misconduct for undertaking disciplinary proceedings against concerned staff in HD by a special panel chaired by Mr Stephen SELBY, Director of Intellectual Property; and
- (d) an investigation by The Ombudsman into the management of construction projects by HA and HD.

6. Members notice that some of these studies may overlap part of the concerns which LegCo Members wish to look into. Consideration should therefore be given to ensuring no overlapping of efforts as far as possible. There is however question on the efficacy of the investigations referred to under paragraph 5 (a) as these investigations were instituted by HA and the panels concerned did not have the statutory power to insist upon the attendance of or the production of documents by parties concerned at hearings. Members are of the view that in deciding the courses

of actions to be taken as well as the timing and procedure for such actions, attention should be given to the scopes of these studies and their completion time-tables. Details on the terms of reference of these investigations/studies are given in **Appendix III**.

7. Members are also aware that the persons likely to be summoned to give evidence may be the subjects of current criminal investigations. For example, The Independent Commission Against Corruption is still investigating the parties involved in the YCK, TC and SYE incidents. Members note that it has been the practice in previous LegCo enquiries to avoid obtaining evidence on subjudice matters by either adjourning the proceedings of the enquiry until court proceedings/investigations on such persons have been completed or avoid summoning such persons. Hearings may also be conducted in camera if it is considered necessary to protect the persons giving evidence or the parties concerned. Nevertheless, section 9 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) provides the Legislative Council the power to compel witnesses to attend a committee or Panel of the Council. While the Ordinance imposes obligations on a person lawfully summoned to give evidence, such obligations are not totally unqualified as the person concerned is entitled to the rights and privileges of a witness in court, except the privilege against self-incrimination. For example, he may refuse to disclose evidence on ground of public interest immunity. However, it will be up to the chairman or deputy chairman of such a committee or Panel of the Council to rule on claims of public interest immunity in accordance with procedures provided by a LegCo Resolution. Members' attention has also been drawn to Article 48 (11) of the Basic Law in which the Chief Executive shall decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or its committees.

Probable courses of actions

8. If it is considered that an enquiry on the matter is necessary, proceedings may be taken in the following manner:

- (a) that the Panel be authorized to summon witnesses under Rule 80 of the Rules of Procedure by resolution in the Council; or
- (b) that a select committee be formed and authorized to summon witnesses under Rule 80 of the Rules of Procedure by resolution in the Council.

To facilitate members' consideration of the need to conduct an enquiry, the draft term of reference of the enquiry is provided in **Appendix IV**.

9. Pending the authorization of the Council for the Panel or the select committee to proceed with the summoning of witnesses to testify and give evidence, the Panel is at liberty to invite the Administration and parties/persons concerned to meetings of the

Panel to provide information on the matter.

Advice sought

10. Members are invited to advise on the way forward in respect of the follow-up actions to be taken to examine the building problems of public housing having regard to the circumstances surrounding the four incidents relating to the housing developments of HA.

Council Business Division 1
Legislative Council Secretariat
23 October 2000

Summary of events relating to building problems in public housing

Excessive uneven foundation settlements in Tin Chung Court (TCC), Tin Shui Wai

The problem was revealed when the Housing Authority (HA) requested the contract manager concerned to confirm the compliance status of the relevant blocks upon completion construction. At the same time, the building contractor also reported that they had problems with the installation of lifts in one of the blocks.

2. To probe into the causes of and accountability for the incident, an investigation panel under the chairmanship of Mr Philip NUNN was set up on 23 September 1999 by HA. In its report, the investigation panel concluded that the basic cause of the uneven settlement was that the piles were not installed to the required depth due to incorrect design assumptions. The inadequacy of the foundations was attributed to the neglect of the design and build contractor, the external consultant of HA and the geotechnical sub-consultant. Shortcomings in the contracting system of HA, the lack of precision in the contract documentation and the decision of the Housing Department (HD) to allow the use of pre-stressed pre-cast concrete piles contrary to expert advice also contributed to the problems encountered on the site.

3. The subject was discussed by the Housing Panel on 27 September 1999, 17 and 20 March as well as 19 June 2000. While acknowledging the findings of the investigation report, members expressed concern on the efficacy of the investigation as this was instituted by HA and the investigation panel had no power to insist upon the attendance of nor the production of documents by parties concerned at hearings. Given the extent of the problem, members considered that the Chief Executive should appoint a statutory body under the Commissions of Inquiry Ordinance (Cap. 86) to probe into the incident as was the case with the New Airport. It was also suggested that the Legislative Council should set up a select committee to probe into the case if the Administration declined to establish a commission of inquiry.

4. On 13 June 2000, the Secretary for Housing appointed Mr Stephen SELBY as the Chairman of the Investigation Panel on Staff Discipline in the TCC incident.

Piling problems in the Home Ownership Scheme site at Shatin Area 14B Phase 2 (Yuen Chau Kok (YCK))

5. The problems at YCK were discovered during a bored pile coring test conducted by HD on 3 January 2000. It was found that the recorded length of some of the piles in two of the blocks did not meet the required specification.

6. Apart from establishing an investigation panel under the chairmanship of Mr John E STRICKLAND to probe into the causes of and accountability for the incident, HD also referred the case to the Independent Commission Against Corruption (ICAC) which had subsequently effected a number of arrests, including three HD's staff. According to the findings of the investigation report, the piling problems at YCK was mainly attributed to the failure of the piling contractor to supervise its subcontractor. The lack of the requisite experience and malpractice of HD's staff in supervising construction works on site also contributed to the problems.

7. The subject was discussed by the Housing Panel on 11 January, 20 March, 25 May and 19 June 2000. As the terms of reference of the investigation panel were similar to that of the investigation panel on the TCC case, members expressed reservation at the efficacy of the investigation. To this end, members passed a motion at the meeting on 20 March 2000 to urge the Housing Bureau to convey the view of the Panel to the Chief Executive, requesting him to appoint a statutory committee to undertake a review of the operation of the entire construction industry and to follow up the investigations of the cases of TCC and YCK.

8. On 5 April 2000, the Administration announced the appointment of Hon Henry TANG Ying-yen, Member of the Chief Executive in Council, as the Chairman of the Construction Industry Review Committee to examine the operation of the construction industry and to make recommendations to improve upon the practices of the trade. The issue of staff discipline has been put under the purview of the Investigation Panel under the chairmanship of Mr Stephen SELBY.

Suspected use of rejected substandard reinforcement in the Home Ownership Scheme development at Tung Chung Area 30 Phase 3

9. The problem was disclosed after six people from the main contractor for the contract were arrested by ICAC for suspected corruption involving substandard reinforcement. A driver of the contractor was subsequently charged for corruption.

10. The subject was discussed by the Housing Panel on 1 and 19 June 2000. At the latter meeting, the Administration admitted that substandard reinforcement bars had been used in the construction site. However, as these bars had failed the laboratory tests on yield stress or mass density by a small margin of five to ten percents, their impact on the structural safety of the blocks could be minimal, even if they had been used in the same location of the buildings. To prevent recurrence of similar incident, measures such as using security cameras on site to keep track of what was happening after office hours, obtaining more information on the performance of steel suppliers and using alternative ways of marking reinforcement bars were under consideration.

11. In view of the spate of building problems in public housing, members were requested to consult their respective political parties on the need for setting up a select committee in this regard.

Suspected use of substandard construction materials in the Redevelopment of Shek Yam Estate Phase 2

12. The problem was uncovered after 16 persons, including two from the outside consultant for the contract, were arrested by ICAC for suspected corruption involving substandard works in the project.

13. At the Housing Panel meeting on 4 May 2000, the Administration advised that non-complying works were discovered earlier during routine checking by HD before ICAC's operation. These included the use of sub-standard claddings, prohibited use of semi-dry cement sand floor screeding, sub-standard concreting, formwork and steel reinforcement fixing. Some of these defects had been rectified during the course of construction. Delay in other rectification works such as replacement of sub-standard claddings was due to the time required for importing the required materials from overseas countries. It also confirmed that there were no structural safety problems as the sub-standard works were of a minor nature. Moreover, as Shek Yam Estate Phase 2 was a rental estate, the Administration would take up the maintenance responsibility after the expiry of the maintenance period.

**Legislative Council
Panel on Housing**

List of members who have joined the working group

Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon CHAN Yuen-han
Hon Abraham SHEK Lai-him, JP
Hon LAU Ping-cheung

(Total : 5 members)

Appendix III

Name of Investigation body	Appointed by	Membership	Terms of reference	Target completion date
Investigation Panel on Accountability in the case of Tin Chung Court, Tin Shui Wai	Housing Authority	Mr Philip NUNN (Chairman) Mr WAN Man-ye Professor Patrick LAU Sau-shing Mr Michael CHOI Ngai-min Dr CHENG Hon-kwan	<ul style="list-style-type: none"> (i) to establish the areas of responsibilities of the officers/parties concerned; (ii) to identify any areas of negligence of each of the officers/parties; (iii) to ascertain whether the laid down procedures and guidelines of various stages have been properly followed with reference to the relevant manual and documents by these officers/parties; and (iv) to determine whether these officers/parties have exercised their professionalism at a reasonable expectation. 	completed on 3 March 2000
Investigation Panel on Accountability (Piling Contract 166/1997 Shatin 14B Phase 2)	Housing Authority	Mr John E STRICKLAND (Chairman) Miss Teresa CHENG Yeuk-wah Professor LEE Chack-fan	<ul style="list-style-type: none"> (i) to establish the facts of the case leading to the suspension of work at Shatin Area 14B Phase 2; (ii) to establish the areas of responsibility of the officers/parties involved, and to identify any areas of negligence, including any misconduct or malpractice of each of the officers/parties; (iii) to recommend to the Chairman of the Housing Authority whether any disciplinary, legal or other action should be taken against any of the officers/parties; (iv) to recommend to the Chairman of the Housing Authority any improvements in responsibilities, contract conditions, and procedures for managing and supervising piling works; and (v) to undertake such discovery as the panel may deem necessary, which may include seeking of independent opinion from technical and or legal experts, and the interviewing of any individuals the panel considers appropriate. 	completed on 27 April 2000

Name of Investigation body	Appointed by	Membership	Terms of reference	Target completion date
Construction Industry Review Committee	The Government	Hon TANG Ying-yen (Chairman) Professor Michael ANSON Mr Francis BONG Shu-ying Mr CHAN Kam-ling Mrs Pamela CHAN Mr Keith KERR Mr KWOK Kwok-chuen Mr Daniel LAM Chun Mr Frederick MA Si-hang Mr Alasdair MORRISON Mr POON To-chuen Mr Albert TONG Yat-chu Mr Robin J WHALLEY Secretary for Housing Secretary for Works Director of Buildings	(i) to examine the current state of the construction industry in respect of quality, quantity, environmental friendliness, manpower, safety and supervision; (ii) to identify specific actions and good practices to improve the efficiency and cost effectiveness of local construction in terms of quality, customer satisfaction, timeliness in delivery and value for money; and (iii) to advise on an order of priority for implementation.	end of 2000
Investigation Panel on Staff Discipline in Yuen Chau Kok and Tin Chung Court Incidents	Secretary for Housing	Mr Stephen SELBY (Chairman) Mr CHOY Kin-kuen Mr CHAN Chiu-ming Mrs WONG MA Wai-mei	(i) to establish and collate evidence, if any, of misconduct to enable consideration of disciplinary proceedings against any staff member concerned in the Housing Department; and (ii) to identify specific acts of misconduct, if any, which warrant administrative or disciplinary action.	without a specific time frame
The Ombudsman	N/A	N/A	(i) to investigate into the relevant issues relating to the management of the construction of the foundations of Yuen Chau Kok Shatin Area 14B Phase 2 and other public housing projects by the Housing Department.	Not known

Appendix IV

Proposed term of reference for the inquiry

To inquire into the building problems in the production of public housing units having regard to the circumstances surrounding the incidents in Tin Chung Court, Shatin Area 14B Phase 2, Tung Chung Area 30 Phase 3 and Shek Yam Estate Phase 2.