

**INFORMATION PAPER FOR LEGISLATIVE COUNCIL
LEGCO PANEL FOR HOUSING AND
LEGCO PANEL ON PLANNING, LANDS AND WORKS**

**RESPONSE TO THE REQUESTS RELATED TO THE
UNUSUAL GROUND SETTLEMENT IN TSEUNG KWAN O**

INTRODUCTION

A joint meeting of the LegCo Panels on Housing and Planning, Lands and Works was held on 27 November 2000 in which the representatives of Territory Development Department (TDD), Housing Department (HD), Drainage Services Department (DSD) and Buildings Department (BD) explained to Members the investigation findings for the unusual ground settlement in Tseung Kwan O (TKO)¹.

2. At the meeting, the Hon Andrew Cheng Kar-foo tabled a letter setting out nine requests in relation to the unusual ground settlement. The letter (attached in Annex I) was referred to the Secretary for Works on 28 November 2000. The Secretary for Works was requested to coordinate the Administration's response to requests no. 2 to no. 8 therein and present the response in the form of a discussion paper.

¹ The unusual ground settlement in TKO was first reported in early 1999. An investigation was then commissioned by TDD to find out the cause of the settlement. The investigation was completed in November 2000. It concluded that the settlement rate had already reduced. The main cause of the settlement was a significant drawdown of groundwater in the lower soil strata of the reclamation and the only credible cause of the drawdown was the water inflow into the Strategic Sewage Disposal Scheme tunnel under construction at almost 1 km to the south of the TKO town centre. In parallel with the investigation, relevant government departments carried out an assessment of the safety of the buildings and confirmed that all the buildings were safe and all the foundations still possessed an adequate safety margin. A LegCo Brief setting out the details of the findings on the cause of the settlement and the safety of buildings was issued to LegCo Members on 21 November 2000.

RESPONSE TO REQUESTS NO. 2 TO NO. 8

3. The Government's responses to Requests No. 2 to No. 8 are as follows -

(a) Request no. 2 - The Government should provide a minimum 20-year structural maintenance for Beverly Garden and Tong Ming Court

Response -

The assessments by relevant government departments, which were released last year, have shown that all the buildings are safe in the area of TKO affected by the unusual ground settlement. An independent expert has endorsed those assessments. Members are requested to note that none of the monitoring points installed at the building blocks in Beverly Garden and Tong Ming Court has shown any sign of movement. So whilst the pavement and road surface might have been affected by the unusual ground settlement, it is clear that the buildings are not and no defects reported in the buildings are related to the settlement. We therefore consider that providing any structural guarantee or maintenance for the buildings of Beverly Garden and Tong Ming Court due to the unusual ground settlement is unnecessary.

In order to further re-assure residents, relevant government departments will undertake the following –

- (i) BD (for Beverly Garden) and HD (for Tong Ming Court) will continue to undertake necessary investigation falling within their usual responsibilities on residents' complaints of suspected defects related to the structural integrity of their buildings.
- (ii) TDD will continue the monitoring of any ground settlement and the groundwater condition until March 2009 (the 10th year from early 1999 when the unusual settlement was first reported).

- (iii) BD (for Beverly Garden) and HD (for Tong Ming Court) will re-conduct a structural assessment of all the foundations of the buildings in March 2009 based on updated data of the groundwater condition from TDD.

We consider that the above measures are sufficient to show to residents that the safety of their buildings is ensured. Members are also requested to note that Beverly Garden and Tong Ming Court, being projects under the Private Sector Participation Scheme (PSPS) and Home Ownership Scheme (HOS) respectively, are currently covered by a 10-year structural guarantee offered by the Housing Authority (HA)².

- (b) **Request no. 3 - The Government should set up a maintenance fund for unusual settlement for inspecting and repairing damage caused to any building blocks and housing estates by unusual settlement in the past and in the future.**

Response -

As set out in the response to Request no. 2 above, there are no defects caused to any building blocks due to the unusual ground settlement. Setting up a maintenance fund for building blocks is thus unnecessary.

The Government will introduce a 10-year remedial works scheme, as described in paragraph 4 below, to rectify any defects in the ground-level open areas of Beverly Garden and Tong Ming Court which are caused by the unusual ground settlement. The scheme will be funded by the Government on an entirely ex-gratia basis and without prejudice to Government's position in any pending or potential

² The 10-year structural guarantee offered by the HA covers all PSPS and HOS blocks. Under the guarantee, the HA will be responsible for all structural repairs to any structural component of the building to uphold its structural stability and integrity. It however excludes defects not related to structural stability and integrity, such as water seepage through ceilings or windows, cracks in plaster and repairs works in the external areas and facilities, as well as those arising from acts of any third party for which HA is not responsible. As in the case of Beverly Garden and Tong Ming Court, the HA's guarantee does not cover any defects caused by the unusual ground settlement.

relevant legal proceedings.

- (c) **Request no. 4 - As unusual settlement is a rare phenomenon, residents of the affected housing estates should be given special treatment. Consideration should be given to extending the buy-back period of Tong Ming Court by one year to allow more time for the residents to make their decisions.**

Response -

The investigation report on the TKO unusual ground settlement was released by TDD in November 2000. There should have been sufficient time for the residents of Tong Ming Court to decide whether to re-sell their flats to the HA at original price before the expiry of the 2-year resale restriction period. In that connection, the earliest time of expiry of the 2-year period for the flats in Tong Ming Court was March 2001. We therefore consider that extending the time by one year is unnecessary. In any event, the Housing Ordinance provides no discretion to extend the initial 2-year resale restriction period which is provided in the Schedule to the Ordinance.

- (d) **Request no. 5 - HD should closely monitor the inspection and maintenance work of the developer of Beverly Garden, and undertake such work in the event of evasion of responsibilities and deliberate delay on the part of the developer.**

Response -

HD has engaged a monitoring surveyor to closely monitor the performance of the developer of Beverly Garden in discharging its responsibilities for rectifying defects. HD is however not responsible for undertaking the developer's repair and maintenance liabilities under the Conditions of Sale. We consider that it will be inappropriate for HD to undertake such role. Despite this, where necessary, HD, TDD and BD will provide assistance to residents to help resolve any problems occurring between them and the developer.

- (e) **Request no. 6 - HD should not return the retention money to the developers concerned until the Beverly Garden Owners Association and Tong Ming Court Owners' Corporation have issued a written notice to confirm completion of the required inspection and maintenance work by the developers.**

Response -

The developer of Beverly Garden is required to fulfil all its responsibilities for repairing defects in accordance with the Conditions of Sale before its retention sum is to be released. HD will consult the Beverly Garden Owners' Corporation on the confirmation of completion of all the reported defects during the defects liability period before releasing such retention sum.

There is no similar provision for retention sum in the lease conditions for Tong Ming Court which was developed by the HA under the HOS. HD will urge its contractor to complete necessary remedial works for all the defects reported under the maintenance period.

- (f) **Request no. 7 - The residents of Beverly Garden and Tong Ming Court who have sold their flats back to the Housing Authority (HA) at the original price should be allowed to retain their First Priority Green Form, Green Form or White Form status.**

Response -

For rational allocation of public housing resources, it is the established policy that HOS/PSPS flat owners will not be entitled to any further housing subsidy once they resell their flats. Since the buildings of Beverly Garden and Tong Ming Court are confirmed to be structurally sound, there is no justification which merits deviation from this policy.

- (g) **Request no. 8 - All fees and charges such as application fees, reinstatement charges, etc. incurred from selling their units back to HA at the original price should be waived.**

Response -

Under the Schedule to the Housing Ordinance, the owners are required to pay all the fees and costs arising from the resale of HOS/PSPS flats. HD is therefore not in a position to waive such fees and costs.

However, subject to consultation with the HA, HD will refund the administrative fee of \$1,200 to the flat owners of Beverly Garden who had previously paid such fees after their applications for resale under the Special Arrangement for Beverly Garden³ being accepted by the HA but subsequently decided to rescind their applications or not to proceed with the resale.

REMEDIAL WORKS SCHEME

4. In view of the unique and special circumstances of Beverly Garden and Tong Ming Court, the Government will introduce a remedial works scheme to rectify any defects caused to the ground-level open areas of the two estates due to the unusual ground settlement in TKO. In introducing the scheme, the Government does not admit that it is legally liable to any parties for those defects or any associated losses. The scheme is purely an ex-gratia arrangement to ensure early completion of rectification works to the said defects in the interests of the residents of the two estates. The principal features of the scheme are as follows -

³ The initial 2-year restriction period for Beverly Garden expired from September 2000 onwards. The owners had expressed grave concern over the unusual ground settlement problem. To allow the flat owners a fair opportunity of making reference to the TDD's investigation report on ground settlement, the HA endorsed a Special Arrangement for the flat owners of Beverly garden in August 2000. Under this Special Arrangement, after making their applications for resale within the initial 2-year resale restriction period, the flat owners are given 6 months' time from the HA's acceptance to their applications to confirm whether they would proceed with the sale of their flats to the HA.

(a) Scope

The scheme will seek to rectify defects caused to the ground-level open areas of Beverly Garden and Tong Ming Court (including the estates' underground services) due to the unusual ground settlement. The scheme does not cover buildings.

(b) Duration

The scheme is to last for 10 years counting from 1 April 1999 which was around the time when the unusual settlement was first reported and end on 31 March 2009.

(c) How remedial works are carried out

The Government intends to engage works agents for the investigation, design and execution of remedial works through their contractors. For Beverly Garden, the works agent to be engaged will be the developer of the estate until the expiry of the 5-year scheduled defects liability period as set out in the Conditions of Sale of Beverly Garden, being around September 2004. Thereafter and until the end of the scheme, HD would be entrusted as the works agent. For Tong Ming Court, HD would be entrusted as the works agent for the whole period of the scheme.

(d) Funding

The estimated costs for the scheme are \$12M for Beverly Garden and \$10M for Tong Ming Court (at current prices) including the estimated amounts to be paid for remedial works that the developers of Beverly Garden and Tong Ming Court have done for defects due to the unusual ground settlement. Costs of the scheme will be met by Government and payments will be charged to TDD's project, 7393CL - TKO development, phase II, stage IIIA, engineering works, which was the reclamation project forming the parcels of land including the Beverly Garden and Tong Ming Court sites. The Director of Territory Development has confirmed that the contingencies under the project would be adequate to cover the costs

of the scheme. We will finalise the details of the scheme and inform the LegCo Finance Committee of the relevant financial arrangements.

(e) Administrative Arrangement

An administrative committee will be set up comprising the relevant government departments and the works agents. It will be responsible for overseeing the administrative arrangement for the scheme and monitor the implementation of remedial works. Details of the composition and working procedures of the committee will be determined after consultation with the relevant parties on the proposal.

(f) Consultation

Relevant departments will inform the Sai Kung District Council of the scheme and consult the owners' corporations of Beverly Garden and Tong Ming Court on the implementation details.

(g) Commencement of the Scheme

We plan to complete all the relevant procedures with a view to entering into contractual agreements with the developer of Beverly Garden and sorting out administrative arrangements with the HD before the end of this year. The administrative committee is also expected to be established and start its work before the end of this year.

Works Bureau
30 May 2001

(English translation prepared by the
Legislative Council Secretariat
for Members' reference only)

(Letterhead of the Secretariat of Legislative Councillors of the Democratic Party)

27 November 2000

Chairman
Joint Meeting of the LegCo Panels on Housing
and Planning, Lands and Works
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Mr Chairman,

**Request for the Government to assume the responsibility for
the unusual settlement in Tseung Kwan O**

Announcing details of the investigation report on the unusual settlement of Tseung Kwan O (TKO) reclamation at a press conference held on the 21st of this month, the Director of Territory Development said that the main cause of the unusual settlement in TKO was attributed to the massive inflow of groundwater into the sewer tunnel being constructed under the Government's Strategic Sewage Disposal Scheme (SSDS) outside the reclaimed area. The Director held the view that as the drawdown of groundwater could not have been foreseen, compensation would not be made to the residents. Residents might seek compensation from the Government in accordance with the normal procedures should they have strong justifications.

Since the unusual settlement was caused by the Government's works carried out under SSDS, the resident groups of the two housing estates seriously affected by the unusual settlement in TKO, namely the Beverly Garden Owners Association and the Tong Ming Court Owners' Corporation, consider that as a responsible Government, it should have the encourage to face the problem, carry out remedial work as early as possible, and provide assistance to the affected residents in a proactive manner instead of putting the onus of proof on the residents. Given that the Administration was at fault in carrying out works at the district level which adversely affected the interests of the local residents, it will be a dereliction of duty for the Administration to ask them to challenge the Government in court.

- 2 -

We consider that the residents concerned have already been greatly disturbed by the problem of unusual settlement. We therefore hope that you and members of the two Panels would deal with our following requests fairly and prudently:

- 1) The Legislative Council should engage an independent expert to assess the damages caused by the unusual settlement to the building blocks and housing estates concerned with a view to working out a reasonable maintenance plan and the costs incurred;
- 2) The Government should provide a minimum 20-year structural maintenance for Beverly Garden and Tong Ming Court;
- 3) The Government should set up a maintenance fund for unusual settlement for inspecting and repairing the damages caused to any building blocks and housing estates by unusual settlement in the past and in the future;
- 4) As unusual settlement is a rare phenomenon, residents of the affected housing estates should be given special treatment. Consideration should be given to extending the buy back period of Tong Ming Court by one year to allow more time for the residents to make their decisions;
- 5) The Housing Department (HD) should closely monitor the inspection and maintenance work of the developer of Beverly Garden, and undertake such work in the event of evasion of responsibilities and deliberate delay on the part of the developer;
- 6) HD should not return the retention money to the developers concerned until the Beverly Garden Owners Association and Tong Ming Court Owners' Corporation have issued a written notice to confirm completion of the required inspection and maintenance work by the developers;
- 7) The residents of Beverly Garden and Tong Ming Court who have sold their flats back to the Housing Authority (HA) at the original price should be allowed to retain their First Priority Green Form, Green Form or White Form status;
- 8) All fees and charges such as application fees, reinstatement charges, etc. incurred from selling their units back to (HA) at the original price should be waived; and
- 9) A joint meeting among the Beverly Garden Owners Association, the Tong Ming Court Owners' Corporation, Members of the Legislative Council and the relevant government departments (including the Finance Bureau, Works Bureau, Territory Development Department, Drainage Services Department, Housing Authority, HD and Buildings Department) should be held to discuss the subject.

- 3 -

This letter is submitted to reflect the views of the residents affected by the unusual settlement. We should be grateful if you would bring up the above matter at today's joint meeting for discussion.

With best regards,

LUK Ping-choi
(Chairman of the Beverly Garden Owners Association)

FAN Kwok-wei
(Chairman of the Tong Ming Court Owners' Corporation)

**Joint office of Legislative Councillor Andrew CHENG Kar-foo and
District Board member FAN Kwok-wei**