

## **ITEM FOR FINANCE COMMITTEE**

### **CAPITAL WORKS RESERVE FUND**

#### **HEAD 701 - LAND ACQUISITION**

#### **Ex-gratia Allowance for Permitted Occupiers of Licensed Domestic Structures and Surveyed Domestic Squatter Structures Affected by Clearance**

Members are invited –

- (a) to approve a new ex-gratia allowance for permitted occupiers of licensed domestic structures and surveyed domestic squatter structures who are affected by clearance and satisfy the conditions set out in paragraph 2 below; and
- (b) to delegate to the Secretary for Financial Services and the Treasury the authority to approve changes to the ex-gratia allowance in accordance with the formula set out in paragraph 5 below.

### **PROBLEM**

Permitted occupiers of licensed domestic structures on private agricultural land or unleased Government land and domestic squatter structures on unleased Government land who are not eligible for public rental housing (PRH) of the Housing Authority (HA) can only be provided with interim housing (IH) upon clearance. We wish to enhance the flexibility of the current arrangement.

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**PROPOSAL**

2. We propose that Members approve a new ex-gratia allowance (EGA) for the following groups of clearerees in the event of a clearance –

- (a) permitted occupiers of a licensed domestic structure<sup>1</sup> on private agricultural land or unleased Government land affected by clearance who are not provided with PRH of the HA; and
- (b) permitted occupiers of a domestic squatter structure on unleased Government land, i.e., where the structure was covered by the 1982 Squatter Structure Survey (1982 Survey) of the Housing Department (HD) and the occupiers were registered in the 1984/85 Squatter Occupancy Survey (1984/85 Survey) of HD, but who are not eligible for PRH.

The EGA should be offered as an alternative to IH.

**JUSTIFICATION**

3. If permitted occupiers of licensed domestic structures and surveyed domestic squatter structures do not meet the rehousing eligibility criteria of the HA, they will not be provided with PRH nor any EGA upon clearance. Those with a genuine housing need will be offered IH to ensure that no one will be rendered homeless as a result of clearance.

4. These permitted occupiers have no legal claim to compensation on clearance of their structures. However, we recognize that they have stayed in these structures with Government permission for a long time. Some form of assistance to enable those who have genuine housing need to obtain alternative domestic accommodation other than IH would add flexibility to the current arrangements. We therefore propose that, upon clearance, if they have a genuine housing need, permitted occupiers of licensed domestic structures and those of surveyed domestic squatter structures who are registered in the 1984/85 Survey should be allowed to choose between IH and an EGA for seeking alternative domestic accommodation.

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<sup>1</sup> The term “permitted occupiers” of licensed domestic structures is a shorthand expression covering persons who are given different forms of approval by the Director of Lands (D of L) to erect domestic structures on agricultural land and unleased Government land as outlined in paragraph 12. The approval by D of L gives the licensee (or tenancy holder etc.) and his/her family permission to stay in the domestic structure.

5. Subject to Members' approval, we propose that the new EGA should have regard to rentals for comparable but lawful structures of the same size in the same area for three years. The basis for calculating the new EGA should be as follows –

- (a) the whole of Hong Kong will be divided into three broad regions – urban area, extended urban area and the New Territories for the purpose of calculating the applicable EGA rates;
- (b) the EGA rates will be determined by reference to the latest rental data available to the Rating and Valuation Department on the average unit rental of village houses and/or tenement buildings;
- (c) the EGA rates in (b) above will be arrived at by reference to the latest three months' rental data available for the broad region concerned; and
- (d) the EGA rates will be updated every six months in strict accordance with (b) and (c) above.

6. The proposal would enhance the flexibility of current arrangements. The basis of calculation has taken full and fair account of the need to facilitate finding alternative accommodation in the transition period and the fact that the occupiers have no legal claim to compensation.

7. Subject to Members' approval, we further propose that the authority to approve future changes to the EGA rates in accordance with the formula in paragraph 5 above be delegated to the Secretary for Financial Services and the Treasury.

8. The new EGA should be applicable to all on-going and future resumption exercises and clearance exercises of unleased Government land. Once the new EGA is approved by the Finance Committee, it will be offered to eligible clearerees set out in paragraph 2 above as an alternative when HD makes its offer of IH. Clearerees receiving the new EGA will not be eligible for any other EGA in respect of the structure in question.

9. To ensure consistency with the existing policy applicable to recipients of the cash allowance in lieu of rehousing provided by the HA for single persons and two-person families, clearerees receiving the new EGA will not be eligible to apply for any form of public housing for the subsequent two years. In general, this should not affect the recipients of the new EGA as they do not fulfil the eligibility for public housing in the first place. Should there be a sudden adverse change in the financial situation of the recipients during this period and a genuine public housing need can be demonstrated, HD will consider such cases on a compassionate basis.

## **FINANCIAL IMPLICATIONS**

10. According to the basis set out in paragraph 5 above, the average rental value of an average village house or tenement building in the New Territories is around \$70 per square metre per month. If the average size of such structures is about 30 square metres, the average EGA payable to an affected household would be \$75,600 ( $\$70/\text{m}^2$  per month  $\times$  30  $\text{m}^2$   $\times$  36 months). There are 27 on-going agricultural land resumption and clearance exercises. About 60 similar exercises are planned for the next five years. About 12% of some 5 000 affected households are likely to be eligible for the new EGA as an alternative to IH. On the assumption that all the households concerned choose the new EGA, it is estimated that the additional costs arising from the new EGA would be \$18.3 million in relation to the on-going exercises and \$26.8 million for the new resumption and clearance exercises in the next five years.

11. It is not possible to estimate the additional financial implications of the proposal for all resumption exercises of agricultural land and clearance exercises of unleased Government land in the future at this stage. However, as the size of the squatter problem is diminishing, the amount is not likely to be very significant.

## **BACKGROUND INFORMATION**

12. There are two types of tolerated domestic structures, i.e. domestic structures licensed by the Lands Department (Lands D) and surveyed domestic squatter structures. Licensed domestic structures include structures on private agricultural land with a modification of lease or a short-term waiver and structures

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on unleased Government land covered by a licence or a short-term tenancy. Since 1982, Lands D has stopped issuing new licenses for domestic structures, except for a few regularisation cases. As regards surveyed domestic squatter structures, they are covered by the 1982 Survey carried out by HD to contain the squatter problem. These surveyed domestic squatter structures may include some licensed domestic structures. Structures on unleased Government land not covered by that survey or any licence or tenancy are immediately cleared if detected.

13. HD conducted in 1984/85 a survey to register the occupiers of the 1982 surveyed domestic squatter structures and most occupiers of licensed domestic structures. If these occupiers meet the Comprehensive Means Test (CMT) and do not own any residential property, they are provided with PRH on clearance. If they do not meet the CMT and have a genuine housing need, they will be offered IH as a transitional arrangement for one year<sup>2</sup>.

14. By their nature, licensed domestic structures only have a temporary tenure. Under present arrangements, Lands D will cancel or terminate the modification of lease, short-term waiver, Government licence or short-term tenancy, as the case may be, for the domestic structures concerned on private agricultural land and Government land prior to clearance or resumption. Where the structures are also covered by the 1982 Survey and the occupiers are registered in the 1984/85 Survey, the arrangements in paragraph 13 above will apply. Otherwise, the affected occupiers will not be provided with PRH nor any cash compensation. In order to ensure that no one will be rendered homeless as a result of clearance, those with a genuine housing need will be offered IH.

15. We consulted the Legislative Council Panels on Planning, Lands and Works and Housing on our proposal on 18 June 2002. Some Members considered that the scope of the proposed EGA should be extended to cover all clearerees who are offered IH. We explained that the proposed EGA should only cover *permitted* occupiers of licensed domestic structures and surveyed domestic structures to recognize the fact that the Government had permitted them to stay in these structures for a long time.

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<sup>2</sup> It is also an established policy for the HA to offer to those clearerees whose income and assets are marginally above the CMT the option of purchasing a Home Ownership Scheme flat or applying for a loan under the Home Purchase Loan Scheme to purchase private sector flats.

16. Since IH is offered to different categories of persons as long as they have a genuine housing need, we consider it inappropriate to offer the proposed EGA to all of them. Otherwise there could be, for example, an influx of ineligible people into surveyed structures. This would negate our effort to contain the squatter problem and unnecessarily and unfairly inflate the demand for EGA payments.

17. Some Panel Members also suggested that the proposed EGA should be considered in the context of overall housing policy, in particular the eligibility criteria for PRH. We explained that the eligibility criteria for PRH had to have regard to fair use of public housing resources. They should not be mixed up with the proposed EGA.

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Housing, Planning and Lands Bureau  
July 2002