

立法會
Legislative Council

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LegCo Panel on Housing

**Subcommittee to study the letting and rent policies of non-domestic premises
of the Housing Authority and the Housing Society**

**Minutes of meeting held on
Thursday, 14 March 2002 at 2:30 pm
in Conference Room B of the Legislative Council Building**

Members present : Hon Abraham SHEK Lai-him, JP (Chairman)
Hon Andrew WONG Wang-fat, JP (Deputy Chairman)
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Hon WONG Sing-chi
Hon LAU Ping-cheung

Members attending : Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Tommy CHEUNG Yu-yan, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Dr Hon LO Wing-lok

Public officers attending : Housing Bureau

Ms Wendy CHEUNG
Assistant Secretary (2)

Housing Department

Mr C P ROBERTS
Assistant Director/Commercial Properties

Hong Kong Housing Society

Mr K L WONG
Director (Estate Management)

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Mr S C TSANG
Senior Assistant Secretary (1)7

I Confirmation of minutes of previous meeting

(LC Paper No. CB(1)1200/01-02 — Minutes of the meeting held on
23 January 2002)

The minutes of the meeting held on 23 January 2002 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1)1322/00-01 — Referral from Duty Roster
Members regarding the Housing
Authority's prevailing policy and
procedures on letting of non-
domestic premises

LC Paper No. CB(1)1388/00-01 — Minutes of the case conference
relating to the above referral

LC Paper No. CB(1)1794/00-01(07) — Information paper on rent policy on
markets and commercial premises
of the Housing Authority provided
by the Administration

LC Paper No. CB(1)1842/00-01 — Information on the latest
development on alleged
maladministration in the letting
procedures for commercial
premises of the Housing Authority
provided by the Administration

LC Paper No. CB(1)187/01-02(05) — Information paper on rent policy on
non-domestic premises of the
Housing Authority provided by the
Administration

- LC Paper No. CB(1)325/01-02 — Referral from Duty Roster Members after meeting with a group of market stall operators of Jat Min Chuen on 1 November 2001
- LC Paper No. CB(1)534/01-02 — Further information on alleged maladministration in the letting procedures for commercial premises of the Housing Authority provided by the Administration
- LC Paper No. CB(1)835/01-02(02) — Background brief on rent policy of non-domestic premises of the Housing Authority
- LC Paper No. CB(1)835/01-02(03) — Information paper on commercial letting policies of the Housing Society)
- LC Paper No. CB(1)835/01-02(04) — Information paper on the Housing Authority's commercial business
- LC Paper No. CB(1)1199/01-02 — A referral from Duty Roster Members after meeting with the Joint Council of Commercial Tenants of Tin Ping Estate on 8 November 2001. The Joint Council requested that rent holiday or rent reduction be offered to non-domestic public housing tenants affected by improvement works of commercial premises by the Housing Department
- LC Paper No. CB(1)1221/01-02 — Minutes of the case conference held on 8 January 2002 and supplementary information on rents of a number of commercial premises in Tin Ping Estate
- LC Paper No. CB(1)1244/01-02(01) — List of follow-up actions arising from the discussion on 23 January 2002
- LC Paper No. CB(1)1244/01-02(02) — Response to CB(1)1244/01-02(01) provided by the Housing Society
- LC Paper No. CB(1)1277/01-02(01) — Response to CB(1)1244/01-02(01) provided by the Housing Authority)

2. Members were briefed on the responses from the Housing Society (HS) (LC Paper No. CB(1)1244/01-02(02)) and the Housing Authority (HA) (LC Paper No. 1277/01-02(01)) to the list of follow-up actions arising from the discussion at the last meeting on 23 January 2002 (LC Paper No. CB(1)1244/01-02(01)).

Discussion with the Housing Society
(LC Paper No. CB(1) 1244/01-02(02))

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3. On *market share and shop tenancy categories*, Mr Tommy CHEUNG considered that apart from the number of leases, HS should also provide the internal floor areas (IFA) occupied by different trades in various housing estates of HS and their respective percentages of the total IFA of commercial premises currently managed by HS.

4. On *introduction of large chain stores*, Mr LEUNG Yiu-chung pointed out that the recent proposal of HS to lease the wet market at Jat Min Chuen (JMC) to large chain stores was at variance with paragraph 6 of the information paper which stated that there was no superstore operation in HS housing estates. He expressed concern that the proposal would inevitably undermine the survival of the stall operators of the wet market at JMC. The Director (Estate Management)/Housing Society (D(EM)/HS) explained that at present, there were about 40 stalls in the wet market. Owing to poor business, many stall operators were previously reluctant to have their tenancies renewed. As such, HS had to consider other means, including the introduction of large chain stores, to better utilize and enhance the commercial viability of the wet market. The conversion of the wet market to accommodate a large chain store was put forward after one chain store operator had expressed interest in setting up a chain store at JMC. The proposed conversion was approved by the Government in mid-2001 but was subsequently deferred until further notice in the light of the economic downturn and opposition from stall operators after failing to reach an agreement in compensation.

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5. Mr LEUNG noted that the stall operators had repeatedly complained about the poor business of the wet market at JMC. He enquired about the measures which HS had taken to tackle the problem. D(EM)/HS advised that the poor business was attributed to the keen competition from the nearby market at Sha Kok Estate (SKE). Given that the problem was a structural one, HS had taken the opportunity to review the commercial viability of the wet market at JMC in the long run. Meanwhile, operators were allowed to apply for rent assessment with a view to alleviating their financial burden. Consideration were also being made to improve the facilities of the wet market, including improvement of ventilation and drainage systems, so as to enhance customer flow. At members' request, HS undertook to provide the views collected by HS during the consultation with the market stall operators at JMC.

6. Mr WONG Sing-chi queried the intention of the improvement works, which in his view was aimed at attracting large chain stores given that HS had subsequently shelved all the major improvement works after the deferral of the plan to introduce large chain stores to JMC. He was skeptical that HS was trying to encourage voluntary eviction of existing market stall operators to pave way for the introduction of large chain stores in future. In reply, D(EM)/HS stressed that this was not the case. As a self-financing organization, HS had to ensure a reasonable return for every investment. The rationale behind the introduction of large chain stores was that they

served to act as an anchor tenant, which would not only attract other retail operators to rent shops in the commercial premises but also better customer flow. The proposal to introduce large chain stores to JMC was aimed at enhancing the overall viability of the shopping premises. Mr WONG enquired if HS would proceed with the major improvement works despite the deferral of the plan to introduce large chain stores to JMC. D(EM)/HS advised that HS would have to consider the cost effectiveness of the improvement works.

7. Mr Andrew WONG asked if it was HS's plan to review the viability of all its commercial premises. If so, a holistic rather than a case-by-case approach should be adopted. D(EM)/HS advised that HS adopted a flexible approach in managing its commercial premises. The Marketing Section of HS would work out marketing plans for different commercial premises taking into account individual circumstances within the vicinity of the premises. In the case of JMC, HS considered that there was a need to review the usage of the wet market to enhance commercial viability.

8. Mr Tommy CHEUNG pointed out that anchor tenants should not be confined to superstores but should also include restaurants which were capable of attracting customer flow. D(EM)/HS agreed with Mr CHEUNG's view but reiterated that at present, there was no superstore operation in HS housing estates since they did not have sufficient space for superstores which normally required a floor area of over 10 000 square metres. The Chairman asked whether there would be new commercial premises large enough for lease to superstores. D(EM)/HS affirmed that the one in Kai Tak Garden (KTG) would come into operation within the next few years. However, in order to avoid direct competition with stall operators at the nearby Tai Shing Market (TSM), HS had taken the decision to bring in a supermarket rather than a superstore to KTG.

9. Miss CHAN Yuen-han remarked that as a good management practice, HS should consult the stall operators of TSM to ensure that the same types of goods that were currently available in TSM would not be provided at the supermarket in KTG. Expressing similar concern, the Chairman said that as a responsible organization, HS should take into account the livelihood of small market operators in planning for its commercial premises. Mr Tommy CHEUNG echoed that supermarkets were more welcomed by the public at large because they provided a better and cleaner shopping environment than traditional wet markets. To this end, HS should endeavour to upgrade its markets to meet the expectations of customers. In response, D(EM)/HS confirmed that HS would maintain dialogue with the operators of TSM.

10. Mr WONG Shing-chi noted that the provision of markets and commercial premises in public housing estates was part of a range of ancillary facilities to provide essential services to residents concerned. He cautioned that the introduction of large chain stores would run contrary to the existing policy if it was intended to attract customers from outside. D(EM)/HS advised that wet markets of HS were provided in accordance with the land grant conditions. However, measures would be taken as and when necessary to adapt to changes in market trends and tastes for the benefits of both residents and commercial tenants.

11. On *rent assessment*, the Chairman enquired about the basis upon which rent for market stalls at JMC was assessed. D(EM)/HS advised that HS adopted the direct comparison method which was to compare the subject property with similar properties within the locality for which transactions had already taken place. Evidence of rental transactions would form the basis for rent assessment. However, flexibility would be given to adjusting the rental value of the subject property taking into account factors such as time tag, location, size, shop frontage, layout and terms of lease etc. For instance, there had been cases where properties in remote or unpopular locations were leased on a daily basis to recoup operating cost only. Besides, stall operators who were not satisfied with the rent assessment could apply for a review subject to the provision of supporting information such as their business volume or other evidence. Given that the facilities of commercial premises in the private sector were better than that of HS, the Chairman considered it inappropriate to use market rent as the basis for rent assessment. Mr LEUNG Yiu-chung echoed that apart from keen competition from the nearby market in SKE, stall operators had been complaining about the high rentals and poor facilities of the wet market at JMC. To facilitate members' understanding, HS was requested to provide a comparison of rent between the markets at JMC and SKE.

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Discussion with the Housing Authority

(LC Paper No. LC Paper No. CB(1) 1277/01-02(01))

12. On *leasing of premises*, Mrs Selina CHOW acknowledged that tender was a transparent and fair method of letting. She however pointed out that it might not be able to reflect the market rent as bidders might tend to raise their bids to enhance competitiveness, particularly in a booming market, thereby pushing up the rents. The situation would be further aggravated if the higher rentals were adopted for assessing market rent upon renewal of existing tenancies. The Assistant Director of Housing/Commercial Properties (AD of H/CP) confirmed that it was common in tendering exercises for a wide range of bids to be received. It would be for estate surveyors of the Housing Department (HD), who were trained valuers with experience, to interpret the pattern of bids, against the general run of comparable evidence, to arrive at realistic assessments. He agreed with Mrs CHOW that the highest bid did not necessarily reflect the market rent. However, if the tenant could survive for three years and continue to do business with such a bid, it could not be too far ahead of the market. Likewise, if they went out of business in six months, this would suggest that the bid was too high. He assured members that HD would carefully look at such supporting evidence when determining market rents.

13. Noting that some tenders had been rejected because they could not meet the upset rent which was not made known to them in advance, Mrs CHOW considered that it would only be fair for HA to disclose the upset rent so that those who could not afford the rent were made aware of the risk of losing the tender if they submitted a lower bid or they could choose not to participate in the tendering exercise. AD of H/CP did not agree that HA should disclose the upset rent since bidders were more experienced as operators and should have in their mind the rent which could be

sustained from the anticipated level of profit. Besides, the range of bids would help HD to interpret the market. In the event that the top tender was still below the upset rent, HD could go back to the bidder to see if he was prepared to raise his bid to an amount that was acceptable to HD. The Chairman concurred with Mrs CHOW that HA should increase transparency in the tendering exercise and make it clear to bidders what HA would and would not accept.

14. On *rent assessment*, Mrs Selina CHOW expressed disappointment that HD had failed to take into account the plight of tenants amid the economic downturn as well as changing circumstances, such as aging of estates leading to reduced population and declining household income, outdated facilities and low occupancy of new estates, in making rent assessment. AD of H/CP explained that HD estate surveyors would make reference to evidence from tenders and negotiation cases before arriving at a professional opinion on rent assessment, which would take account of such factors, and was required to be checked by a Senior Estate Surveyor. Tenants who were not satisfied with the result could request a review of the assessment. Such requests were received in about 5% of renewal cases. HD would re-examine the assessment taking into full consideration any additional information or evidence put forward by tenants. The assessment would then be checked at directorate level and might be adjusted if appropriate. Records of the past two years, when the economic situation was most difficult, showed that the annual turnover rate of tenants of HA was about 1% which was far below that of the private sector.

15. Mrs CHOW was not convinced of the Administration's response. She opined that as a statutory body, HA had to be fair to both its domestic and non-domestic tenants. This was however not the case as illustrated by the refusal of HA to allow non-domestic tenants to engage their own estate surveyors to conduct rent assessment. She stressed that in order to ensure impartiality, rent assessment should be conducted by an independent body.

16. On *introduction of large chain stores*, Mr Andrew WONG remarked that as there was no existing legislation on dumping, HA should seriously consider the impact of supermarkets and superstores selling goods at very low price on small market stall operators. For instance, the provision of service-style fresh foods at the supermarket at Hau Tak Estate (HTE) had indeed affected the business of the nearby traditional wet market. To enhance competition, he urged HA to reduce rent for the market stalls. Given that HTE was a large housing estate, and that the nearby wet market was air-conditioned, AD of H/CP said that he saw no reason why the market could not compete with the supermarket. He added that there had always been a supermarket at HTE and market stall operators would be accustomed to the competition. He also rejected the allegation that HA was penalizing the market stall operators by charging a higher rent. In fact, the rent paid by supermarkets tended to be higher, possibly reflecting comparative advantages in the sourcing and pricing of goods. To facilitate members' understanding, the Administration was requested to provide the difference in unit rent per square feet between market stall and supermarket in each HA housing estate.

17. Miss CHAN Yuen-han opined that in planning for new commercial facilities within public housing estates, care should be taken not to affect the survival of existing market store operators. AD of H/CP advised that new commercial facilities were designed to meet current retail tastes. If a market was provided, it would be of modern design and fully air-conditioned to enable stallholders to compete for business. He reiterated that HA had not introduced new superstores in existing estates where there were traditional markets in operation. While there had been pressure for supermarkets in such estates to develop “service-style” fresh food provision, this was permitted only for supermarkets exceeding 800 square metres, and subject to a limitation in 20% of the total area for fresh food.

18. On *vacancy rate*, Mr Tommy CHEUNG noted that the high commercial vacancies in some public housing estates were attributed to the aging of these estates leading to reduced population and declining household income. Under such circumstances, HA should consider closing down these premises and relocating the affected tenants to other venues with a better business prospect or reducing the rents rather than leaving these premises vacant, which in his view was a waste of public money. He opined that the unwillingness of HA to reduce rent upon re-letting had also attributed to the high vacancy rate. By way of illustration, HD had to leave a commercial premises in Sha Tin vacant after failing to reach an agreement on rent with the existing tenant upon renewal of tenancies.

19. AD of H/CP advised that the typical vacancy rate of HA commercial premises was about 3% to 4%. Although vacancies had increased to about 6% amid the difficult market conditions, it was still lower than that of the private sector according to the Rating and Valuation Department. He also rejected the allegation that the high vacancy rate was due to the lack of flexibility on the part of HA. He stressed that HA had no intention to leave its commercial premises vacant, and that it was prepared to offer rent reduction to its commercial tenants. In fact, average rent reduction of 21% and 18% had been made under the 1998 and the current rent assessment exercises respectively. Regarding the case in Sha Tin as referred to by Mr CHEUNG, AD of H/CP advised that the premises was leased by tender. Upon renewal of the tenancy agreement, HA offered a 42% rent reduction to the tenant who said that he would stay on only if a further 55% reduction in rent was offered. HA found difficulty in accepting a rent only 26% of that currently being paid. The tenant’s decision to vacate coincided with a substantial downturn in the economy and the premises remained vacant for the time being. He emphasized that this was not a typical case, and that HA adopted a very flexible approach in the negotiation of tenancies. This was reflected in the low annual turnover rate of tenants of around 1%, which was much lower than the private sector.

20. Mr Tommy CHEUNG remarked that the inclusion of single-operator markets had in fact pulled down the overall vacancy rate to 6%. He considered it necessary for HA to provide the vacancy rates of wet markets operated by HD and by single-operators.

21. On *single-operator markets*, Mr Tommy CHEUNG requested to put on record

his opposition to single-operator scheme, which in his view had undermined fair competition and survival of individual small stall operators. It had also attributed to the high rentals. AD of H/CP responded that single-operator markets were introduced with a view to bringing the benefits of private sector flexibility, responsiveness to customer demands and innovative management to HA markets. In the light of members' concern, HA had recently approved a number of measures to tighten up operation of the scheme in order to provide more thorough protection to licensees. For instance, operators in future would be subject to a limitation on the number of charges which they could impose upon the licensees and the ways in which those charges could be increased. According to the outcome of a opinion survey, residents preferred the service of single-operator markets than those managed by HD. Therefore, HA had taken the decision that single-operator markets were worth pursuing. At members' request, the Administration undertook to provide the result of the opinion survey on acceptability of single-operator markets.

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22. Mr CHEUNG asked if HA had any long-term or short-term plan to lease all its shopping centres to single operators. AD of H/CP affirmed that HA had launched a pilot project several years ago. One shopping centre let under the scheme had been surrendered while three remained in operation. As the trial was proved not to be particularly successful, HA had no present intention of increasing the number of single-operator shopping centres.

23. Mr Andrew WONG enquired about the criteria by which HA concluded that the scheme was unsuccessful. AD of H/CP advised that apart from rental return, HA had taken into account the quality of service and management provided by the single operators as compared with that by HD. The general finding was that the standard of management is no better than HD and there was little difference in rental return. Such mode of operation would however put HA in substantial risk arising from the mechanism whereby the principal tenant sub-let or licensed individual shops to other tenants. If for any reason the principal tenant went out of business, HA would have to resolve the problem of licensees. If the tenancy of the principal tenant was terminated, he would be required under the terms of agreement to return to HA vacant possession and, the licensees would then seek to become direct tenants of HA. Under such circumstances, HA would not be able to ensure a satisfactory tenant mix. Given that the significant disadvantages of the scheme could not be offset by its advantages, it had been decided not to let further single-operator shopping centres for the time being.

24. On *co-ordination in respect of provision of markets*, Miss CHAN Yuen-han stressed the need for better co-ordination among the Food and Environmental Hygiene Department (FEHD), HA and HS in the provision of markets to avoid undue competition among market stall operators. By way of illustration, the opening of a new market at Ma Hang Estate (MHE) had adversely affected the business of the stall operators in the nearby temporary market of FEHD. AD of H/CP advised that the question did not normally arise as FEHD markets were mainly located in the central part of town while HA markets were designed to serve the estates and the immediate environment. Notwithstanding, HA and FEHD would keep each other informed and

there was frequent exchange of information to ensure that conflicts would not arise as a result of misunderstanding.

25. As regards the case at MHE, AD of H/CP advised that the shopping centre at MHE was built by HA to provide the best modern facilities for the new residents of the estate. The Chairman however pointed out that HA had indeed contributed to the termination of business of the stalls at the temporary market. AD of H/CP said that according to his understanding, there had been at one time a plan within the then Urban Council to provide a permanent market in Stanley, but this had been subsequently withdrawn in the light of the change in public tastes. On reprovisioning of the very few market stall operators, AD of H/CP said that HA was not able to find any premises locally to accommodate these operators. It would be for FEHD to provide the necessary assistance.

26 Mr LEUNG Yiu-chung held the view that as both HA and HS were public bodies, they had their social responsibilities which should not be compromised by commercial principles. He considered that both organizations should endeavour to assist small stall operators to tide over the financial hardship amid the economic downturn. To this end, HA and HS should conduct an overall review of the rents, facilities and management of their commercial premises to ensure that they were competitive with their counterparts in the private sector. Mr LAU Ping-cheung however emphasized the need to strike a balance between social responsibilities and the interests of residents who might prefer large chain stores over traditional wet markets. D(EM)/HS explained that as land for commercial premises was granted without any concession on land premium, HS had to operate these premises according to prudent commercial principles. Notwithstanding, HS was aware of the plight of its commercial tenants amid the economic downturn and measures had been taken to alleviate their financial hardship.

Admin

Way forward

27. Mrs Selina CHOW suggested that stall operators be invited to express their views. As the Subcommittee had yet to discuss the responses from HA and HS in greater detail, the Chairman proposed and members agreed that deputations be invited at a later stage.

(Post-meeting note: On the advice of the Chairman, the next Subcommittee meeting originally scheduled for 18 April 2002 was subsequently postponed to Thursday, 25 April 2002, at 10:45 am.)

III Any other business

28. There being no other business, the meeting ended at 4:50 pm.

Legislative Council Secretariat
23 April 2002