

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 1910/01-02  
(These minutes have been seen  
by the Administration)

Ref : CB1/PS/1/01/1

**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, 25 April 2002 at 10:45 am  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Abraham SHEK Lai-him, JP (Chairman)  
Hon Andrew WONG Wang-fat, JP (Deputy Chairman)  
Dr Hon LO Wing-lok

**Member attending** : Hon Mrs Selina CHOW LIANG Shuk-ye, JP

**Members absent** : Dr Hon David CHU Yu-lin, JP  
Hon CHAN Yuen-han, JP  
Hon LEUNG Yiu-chung  
Hon WONG Sing-chi  
Hon LAU Ping-cheung

**Public officers attending** : Housing Bureau  
  
Miss Joey LAM  
Principal Assistant Secretary

Housing Department

Mr C P ROBERTS  
Assistant Director/Commercial Properties

Hong Kong Housing Society

Miss YU Chun  
Assistant General Manager  
(Property Management-Business Development)

Mr Kenneth K H AU  
Assistant Marketing Manager

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

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

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**I Confirmation of minutes of previous meeting**

(LC Paper No. CB(1)1572/01-02 — Minutes of the meeting held on  
14 March 2002)

The minutes of the meeting held on 14 March 2002 were confirmed.

**II Meeting with the Administration**

(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

LC Paper No. CB(1) 1573/01-02(01) — List of follow-up actions arising  
from the discussion on  
14 March 2002

LC Paper No. CB(1) 1573/01-02(02) — Response to CB(1) 1573/01-02(01)  
provided by the Housing Society

LC Paper No. CB(1) 1573/01-02(03) — Response to CB(1) 1573/01-02(01)  
provided by the Housing Authority

## Discussion with the Housing Authority (HA)

2. On *communication between commercial tenants and HA*, Mrs Selina CHOW noted that there were repeated complaints from tenants that the Housing Department (HD) was reluctant to discuss tenancy problems with them on the grounds that there were established policies governing the execution of tenancies. She asked if there were circumstances where HD had reflected tenants' problems to HA which had resulted in a change of policy. The Assistant Director of Housing/Commercial Properties (AD of H/CP) advised that as a general practice, HD would arrange meetings with complainants to discuss their problems. If these problems were policy-related, HD would endeavour to explain the basis upon which such policies were arrived at. In the event that the complainants still considered certain policies unreasonable, and that there was a substantial pressure for review of the existing policies, HD would bring the matter to the attention of the Commercial Properties Committee (CPC) of HA, which was responsible for review of policies relating to commercial properties. In fact, a number of policies had been adjusted in the light of representations by tenants. These included -

- (a) shelving of the trade widening policy as a result of tenants' concern about rent implications;
- (b) introduction of rent assessment to help tenants tide over their financial hardship amid the economic downturn;
- (c) tightening up of the operation of the single-operator scheme to provide more thorough protection to licensees;
- (d) temporary rent reduction for tenants during the initial intake of new public housing estates when business had yet to pick up; and
- (e) waiving of the minimum guarantee amount for car park contracts.

Admin To facilitate future discussion, the Administration was requested to list out all amendments to policies as a result of representations or requests from tenants.

3. Mrs CHOW remarked that the shelving of the trade widening policy had indeed illustrated the lack of communication between HA and tenants. She pointed out that the policy should not have been implemented in the first place if HD had consulted tenants. She urged HD to adopt an open and transparent approach in dealing with tenancy problems of tenants. The Chairman also enquired whether there was an established channel through which HD received views and complaints from tenants. AD of H/CP replied that while HD did not have sufficient manpower resources to have a dedicated unit to handle complaints, it maintained close liaison with tenants and their associations. Comments and suggestions from various sources, including the media as well as direct letters and contacts, would be taken very seriously

and matters which required special attention would be brought forward for consideration by CPC. He stressed that although the interests of tenants and HA as the landlord did not necessarily coincide, HD endeavoured to maintain a partnering relationship with tenants in the provision of services to the residents. He assured members that HD would carefully assess the impact of any new policy on tenants taking into account information collected from regular discussion with tenants. In the event that refinement in the best interests of all parties concerned was considered necessary, HD would bring the matter back to CPC for consideration.

4. Mr Andrew WONG was concerned about the impact, particularly on rent, of the abolition of trade widening policy on those tenants whose trades had already been widened. Mrs CHOW also pointed out that tenants who did not opt for trade widening had suffered from rent increase as a result of over-estimation of rent based on widened trades. She stressed that such unnecessary disputes could have been avoided if tenants had been consulted in advance. AD of H/CP explained that it had been HA's practice to designate trades within a public housing estate to ensure the provision of a wide spectrum of goods and service to residents. Given that some old trades had become obsolete over time while new trades emerged, it was necessary to have some flexibility in the allocation of trades. However, it was difficult under the existing policy to introduce new trades without upsetting the prevailing trade pattern of retailers. To this end, decision was taken to widen the trades so that retailers fell within the same trade band could adapt their trading patterns to changing circumstances. By way of illustration, retailers selling children wear could choose to sell other types of clothing in the event of a drop in population of the relevant age group which rendered the business no longer viable. However, those retailers who did not want to change their trade patterns found the new policy not beneficial as there were inevitably rent implications in some circumstances. In the light of feedback from tenants, HA took the opportunity to review the policy together with rent reassessment. When tenants were invited to apply for rent reassessment, they were given a choice to retain their widened trades or revert back to their previous designated trades. Based on the information gathered, HD was able to clearly evaluate the number of competitors for each type of business and set the rent accordingly so that it was fair relative to the level of competition within the estate. This had not only enabled partial reversion of the policy but also allowed tenants to decide on the extent of the trade they would like to operate.

5. On *rent policy*, Mr Andrew WONG considered that apart from allocation of trades, flexibility should also apply to rent fixing of commercial premises. However, the letting of 70% of premises by tender had hampered the bargaining power of tenants. As a result, the unit rent per square metre of premises leased by tender was higher than those leased by negotiation. He asked how the Administration could address such a discrepancy. AD of H/CP clarified that letting by negotiation was in fact a pre-qualification tender exercise. It enabled HA to consider and give way to a tender which was not of the highest bid but offered a very significant improvement in service. He added that similar to developers in the private sector, HA did not re-negotiate rent

with tenants in the middle of tenancies. Nonetheless, opportunity was offered to tenants to apply for rent assessment amid the economic downturn. In fact, an average rent reduction of 19% was made at the most recent rent assessment exercise. Those whose businesses were particularly hard hit were offered a higher reduction rate.

6. Mr WONG was not convinced that HA should allow rent assessment while refusing rent negotiation during the middle of term, which in his view were serving the same purpose of alleviating the financial hardship of tenants. He pointed out that the unwillingness of HA to reduce rent had resulted in high void rate of its premises. By way of illustration, HA 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 tenancy. This had incurred substantial loss of rental income on the part of HA. AD of H/CP reiterated that the premises referred to 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 it difficult to accept a rent only 26% of that currently being paid. The tenant's decision to vacate coincided with a substantial downturn in 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.

7. Mr WONG remarked that the case referred to had in fact revealed the discrepancies in the interpretation of market value between HA and tenants. To ensure impartiality, Mrs Selina CHOW considered that the Administration should contract out rent assessment to independent outside surveyors. AD of H/CP said that according to his understanding, market value referred to the value agreed between a willing buyer and a willing seller. As such, he did not see why the evidence derived from tenders should not be regarded as market value. On rent assessment, AD of H/CP said 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 factors such as the age, population and facilities of estates. The result of the assessment had to be checked by a Senior Estate Surveyor. Tenants who were not satisfied with the result could request a review of the assessment. As regards the need for independent body to conduct rent assessment, AD of H/CP remarked that like any landlord in the private sector, HA should have the freedom to set rents for its premises rather than surrendering the right to a third party.

8. On *letting policy*, Dr LO Wing-lok drew members' attention to the letter from the Hong Kong Medical Association (HKMA) tabled at the meeting which pointed out that the switch from the previous ballot system to open tender for letting of clinic premises had led to an over-estimation of market value, thereby resulting in unreasonable high rentals for clinic premises. This had not only jeopardized the survival of doctors since four out of the 29 medical/dental clinics let by tender had given up their tenancies which represented a turnover rate of 13%, but also affected the quality of medical service as doctors might tend to cut cost in order to cope with the high rentals. He urged the Administration to review the tender policy taking into

account the need for continuity in the provision of medical service for the best interest of residents. AD of H/CP advised that open tender for letting of clinical premises was introduced in 2000. Pursuant to HA's request, HD was conducting a review of how the system was working over the past two years. It was expected that the findings of the review together with comments from various medical associations, including those from HKMA, would be presented to CPC for deliberation in end May 2002.

*(Post-meeting note: The letter from HKMA was circulated to members vide LC Paper No. CB(1) 1613/01-02.)*

9. Mrs Selina CHOW asked if HA had consulted the relevant parties before the introduction of the tendering system in 2000. AD of H/CP confirmed that there was extensive consultation with all the stakeholders, medical associations and relevant bureau and department. Views gathered from meetings with interested parties had also been incorporated in the paper submitted to CPC, which had deliberated the subject at length taking into account not only implications on rent but also on medical service. Notwithstanding the valuable service which residents received from doctors, the latter did charge a price for the service provided. It was therefore only reasonable that the use of public resources to generate private income should be subject to market forces. To facilitate members' understanding, the Administration was requested to respond in writing to the letter from HKMA and to provide the outcome of the consultation on the switch from ballot system to open tender for leasing of clinical premises.

Admin

10. Mr Andrew WONG opined that tender price might not be able to reflect the market rent as bidders might tend to raise their bids in order to secure the tender. The situation would be further aggravated if the higher rentals were adopted for assessing market rent upon renewal of existing tenancies. Mrs Selina CHOW echoed that tender price and market rent were two separate issues. The former was usually affected by factors such as competition and the overall economic situation. Besides, bidder with the highest bid might not necessarily get the tender if he could not meet the upset rent, which was not made known to him in advance. She remained of the view that it would only be fair for HA to disclose the upset rent so that those who could not afford the bid 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 tender exercise. AD of H/CP acknowledged that tenders in some cases might be unrealistically high/low. To ensure that Government could get reasonable rent for its commercial premises, it was appropriate for HA to set a limit within which bids would be accepted. He 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 proposed disclosure would limit the flexibility of HA to set rent. The Chairman however pointed out that as HA was a public body, it had its social responsibility. He 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.

11. Dr LOK Wing-lok enquired about the situation where bids received were far below the upset rent. AD of H/CP advised that in general, a differential of 10% with the upset rent was within the evaluation tolerance while the rate might vary from individual premises. In the event that the top tender was still below the acceptable tolerance level, HA would approach the bidder to see if he was prepared to raise his bid to an amount that was acceptable to HA. According to past experience, about 30% of such cases had resulted in tenancy.

12. Mr Andrew WONG however considered that such an arrangement was in fact letting by negotiation rather than open tender. He considered that it would only be fair for HA to re-tender the premises if all the bids received were lower than the upset rent. The Chairman enquired about the duration for repeated tendering. He also queried the applicability of the upset rent given the changes in economic environment within that period. AD of H/CP advised that despite the complicated procedures, leasing of premises could normally be completed within four to six weeks. In the event that a particular premises was not able to be leased out after one or two tender exercises, HA would re-examine the case to see if there was a need to amend the trade or review the upset rent. He stressed that HA took the problem very seriously as this was directly linked to vacancy which was a potential waste of resources. To this end, an effective mechanism had been put in place to analyze the wider vacancy occurrences with a view to addressing the problem. Members were not convinced of the Administration's response. They remained of the view that the Administration should seriously consider disclosing the upset rent for reference of bidders.

Admin

13. On *vacancy rate*, Mrs Selina CHOW noted from paragraph 10 of LC Paper No. CB(1) 1277/01-02(01) that records for the past three years indicated that an average of only 14 tenants quitted on tenancy renewals each year, which in her view was on the low side according to past experience. To facilitate better understanding, she requested the Administration to provide the total number of premises which had been left vacant after failing to reach tenancy renewal agreement with the previous tenants because of high rental. In reply, AD of H/CP said that HA did not keep record of such cases. He nevertheless pointed out that the annual turnover rate of tenants of HA was around 1% which was much lower than the private sector. At members' request, the Administration undertook to provide the number of commercial premises which had been let out at increased or decreased rent upon voluntary surrender over the past three years.

Admin

14. On *conversion of vacant space for other purposes*, Mrs Selina CHOW asked if there was an open channel through which interested parties could put forward suggestions for converting vacant space for purposes other than the designated one. AD of H/CP affirmed that HD was always ready to receive and consider proposals on the use of vacant space. While the use of vacant space for the same purpose was more desirable, HD would consider other alternatives if it became clear that the space was no longer viable for that purpose, provided that these alternatives would not upset

Admin

the operation of existing tenants within the estate. To better utilize commercial vacancies, Mrs Selina CHOW urged HA to adopt a proactive approach in inviting suggestions from community organizations or tenants on how best less prominent vacant spaces could be used for other purposes.

Discussion with the Housing Society (HS)

Admin

15. The Chairman enquired about the practice which HS had adopted in the letting of clinical premises. The Assistant General Manager (Property Management-Business Development) advised that apart from commercial considerations, HS would take into account the need for medical service within the estates in setting the rent for clinical premises. To facilitate members' understanding, the Administration undertook to provide the difference in rent of non-domestic and clinic premises of HS.

Way forward

16. Owing to time constraints, the Chairman suggested and members agreed to discuss the Administration's papers (LC Paper Nos. CB(1) 1573/01-02(02) and (03)) at the next meeting to be held on Thursday, 6 June 2002, at 4:30 pm. The need for meeting with deputations and CPC would be determined after completion of scrutiny of the said papers.

**II Any other business**

17. There being no other business, the meeting ended at 12:40 pm.

Legislative Council Secretariat  
5 June 2002