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**Panel on Housing**

**Subcommittee to study the letting and rent policies of commercial premises of the  
Housing Authority and the Housing Society**

**Meeting on 23 January 2002**

**Background brief on  
Rent policy on non-domestic premises of the Housing Authority**

**Background**

The Housing Authority (HA) operates markets and commercial premises as part of a range of ancillary facilities to provide essential services to residents of HA estates. Under the prevailing HA policy, commercial facilities are operated on a commercial basis and commercial lettings are at market rent. Assessments of market rental value are made by professional Estate Surveyors of the Housing Department (HD) primarily based on direct evidence from lettings of comparable premises both within housing estates and, where relevant, in the private sector. In rent-fixing, HD will take into account the following factors -

- (a) physical characteristics of the premises such as size, shape etc;
- (b) permitted trade;
- (c) location relative to pedestrian flow; and
- (d) effective population support and number of local competitors in the vicinity.

## **Rent reduction for non-domestic premises of the Housing Authority**

2. Having regard to the effect of the financial turmoil on the wider economic environment, the Legislative Council carried a motion on 8 July 1998 to urge for a number of immediate and effective measures to alleviate people's hardship to reduce the plight caused by the economic difficulties. These measures included, inter-alia, an across the board 30% rent reduction for HA commercial tenancies. At the Panel meeting on 23 July 1998, members were informed that HA had put in place a number of measures to assist retailers in public housing estates to adapt to the downturn in business environment. These included reducing or freezing the rents of all tenancies due for renewal between 1 February 1998 and 31 December 1998; waiving the requirements to serve advance notice to quit and to pay compensation to HA for early surrender; and allowing tenants whose tenancies commenced or renewed between 1 January 1996 and 31 January 1998 to apply for re-assessment of rents. Rent would be reduced for the residual term if the re-assessed rent was lower than that in the tenancy agreement. The Panel subsequently held a number of meetings to follow up the subject.

### Freezing of rents for a period of one year

3. One of members' concerns is whether the current rent for non-domestic premises of HA is still reasonable given that the residential market has already dropped to the 1993 level. According to the Administration, the previous rent of those tenancies eligible for freezing of rent was set in 1995 during which the general property price was at a relatively low level. Freezing the rents at the 1995 level for one year is therefore an effective measure to help relieve the immediate hardship of tenants. Besides, the drop in the rental or sale value of residential properties may not necessarily affect that of commercial properties. Noting that 1 006 out of 1 234 commercial tenancies renewed since the announcement of freezing of rents for one year until 30 June 1998 receive rent increases with the highest increase up to 80%, members hold the view that the freezing of rents for one year is not an effective measure to alleviate the hardship of tenants as they will have to pay the higher rents after the expiry of the one-year period.

### Rent re-assessment scheme

4. Doubt has been cast on the fairness of the rent re-assessment scheme under which rental re-assessments are not conducted by an independent body. Moreover, criteria for re-assessment are unknown to the public and an appeal mechanism is not available for disputes over the re-assessments. There is also question on how a fair market value can be arrived at when HA commercial premises are leased out through different ways such as negotiation, open tender and restricted tender.

5. According to the Administration, rents are fixed with the mutual consent of HA and the commercial tenants at the time of reaching tenancy agreement and form part of binding contracts between both parties, it will therefore be inappropriate for an outside party to conduct rental re-assessments. The Administration has assured members that rental re-assessments for commercial premises are conducted with great care by professional estate surveyors of HD who are familiar with the special characteristics of the commercial premises in public housing estates. They will assess rent with their professional skill and judgement taking into account the trade, location, size, catchment and pedestrian flow of individual premises. However, tenants dissatisfied with the results of rent assessment can request for a review with the provision of supplementary information or rental evidence.

6. To ensure impartiality, members are of the view that there should be an independent body to conduct rental re-assessments and the establishment of an appeal mechanism similar to the Lands Tribunal to deal with disagreements over re-assessments.

#### An across-the-board 30% rent reduction

7. Members maintain that the most effective way to alleviate the immediate hardship of tenants is to apply an across-the-board 30% rent reduction and to allow those who are in genuine need for additional assistance to apply for rent re-assessment. According to the Administration, rents payable by tenants reflect the market conditions at the time of reaching tenancy agreements with HA. Given the different sizes and locations of the commercial premises and the varying impacts the economic downturn have on different businesses, a 30% across rent reduction is not a fair approach and does not accord well with the principle of rational allocation of public resources. The only equitable way of assisting the commercial tenants is to invite those who experience business hardship to apply for rent re-assessment. This opportunity is offered to ensure that commercial tenants in public housing estates retained their competitiveness, and that services to domestic tenants are uninterrupted as far as possible.

#### Vacancy rate

8. It is generally believed among members that the unwillingness of HA to lower the rents of its commercial premises upon re-letting has attributed to the high vacancy rate with the highest rate of 40%. According to the Administration, the surge in vacancy rate is primarily the result of the economic downturn. Moreover, the dwindling population in some older estates and the declining purchasing power of the lower-income families who stay put in these estates have adversely affected the retail business. As a result, the shopping centres have become less attractive to retailers and hence the high vacancy rate. The Administration recognizes that the high vacancy rate is indeed a cause for concern but rent reduction may not necessarily be

justified in every case. For example, the opening of competing facilities may result in space becoming surplus to retail requirements. The conversion of vacant space to other purposes such as office or welfare use may therefore be a better strategy.

#### Impact of superstores on wet markets

9. Members are concerned that the letting of premises in public housing estates to superstores will pose a serious threat to the survival of wet markets. They consider that HA should reduce the rent of wet market stalls to alleviate the impact of superstores on wet markets. According to the Administration, supermarkets have all along been allowed to sell pre-packaged fresh foods. The recent trend is for supermarket operators to provide service-style fresh food to meet the needs of consumers. To alleviate the impact of superstores on wet markets, HA has agreed to the change only in stores over 800 square meters in size and has imposed a limit of 20% on the leased area in the supermarkets to be used for service-type sale of fresh food. On the other hand, HA is looking at ways to improve the competitiveness of existing facilities such as retrofitting of air-conditioning and increasing the size of market stalls. It is also prepared to examine the impact and adjust the rent as appropriate upon the expiry of existing leases.

#### Impact of chain stores on existing tenants

10. There has been concern that the introduction of letting by negotiation in 1986 to secure major stores as anchor tenants has given rise to unfair competition. To enhance competitiveness, HA should reduce the rents of its premises so that operators could sell their goods at lower price, thereby boosting their business. According to the Administration, there have been few anchor tenants before 1986 because many chain stores are reluctant to participate in open tender, and consumer surveys show that the poor representation of big names is a major factor impeding business growth. To achieve a reasonable balance and a good tenant mix to meet the demand of customers, HA has endorsed the introduction of letting by negotiation to supplement tendering. Care will be taken not to introduce major competitors suddenly to ensure healthy trading.

#### Single-operator market

11. Members note that while the rent for single-operator markets has been reduced, some of the market operators fail to reduce the rents of their licensees accordingly and some even seek to increase their rents. They consider it necessary for HA to closely monitor the situation to ensure that a fair rent adjustment will be given to the licensees by the market operators. According to the Administration, it is not appropriate for HA to interfere the day-to-day operation of single-operator markets which are introduced with a view to bringing the benefits of private sector flexibility, responsiveness to customer demands and innovative management to HA markets.

Besides, there is no direct connection between the rent charged by HA and the licence fees payable to operators by licensees. Nevertheless, HA will monitor the performance of the operator, including his ability to resolve disputes with licensees without undue disruption to service, and take such performance into account when considering renewal of tenancy or letting of new markets.

### **Present position**

12. At the Council meeting on 16 January 2002, Members passed a motion moved by Hon Albert HO Chun-yan as amended by Hon CHAN Kam-lam urging the Housing Authority and the Housing Society to adopt the following measures to lessen the burden of housing expenses on the public and alleviate the operational difficulties of commercial tenants -

- (a) introducing a mechanism whereby, subject to their passing a vetting process, public rental housing tenants who were paying excessive rents were only required to pay rents equivalent to 13% of their total household income, for a period of one year;
- (b) granting a 50% rent reduction for households comprising elderly persons only and having financial difficulties;
- (c) reducing the rents of commercial tenants by 30% for a period of six months and completing the reassessment of shop rentals expeditiously after receiving the applications of commercial tenants; and
- (d) conducting full consultation with the Legislative Council and the public in reviewing public housing policies.

Legislative Council Secretariat  
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