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Paper for Panel on Housing

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

Purpose

This paper reports on the deliberations of the Subcommittee to study the letting and rent policies non-domestic premises of the Housing Authority and the Housing Society.

The Subcommittee

2. At the meeting of the Panel on Housing on 3 December 2001, members decided to form a subcommittee to study the existing letting and rent policies of non-domestic premises of the Housing Authority (HA) and the Housing Society (HS) and to make recommendations where appropriate. Six members joined the Subcommittee. The membership list and the terms of reference of the Subcommittee are provided in **Appendices I and II** respectively.

3. Under the chairmanship of Hon Abraham SHEK Lai-him, the Subcommittee has held four meetings during the legislative session 2001-2002. Apart from exchanging views with the Administration, the Subcommittee has also invited views from HA and HS.

Deliberations of the Subcommittee

4. Members hold the view that HA and HS have an important role to play in stabilizing the retail market of Hong Kong given their high combined market share of about 15% of the commercial premises in respect of retail spaces in Hong Kong. They stress that in formulating their letting and rent policies, HA and HS should take into account the plight of their commercial tenants who were experiencing a business slump amid the economic downturn. An open and transparent approach should also be adopted in dealing with tenancy problems of tenants.

Letting policy

5. While acknowledging that commercial premises of HA and HS were leased through direct allocation, tender and negotiation, members express concern that there are no clear guidelines on how these options should be adopted in the tendering of commercial premises. It is also pointed out that although tender is a transparent and fair method of letting, it may not be able to reflect the market rent as bidders may tend to raise their bids to enhance their competitiveness, particularly in a booming market, thereby pushing up the rents. The situation will be further aggravated if the higher rentals are adopted for assessing market rent upon renewal of existing tenancies. Besides, it will only be fair for HA and HS to disclose the upset rent so that those who cannot afford the rent are made aware of the risk of losing the tender if they submit a lower bid or they can choose not to participate in the tendering exercise.

6. According to HA, it is common in tendering exercises for a wide range of bids to be received. It will be for the estate surveyors of the Housing Department (HD) to interpret the pattern of bids, against the general run of comparable evidence, to arrive at realistic assessments. HA also holds the view that it should not disclose the upset rent as bidders are more experienced as operators and should have in their mind the rent which can be sustained from the anticipated level of profits. In the event that the top tender is still below the upset rent, HD can go back to the bidder to see if he is prepared to raise his bid to an amount that is acceptable to HD. At members' request, HA is reviewing its tender arrangements. Consideration will also be given to disclosing general rent information for reference of bidders.

7. Concern has been raised on the letting of premises in public housing estates to superstores which has posed a serious threat to the survival of wet markets. Supermarkets and superstores selling goods at very low price and providing service-style fresh foods have affected the business of existing market stall operators and forced some of them out of business. The situation is not conducive to fair competition and not of benefit to consumers in the event of monopolization by large chain stores as a result of closing down of small business operators. As many stall operators are older persons, they may not be able to find another job and will have to rely on Comprehensive Social Security Assistance if they are forced out of business, which in turn will increase the financial burden of the Government. Members hold the view that in planning for new commercial facilities within public housing estates, care should be taken not to affect the survival of existing market stall operators. Consideration should also be given to reducing rent for market stalls to alleviate the impact of superstores.

8. According to HA, 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 on wet markets, HA has agreed to the change only in stores over 800 square metres 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.

Rent policy

9. Despite the drop in commercial rents in the private sector, rents of commercial premises in public housing estates, particularly those of medical clinics, are still on the high side. This may be attributed to the use of open tender for letting which has resulted in an over-estimation of the market rent. Given the remote location and unavailability of certain trades such as banks and restaurants in some public housing estates, members are not convinced that commercial premises of HA and HS should be let at market rent and on terms comparable to those in the private sector. According to HA, market value referred to the value agreed between a willing buyer and a willing seller. As such, it fails to see why the evidence derived from tenders should not be regarded as market value. To assist retailers in public housing estates to adapt to the downturn in business environment, HA has conducted two rent re-assessment exercises in 1998 and 2001. About 92% of the 13 000 commercial tenants have applied for rent assessment in the re-assessment exercise in November 2001 which has resulted in an average rent reduction of 19%.

10. Doubt has been cast on the fairness of the rent re-assessment scheme as rent re-assessments are not conducted by an independent body. Besides, the criteria for re-assessment are unknown to the public and an appeal mechanism is not available for disputes over re-assessment. HA's explanation is that HD estate surveyors will make reference to evidence from tenders and negotiation cases before arriving at a professional opinion on rent assessment which will be checked by a Senior Estate Surveyor. Tenants who are not satisfied with the results can request a review of the assessment. Such requests are received in about 5% of renewal cases. HD will re-examine the assessment taking into full consideration any additional information or evidence put forward by tenants. The assessment will then be checked at directorate level and may be adjusted if appropriate. Members are not convinced of HA's response. They remain of the view that rent assessment should be conducted by an independent body to ensure impartiality.

Vacancy rate

11. Members consider that the unwillingness of HA and HS to reduce rent of their commercial premises upon re-letting has attributed to the high vacancy rate. They express dissatisfaction that HA and HS have turned a blind eye to the plight of commercial tenants amid the economic downturn and declined to reduce rent despite the high vacancy rate, which in their view is at variance with the commercial principles advocated by HA and HS. According to HA, 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. To this end, HA is prepared to offer rent reduction to its commercial tenants. In fact, an average rent reduction of 21% and 18% have been made under the 1998 and 2001 rent assessment exercises. However, as rent reduction may not necessarily be justified in every case, such as the opening of competing facilities which results in space becoming surplus to retail requirement, conversion of vacant spaces to other purposes such as office or welfare use may be a better strategy.

12. As to whether there is an open channel through which interested parties can put forward suggestions for converting vacant space for purposes other than the designated one, HA's explanation is that while it is more desirable to use the vacant space for the same purpose, HD is ready to receive and consider other alternatives if it becomes clear that the space is no longer viable for that purpose, provided that these alternatives will not upset the operation of existing tenants within the estate. To better utilize commercial vacancies, members urge HA to adopt a proactive approach in inviting suggestions from community organizations or tenants on how best less prominent vacant spaces can be used for other purposes.

Single-operator markets

13. Concern has been raised on the single-operator scheme which, according to a member, has undermined fair competition and survival of individual small stall operators, and has attributed to the high rentals. HA's explanation is that single-operator markets are introduced with a view to bringing the benefits of private sector flexibility, responsiveness to customer demands and innovative management to HA markets. The outcome of a opinion survey reveals that residents prefer the service of single-operator markets than those managed by HD. In the light of members' concern, HA has 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 will be subject to a limitation on the number of charges which can impose upon the licensees and the ways in which those charges can be increased.

14. Members also emphasize the need for better coordination among the Food and Environmental Hygiene Department (FEHD), HA and HS in the provision of markets to avoid undue competition among market stall operators. According to HA, the situation referred to does not normally arise as FEHD markets are mainly located in the central part of town while HA markets are designed to serve the estates and the immediate environment. Notwithstanding, HA and FEHD will keep each other informed and there is frequent exchange of information to ensure that conflicts will not arise as a result of misunderstanding.

Advice sought

15. Members are requested to note the deliberations of the Subcommittee and consider whether there is a need for the Subcommittee to continue its work in the current legislative session.

Council Business Division 1
Legislative Council Secretariat
30 October 2002

LegCo Panel on Housing

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

Membership list

Chairman Hon Abraham SHEK Lai-him, JP

Deputy Chairman Hon Andrew WONG Wang-fat, JP

Members Dr Hon David CHU Yu-lin, JP
Hon CHAN Yuen-han, JP
Hon LEUNG Yiu-chung
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon LAU Ping-cheung

(Total : 8 Members)

Clerk Miss Becky YU

Legal Adviser Mr Arthur CHEUNG

Date 23 January 2002

LegCo Panel on Housing

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

Terms of Reference

To study the existing letting and rent policies of non-domestic premises of the Housing Authority and the Housing Society and to make recommendations where appropriate.