

立法會  
*Legislative Council*

LC Paper No. CB(1) 1128/02-03  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/HG/1

**Panel on Housing**

**Minutes of meeting held on  
Friday, 14 February 2003, at 8:30 am  
in the Chamber of the Legislative Council Building**

- Members present** : Hon CHAN Kam-lam, JP (Chairman)  
Hon Albert HO Chun-yan (Deputy Chairman)  
Dr Hon David CHU Yu-lin, JP  
Hon LEE Cheuk-yan  
Hon Fred LI Wah-ming, JP  
Hon NG Leung-sing, JP  
Hon James TO Kun-sun  
Hon SIN Chung-kai  
Hon SZETO Wah  
Hon Abraham SHEK Lai-him, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Dr Hon LO Wing-lok  
Hon IP Kwok-him, JP  
Hon LAU Ping-cheung
- Members absent** : Hon CHAN Yuen-han, JP  
Hon LEUNG Yiu-chung  
Hon Andrew WONG Wang-fat, JP  
Hon Howard YOUNG, JP  
Dr Hon YEUNG Sum  
Hon WONG Sing-chi  
Hon Frederick FUNG Kin-kee
- Public officers attending** : Housing, Planning and Lands Bureau  
  
Mr C M LEUNG, JP  
Permanent Secretary (Housing)

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Housing Department

Ms Elaine CHUNG, JP  
Deputy Director (Strategy)

Miss Drew LAI  
Administrative Officer (Private Housing)

Rating and Valuation Department

Mr WONG Chun-siu, JP  
Deputy Commissioner

Mr CHAN Kwok-fan  
Senior Rent Officer

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

**Staff in attendance** : Mr Watson CHAN  
Head of Research & Library Services Division

Mr KAU Kin-wah  
Assistant Legal Adviser 6

Ms Vicky LEE  
Research Officer

Ms Cindy CHENG  
Senior Assistant Secretary (1)4

Miss Mandy POON  
Legislative Assistant 4

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**I. Confirmation of minutes**

(LC Paper No. CB(1) 784/02-03 — Minutes of the meeting held on  
6 January 2003)

The minutes of the meeting held on 6 January 2003 were confirmed.

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**II. Information paper issued since last meeting**

2. Members noted the following information paper which had been issued since last meeting-

(LC Paper No. CB(1) 876/02-03 — Referral from Members after meeting with Sai Kung District Council on 23 January 2003 regarding the problems caused by illegal cooked food hawkers in public rental housing estates in Sai Kung)

**III. Items for discussion at the next meeting**

(LC Paper No. CB(1) 785/02-03(01) — List of follow-up actions

LC Paper No. CB(1) 785/02-03(02) — List of outstanding items for discussion)

3. As a number of members would have to attend meetings of the National People's Congress and Chinese People's Political Consultative Conference in early March 2003, the Chairman proposed and members agreed that the next regular meeting originally scheduled for 3 March 2003 be rescheduled for Tuesday, 18 March 2003, at 10:45 am to discuss the following -

(a) estate management and maintenance of facilities in public housing estates; and

(b) review of the income and asset limits for public housing applicants.

*(Post-meeting note: At the request of the Administration, the subject of "Disposal of overhang Home Ownership Scheme flats" had been included in the agenda for the next meeting. Meanwhile, discussion on item (a) would be deferred to April 2003.)*

4. The Chairman reminded members of the joint meeting with the Panel on Planning, Lands and Works on 26 February 2003 to discuss the subject of "Clearance of illegal rooftop structures and rehousing policy for affected occupants".

**IV. Security of tenure**

(LC Paper No. CB(1) 785/02-03(03) — Paper provided by the Administration)

5. At the invitation of the Chairman, the Permanent Secretary for Housing, Planning and Lands (Housing) (PSH) highlighted the salient points in the

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Administration's information paper, which set out certain proposals to remove the security of tenure provisions and other related issues under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (LTO).

Relaxation of security of tenure provisions

6. While acknowledging that the rental market was declining as a result of economic downturn, Mr Albert HO expressed concern that the proposed relaxation of security of tenure provisions might drive up rents in the private market, thereby unduly affecting the underprivileged groups, particularly elderly singletons, dwellers living in cubicles and bedspace apartments and those with chronic illness, who might have difficulties in finding suitable alternative accommodation. Mr IP Kwok-him echoed that the average unit rent of cubicles and bedspace apartments in urban districts was already on the high side given their convenient locations. The proposed relaxation might further drive up the rents. The Chairman also enquired about the average rent of cubicles and bedspace apartments and the number of dwellers who had registered on the Waiting List (WL) for public rental housing (PRH) to improve their living conditions.

7. The Deputy Director (Strategy) (DD(S)) advised that according to the Census and Statistics Department, there were around 65 000 "part-let tenancies" (including shared tenancies all over Hong Kong) as at the end of 2001. According to various estate agents, she understood that the actual rents would vary according to locations and type of facilities offered and that the average rent for a typical cubicle was about \$1,200 per month. By way of illustration, the rents for a 30 and a 60 square-foot cubicles with shared kitchen and toilet in Tai Kwok Tsui were about \$700 and \$1,200 per month respectively. The monthly rent for a 120 square-foot room with a kitchen and toilet cubicle in Shamshuipo was \$1,500, and would drop to \$1,200 in the case of shared kitchen and toilet. The rent for a 100 square-foot suite in Yau Ma Tei was \$1,500 per month. DD(S) said that her talks with both landlords and tenants of such cubicles showed that average rental level had dropped significantly, as a result of the success of HA to rehouse families from WL and the reduction of average waiting time from nine years in 1990 to less than three years now. In light of the changed circumstances, landlords would unlikely raise rents in order to retain existing tenants. On members' concern about the possible surge in rent after the relaxation of security of tenure provisions, the Deputy Commissioner of Rating and Valuation (DCRV) advised that this might not be the case given that the bargaining power of tenants had significantly risen as a result of sufficient supply of private and public housing flats as well as falling rentals for private housing. As regards the number of cubicle dwellers who had registered on WL, DCRV advised that the Administration did not keep such information.

8. Mr James TO however cautioned that the gradual demolition of old buildings in urban areas would reduce the number of cubicles and bedspace apartments and thus pushing up their rents when supply was no longer able to meet demand. He also pointed out that the proposed relaxation of security of tenure provisions would allow

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landlords to refuse renewal of tenancies even if tenants were willing to pay market rent. Tenants so evicted would have to find alternative accommodation which would incur additional removal and renovation cost. Such an eviction would also break the social ties which the tenants, particularly elderly tenants, had established in the districts over the years. As such, consideration should be given to phasing out the removal of security of tenure provisions taking into account the social cost incurred from re-establishing these ties.

9. In response, PSH reiterated that as the bargaining power of tenants had risen significantly, there was no longer justification for providing excessive protection to tenants. The Government therefore considered it timely to relax the excessive security of tenure provisions so as to restore the balance of interests between landlords and tenants, and allow the property market to operate more freely. DD(S) added that against the background of sufficient supply, the Government should let the market operate as freely as possible and adjust to the demand. This had been reflected by the high mobility of cubicle dwellers who could easily find an alternative accommodation. Besides, the Administration had put in place a safety net, i.e. public housing for those who were in genuine need. Those who were not eligible for PRH would be offered interim housing. Apart from PRH, rental allowance was also offered to elderly persons, who had registered on WL for at least one year and whose applications were due for PRH allocation, as an alternative to public housing so that they could rent private accommodation in districts of their choice. Elderly singletons with genuine housing need might be allocated PRH on compassionate grounds upon recommendation by the Social Welfare Department. Mr Albert HO however pointed out that many people had become ineligible for PRH as a result of the lowering of the income and asset limits for PRH.

10. Mr Fred LI remained unconvinced of the Administration's response. Given the scarce supply of PRH in urban districts, Mr LI remained of the view that rents of cubicles and bedspace apartments in these areas would go up after the relaxation of security of tenure provisions, as in the case of the redevelopment project undertaken by the Urban Renewal Authority (URA) at Cherry Street. Mr IP Kwok-him echoed that dwellers concerned might have to move to cubicles or bedspace apartments at the fringe of urban districts such as the Western District or Shaukeiwan because of the lower rentals. PSH noted that at present, there were over 10 000 vacant PRH flats, mainly located at extended urban areas and the New Territories. Prospective PRH tenants were reluctant to move to take up these flats due to the anticipated increase in travelling expenses. Notwithstanding, the Administration would endeavour to optimize the use of vacant PRH units. WL applicants who had no strong preference for specific districts would be allocated PRH at a time much shorter than the average waiting time of three years.

11. Noting that landlords who wished to redevelop their premises would be able to repossess the premises at the end of the tenancy period without the need to pay the statutory compensation after the relaxation of security of tenure provisions, Mr Albert HO was skeptical that the proposed relaxation was aimed at reducing the

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cost of redevelopment to pave way for urban renewal. PSH advised that there were established provisions governing the compensation for tenants affected by URA projects. Once a building was included for urban renewal, a freezing survey would be conducted to register the affected tenants and the landlords were not allowed to evict tenants concerned. Therefore, the proposed relaxation should not affect these tenants. The Chairman declared interest that he was a non-executive director of URA. He remarked that as compensation payable to landlords by URA was higher than that to tenants, the proposed relaxation was by no means to pave way for urban renewal.

12. Mr Tommy CHEUNG supported the relaxation of security of tenure provisions as this would help tackle the problem of rogue tenants. He then enquired about the total number of vacant private residential flats in the market. DCRV replied that according to Rating and Valuation Department, there were about 60 000 vacant flats, representing 5.7% of the total private housing stock as at the end of 2001. It was expected that the vacancy rate would rise further this year. The Chairman however remarked that a high vacancy rate did not necessarily mean that the rents were affordable to tenants, particularly to low-income families. DD(S) replied that landlords nowadays were inclined to lower the rents in order to ensure early leasing of their premises when the supply of private flats was abundant.

13. Mr NG Leung-sing noted that the impact of the relaxation of security of tenure provisions could be resolved with the adequate supply of affordable public housing. He however pointed to the need to address the problem of rogue tenants to protect the interest of landlords. While agreeing that it was an appropriate time for relaxing the security of tenure provisions, the Chairman stressed the need for the Administration to take care of the need the underprivileged, including dwellers of cubicles and bedspace apartments.

Possible options

14. On *Option A - partial removal delineated by Rateable Value (RV)*, Mr Albert HO noted that under this option, the relaxation would proceed in two phases. He considered the approach more acceptable as this would cause minimal disruption to leased premises of lower RV which comprised major dwellings of low-income households. Mr Tommy CHEUNG however took a different view. He opined that Option A was unfair to landlords of premises of lower RV as they would not be able to act at full liberty according to the terms of agreement and repossess the leased premises at the end of the tenancy period or negotiate new terms with the tenants for the renewal of the tenancy. Mr NG Leung-sing echoed that many landlords of leased premises of lower RV were small investors whose interest should also be protected. In reply, PSH agreed that Option A might not be fair to small investors, particularly those elderly landlords who relied on rental return for their living. Moreover, it was difficult to draw a line on what premises should continue to be subject to the restriction of security of tenure and what should not.

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15. Apart from RV, Mr Fred LI asked if the Administration would consider using the types of leased premises as the baseline for relaxation. For example, premises with shared facilities should continue to be subject to restriction of security of tenure. To avoid sudden surge in rents of cubicles and bedspace apartments after the relaxation, Mr SZETO Wah opined that these premises should also be subject to restriction of security of tenure to protect the interest of dwellers. DD(S) advised that there was technical difficulty to draw a line on the types of premises. Question on whether leased premises in the Mid-levels with shared facilities should be subject to restriction of security of tenure might also arise.

16. While not having any strong views on the kind of tenancies or type of premises to be protected, Mr SIN Chung-kai considered it necessary for the Administration to work out an effective mechanism to balance the interest of both landlords and tenants. PSH affirmed that the proposed relaxation of excessive security of tenure provisions was aimed at restoring the balance of interests between landlords and tenants, and allowing the property market to operate more freely. Mr SIN however considered the relaxation too drastic given the strong interventionist approach which the Administration had adopted for the property market in the past. DD(S) explained that with the expiry of Parts I and II of LTO which dealt with rent control and security of tenure of pre-war and certain post-war tenancies respectively on 31 December 1998, most domestic tenancies were now protected under Part IV which accorded security of tenure to tenants subject to payment of prevailing market rent. Part IV was introduced in 1981 against the background of a serious shortfall of domestic accommodation leading to significant rental increases on renewal of tenancies. Given the present sufficient supply of flats, the Administration considered it timely to relax the security of tenure provisions.

17. On *Option C - Complete removal at one go*, Mr Tommy CHEUNG opined that this option was more appropriate as it was difficult to appoint a date at which the protection on security of tenure should be removed as proposed under Options B and D. Mr Albert HO however took a different view. He considered that the complete removal at one go would adversely affect the low-income families, particularly those living in cubicles or bedspace apartments who might have difficulty in finding new accommodation after being evicted as a result of high rentals.

18. On *Option D - Complete removal with a grace period*, Mr IP Kwok-him sought clarification on the difference between Options C and D. DD(S) explained that under option C, security of tenure for all tenancies would be completely removed on a date appointed by the Secretary for Housing, Planning and Lands (SHPL). Under Option D, security of tenure would be removed for all new tenancies entered into after a date to be appointed by SHPL. For existing tenancies entered into before the appointed date, a grace period starting from the appointed date would be allowed. Tenants might still apply for statutory tenancy renewal under the protection of security of tenure if the tenancies expired during the grace period. For those tenancies which expired after the grace period, there would be no protection of security of tenure after the expiry of the current tenancy and landlords would be allowed to repossess the

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leased premises freely at the end of the tenancy period.

19. Mr IP found Option D more preferable as it would allow a reasonable transitional period for phasing out the security of tenure restrictions, enabling landlords and tenants to get prepared for the change. Mr NG Leung-sing however did not agree that a grace period should be given, as this might give the public a wrong impression that there would be further changes in the policy. To alleviate the possible impact of the relaxation on tenants, the Government should put in place measures such as provision of rent subsidy or PRH to those eligible persons. Mr Fred LI suggested that to achieve a win-win situation for both landlords and tenants, consideration should be given to amalgamating the features of Options A and D to address the various concerns raised by members. By the way in which the paper was drafted, Mr Albert HO asked if the Administration had taken its stance on Option D. PSH assured members that the Administration would take into account all views received during the consultation exercise before deciding on the Option to be adopted. He also noted members' suggestion of amalgamating the essential features of various Options.

Provision of false information by tenants

20. The Chairman was opposed to the mandatory requirement for tenants to provide their personal information such as name, occupation, salary and past rental records to landlords when entering into a tenancy agreement. He said that such a requirement would not only contravene the International Covenant on Civil and Political Rights incorporated into Hong Kong Laws through the Basic Law, but would also give rise to disputes between landlords and tenants. Mr Albert HO echoed that this would set a precedent for other legislations should criminal liability be imposed on the provision of false information.

Position of sub-tenants in the event of default of rent payment by the principal tenant

21. To protect the interest of sub-tenants when the principal tenancy was terminated by the landlord due to non-payment of rent by the principal tenant, the Chairman agreed that sub-tenants should be granted a tenancy which term was not longer than the tenancy term between the principal tenant and the landlord.

22. As regards legislative time-table, DD(S) advised that subject to the views collected from the consultation exercise, the Administration planned to introduce legislative amendments to LTO in June 2003. The Chairman reminded members to put forward their views to the Administration before the consultation ended on 1 March 2003.

*(Post-meeting note: the Administration had decided to extend the consultation period to 22 March 2003.)*



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**V. Any other business**

Research on rent subsidy

(LC Paper No. CB(1) 891/02-03(01) — Research paper on Rent Subsidy)

23. At the invitation of the Chairman, the Head (Research and Library) (H/R&L) briefed members on the research paper on rent subsidy. Members generally agreed that the proposed research would be useful to facilitate future discussion. Mr Albert HO suggested that the research should include places like Taiwan, Japan and Singapore with social environment similar to Hong Kong. The Chairman remarked that the scope of the study should cover the impact (pros and cons) of rent subsidy on the community as a whole to enable analysis of the need for such a subsidy. Mr NG Leung-sing added that the study should look into issues, including penalty for abuse of rent subsidy, validity period for rent subsidy as well as merits and demerits of housing assistance coupon system. H/R&L said that subject to the availability of information of the overseas jurisdictions referred to by members, the research report would be submitted for members' consideration in end April 2003.

24. There being no other business, the meeting ended at 5:25 pm.

Council Business Division 1  
Legislative Council Secretariat  
17 March 2003