

立法會
Legislative Council

LC Paper No. CB(1) 1549/02-03
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by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

**Minutes of meeting held on
Monday, 7 April 2003, at 2:30 pm
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 LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon SZETO Wah
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
- Members absent** : Hon CHAN Yuen-han, JP
Dr Hon LO Wing-lok
Hon LAU Ping-cheung

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Attendance by invitation : **For item III**
Housing Department
Mr K H LAU, JP
Deputy Director (Estate Management)
Mr C S HO
Assistant Director (Estate Management) 3

For item IV

Housing Department
Ms Elaine CHUNG, JP
Deputy Director (Strategy)
Mr Gibert KO
Assistant Director (Private Housing)

Rating and Valuation Department

Mr Kenneth PANG, JP
Commissioner
Mr K F CHAN
Senior Rent Officer

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

Staff in attendance : Ms Cindy CHENG
Senior Assistant Secretary (1)4
Miss Mandy POON
Legislative Assistant 4

I. Information paper issued since last meeting

Members noted that no information papers had been issued since last meeting.

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II. Items for discussion at the next meeting

- (LC Paper No. CB(1) 1354/02-03(01) — List of follow-up actions
LC Paper No. CB(1) 1354/02-03(02) — List of outstanding items for discussion)

2. Members agreed to discuss the following subjects at the next regular meeting scheduled for Monday, 5 May 2003, at 2:30 pm -

- (a) measures to relieve the financial hardship of owners under the Sandwich Class Housing Scheme; and
- (b) review of the policy on single-operator markets.

III. Estate management and maintenance of facilities in public housing estates

- (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
LC Paper No. CB(1) 1354/02-03(03) — Paper provided by the Administration)

3. At the invitation of the Chairman, the Deputy Director (Estate Management) (DD(EM)) highlighted the salient points in the Administration's information paper.

Hawker control in public housing estates

4. Dr YEUNG Sum attributed the rampant illegal hawking activities in public housing estates to the increase in number of illegal hawkers as a result of the surge of unemployment rate amid the economic downturn. These illegal hawkers, particularly those of cooked food stalls, had caused much nuisance to tenants and residents nearby, particularly at night time. Given that estate management of a large number of public housing estates had been contracted out to Property Services Companies (PSCs) which were not delegated with the statutory powers to take enforcement actions, he asked how hawker control could be effectively enforced in PSC-managed public housing estates. DD(EM) advised that PSCs were contractually required to ensure that estates under their charges were free from hawking nuisance. In this connection, PSC deployed round-the-clock security guards or employed hawker control guards to restrict illegal hawking activities as their counterparts in private residential buildings. If necessary, the Mobile Operations Unit (MOU) of the Housing Department (HD) would assist PSC in their operations.

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5. The Chairman sought elaboration on when and how MOU would be deployed to help PSCs to tackle illegal hawking. DD(EM) explained that in October 2002, the five regional teams of MOU were centralized so that resources could be focused on estates with recurrent and serious illegal hawking problems. Upon request by PSCs, MOU staff would be deployed to support PSC staff in combating illegal hawking. The cost incurred would have to be borne by the PSCs concerned. Besides, requests for MOU's assistance would be taken into account in the year-end assessment on the performance of PSCs. He nevertheless pointed out that illegal hawking, particularly in respect of cooked food, had become less prevalent since the outbreak of atypical pneumonia (AP).

6. On the suggestion of entrusting PSCs with statutory powers for more effective hawker control, DD(EM) said that this had been thoroughly discussed at a case conference between Members and representatives of the Food and Environmental Hygiene Department (FEHD), HD and PSCs. It was noted that under section 43 of the Interpretation and General Clauses Ordinance (Cap. 1), statutory powers could only be delegated to public officers. Entrustment of statutory powers to PSC was thus legally untenable. To enhance operational effectiveness, HD maintained close liaison with the Police and FEHD for joint actions and formulation of enforcement strategies. Since some illegal hawking activities might be triad-related, the Chairman considered it necessary for HD to assist PSCs which did not have the necessary statutory powers. To ascertain the effectiveness of hawker control in PSC and HD-managed estates, Mr Fred LI requested and the Administration undertook to provide a breakdown by estates of the 1 755 MOU operations carried out over the past year.

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Estate maintenance

7. Consequent upon the previous incidents involving falling parts from three security doors at block entrances, Mr NG Leung-sing noted that HD was undertaking a comprehensive design review of the security doors in new housing projects and enquired about the cost incurred if improvements were to be introduced. He also stressed the need to ensure the proper use of security doors by residents to enhance the safety and working condition of the doors. DD(EM) explained that the review covered aspects such as choice of materials, locks, hinges and installation methods. While he was not able to comment on the cost incurred pending the outcome of the review, he assured members that HD would look for security doors which were of good design, high quality, light in weight, safe and sound and at a fair price. Meanwhile, safety measures and design modifications to security doors in existing public housing estates would be implemented in stages to prevent the recurrence of similar accidents. Signage would also be put up to remind tenants of the proper use of the doors.

8. Since existing service contracts for PSCs were inclusive of maintenance cost, Mr Fred LI expressed concern that they might deliberately procrastinate the maintenance work or lower the service standards in order to make the most profit out of the contracts. DD(EM) stressed that HD sought to ensure the highest standards of

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safety and maintenance in public housing estates and had put in place a number of measures to monitor and supervise the performance of its contractors, including PSCs. HD carried out regular audit and checks on the work of contractors and on the estate facilities. Mr LEUNG Yiu-chung however pointed out that HD might not be able to detect latent defects, such as those relating to security doors, during regular checks. He opined that instead of reacting to problems, HD should adopt a more proactive role to prevent problems. Non-performing PSCs should be subject to disciplinary actions. Consideration should also be given to involving residents to monitor the performance of PSCs.

9. In response, DD(EM) said that while HD would endeavour to detect any latent defects during regular inspections of public housing projects, it was the responsibility of building contractors to make good such defects within the liability period. He also agreed that residents had an important role in monitoring the service standards of PSCs. To this end, copies of relevant contracts had been provided to Estate Management Advisory Committees (EMACs) and PSCs were required to attend EMACs meetings. Questionnaires returned by residents and annual evaluation by EMACs and Mutual Aid Committees (MACs) also served as a useful indicator of the performance of PSCs. According to a survey conducted in 2002, about 53% of respondents were very satisfied or satisfied with the general performance of PSCs. Disciplinary actions, including immediate termination of contracts, would be taken against PSCs in the event of non-compliance with the contractual obligations and the prescribed standards.

10. Mr Albert HO noted with concern that residents who suffered personal injury or loss as a result of negligence of HD or PSCs were not duly compensated by the insurance companies until residents concerned sought legal recourse at their own expenses. He opined that as the landlord and a public body, HD had an obligation to ensure that their tenants were duly compensated. DD(EM) responded that all public housing estates were insured against public liability. Insurance companies were expected to compensate the affected according to law as soon as practicable, failing which might affect their chances for contract renewal. HD had also put in place an independent adjudication mechanism before any claims were brought before court. Mr HO however questioned the independence of such a mechanism which was set up by HD. At the Chairman's request, the Administration undertook to follow up on the cases referred to by Mr HO after the meeting.

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Estate Management

11. In view of the recent outbreak of AP, Mr LEE Cheuk-yan asked if HD had given specific instructions to PSCs to step up cleansing of public housing estates to prevent the spread the disease and if so, the additional cost incurred. DD(EM) affirmed that HD had issued a "Health advice on prevention of respiratory tract infections for Property Services Companies and front-line management staff working in Public Housing Estates" to all PSC and HD staff on 25 March 2003. Apart from the territory-wide cleansing and disinfection exercise to be carried out shortly, PSCs had been requested to increase the frequency of regular cleansing of public housing estates.

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Diluted household bleach was used to clean public areas and facilities within public housing estates such as shopping centres, markets, carparks, lift cars and escalators. As regards the cost incurred from additional cleansing work, DD(EM) said that discussion between HD and PSCs was still underway. It was expected that the cost would be higher than usual as a result of great demand for labourers during this critical time. Notwithstanding, PSCs were requested to perform the cleansing first pending reimbursement at a later stage.

12. Mr Fred LI enquired about the contingency measures in the event that there were reported cases of AP in public housing estates. DD(EM) advised that posters on prevention of AP had been displayed at conspicuous places in both domestic and non-domestic premises within public housing estates to remind residents of the necessary precautionary measures and the need to promote personal hygiene and clean environment. HD also maintained close liaison with EMACs and MACs and would inform residents concerned of relevant AP cases reported by the Department of Health. Extra cleansing and disinfection work would be carried out at the blocks where AP patients resided. As to how frontline staff would be protected against infection of AP, DD(EM) advised that PSCs provided masks for their workers to wear while at work. Mr NG Leung-sing commended the efforts being made by HD in preventing the spread of AP in public housing estates. To ensure quality of cleansing service, he asked if similar guidelines for the maintenance of estate facilities were also applicable to cleansing contracts. DD(EM) answered in the affirmative.

13. Mr LI queried the difference in levels of service between HD and PSC-managed public housing estates. By way of illustration, residents in HD-managed estates were not given garbage bags as their counterparts in PSC-managed estates. DD(EM) advised that at present, estate management of about 60% public housing estates in Hong Kong had been outsourced to PSCs. Notwithstanding, HD would ensure that residents living in the remaining 40% estates under its charge would enjoy similar level of service provided by PSCs. He also undertook to follow up on the issue of garbage bags.

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IV. Security of tenure

- (LC Paper No. CB(1) 785/02-03(03) — Paper provided by the Administration
- LC Paper No. CB(1) 1128/02-03 — Minutes of the meeting on 14 February 2003
- LC Paper No. CB(1) 1354/02-03(04) — Paper provided by the Administration)

14. The Deputy Director (Strategy) (DD(S)) briefed members on the outcomes of the public consultation exercise and the telephone survey on the proposals to amend the security of tenure provisions under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (LTO) and other related provisions.

Relaxation of security of tenure

15. Mr LEUNG Yiu-chung remained of the view that the proposed relaxation of security of tenure might drive up rents in the private market, hence affecting the underprivileged groups, particularly elderly singletons, dwellers living in cubicles and bedspace apartment, who might have difficulties in finding suitable alternative accommodation. The situation would be further aggravated following the reduction in public rental housing (PRH) production. He asked what measures were put in place to meet the housing demand of the needy. DD(S) explained that the current rental market situation had changed substantially amid the economic downturn. The bargaining power of tenants had improved considerably as a result of the abundant supply of private flats. Rentals had also fallen by some 40% compared to the peak period in 1997. Besides, past figures indicated that tenants were highly mobilized and might not renew their tenancies even with the provisions of security of tenure. About 75% of tenancies, including those of cubicles and bedspace apartments, did not go beyond four years. Under such circumstances, there was no strong justification to provide excessive protection to tenants and it was timely to relax the security of tenure provisions. Those with genuine need of housing would be offered PRH and the current average waiting time for PRH was three years. Applicants on the Waiting List (WL) who had no strong preference for specific districts would be allocated PRH units within two years.

16. To ascertain the pros and cons of the proposed relaxation of the security of tenure, Mr Andrew WONG opined that the Administration should gauge the rationale behind the high mobility of tenants as some of them might have been evicted by landlords. He also pointed out that the main objective of the security of tenure provisions under Part IV of LTO introduced in 1981 was to protect tenants against eviction by landlords. The proposed relaxation, whether in one go or with a grace period, would defeat such a purpose. Besides, it would be difficult for the Administration to reinstate the security of tenure provisions even if situations warranted as in the case of drastic surge of rentals and shortfall in supply of flats. He said that he would not support any proposed legislation to remove security of tenure. Mr LEUNG Yiu-chung echoed that it was imprudent for the Administration to relax the security of tenure provisions since there would be no remedy in the event of a booming property market.

17. In reply, DD(S) explained that Part IV was introduced into LTO in 1981 against the background of a serious shortfall of domestic accommodation in Hong Kong leading to a significant rental increases on renewal of tenancies. The intention at that time was to protect tenants from the risk of being evicted by unscrupulous landlords. However, the provisions on security of tenure might not be fair to landlords in general as they were restricted from repossessing their premises so long as tenants were willing to pay the prevailing market rent. The protection had also impeded the free operation of the private rental market and discouraged investors from renting out their premises. As the bargaining power of tenants had risen as a result of sufficient supply of flats, falling rentals for private housing as well as adequate and affordable

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public housing, there was no longer any justification for providing excessive protection on tenants. The Administration considered that it was timely to relax the excessive security of tenure provisions so as to restore the balance of interest between landlords and tenants and allow the property market to operate more freely. This was particularly important for landlords with negative equities.

Results of the consultation exercise and the telephone survey

18. Given the short consultation period and the limited information on the various options in the consultation paper, Mr Andrew WONG questioned the reliability of the results of the consultation exercise as respondents might not be fully aware of the impact of the proposed relaxation of security of tenure. Expressing similar concern, Mr Albert HO noted that of the total submissions received, 48% were from landlords and only 9% from tenants. The predominant landlord-respondents' views might give a wrong impression that the public was in favour of the proposed relaxation. In reply, DD(S) stressed that all necessary information on the background, possible options and implications of the proposed relaxation of security of tenure provisions had been set out in the consultation paper. In order to allow more time for the public to express their views, the consultation period, scheduled to end on 1 March 2003, was extended to 22 March 2003. In addition to the consultation paper, a telephone survey was conducted from 26 to 30 March 2003 to gauge the views of the community at large.

19. As PRH tenants would not be affected by the proposed relaxation, Mr Andrew WONG questioned the rationale for including views from PRH tenants in the survey. He was skeptical that the Administration would remove the security of tenure of PRH tenants as the next step. In reply, DD(S) stressed that this was not the case. Views from PRH tenants were included because they might move to private flats after their financial situation had improved. She added that the views from various groups of respondents were largely the same. About 50% of private housing tenant-respondents supported the proposed relaxation while about 21% had no views and about 29% objected the proposal. For PRH tenant-respondents, about 55% were supportive of the relaxation whereas about 25 % had no views and about 20% objected proposal.

20. Mr WONG held the view that PRH tenant-respondents' views should be excluded, and that emphasis should be focused on views from the concerned parties and professional bodies. On the sample size, he opined that at least 500 samples should be surveyed for each type of household. To enhance accuracy of the findings, consideration should also be given to stratifying tenants from owner-occupiers. The Assistant Director (Private Housing) explained that the telephone survey was aimed at collating views of the general public so a random rather than stratified sampling methodology had been adopted. DD(S) added that of the random sample of 5 800 individuals from all land-based households with residential telephone lines, a total of 2 040 individuals in the sample were successfully interviewed and asked to give views on the proposals. The margin of error was $\pm 3.1\%$ at 95 % confidence. In response to Mr WONG's further question, DD(S) confirmed that respondents were

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required to provide personal information such as sex, household income and property ownership during the telephone interview. In this connection, the Administration was requested to provide a copy of the questionnaire for members' reference.

The way forward

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21. Given the divergent views received on the various options for relaxing the security of tenure provisions, Mr HO asked how the Administration could reach a decision on the option to be adopted. He said that Members of the Democratic Party were in favour of removing the security of tenure for tenancies above a certain level only in Phase 1 and complete removal after a review in Phase 2. This would allow sufficient time for the Administration to ascertain the effect of the removal on both landlords and tenants before proceeding with a complete removal. In response, DD(S) reiterated that it would be difficult to draw a line on the types of tenancies which should be subject to security of tenure. She assured members that the Administration would take into full account the views received before reaching a decision on the option to be adopted. As a majority of respondents preferred complete removal at one go or with a grace period, consideration might be given to amalgamating the essential features of these two options. Given that it would take time for the Legislature to scrutinize the proposed legislative amendments, both landlords and tenants might have some lead-time to make the necessary arrangements to prepare for the change. To enhance members' understanding, the Chairman requested and the Administration undertook to provide an information paper setting out the finalized legislative proposal on the relaxation of security of tenure before this was introduced into the Legislature in June 2003.

V. Any other business

22. There being no other business, the meeting ended at 4:10 pm.

Council Business Division 1
Legislative Council Secretariat
2 May 2003