

For information

LEGISLATIVE COUNCIL PANEL ON HOUSING

Missing or Illegible Government Leases

Purpose

This note informs Members of the latest position about the legislative proposal on the missing and illegible Government leases as requested by Members at the Panel meeting on 14 January 2003.

Background

2. A number of old Government leases have become missing or illegible during the Second World War or with the passage of time. Under section 13(1) of the Conveyancing and Property Ordinance (Cap. 219), enacted in 1984, a purchaser of land is entitled to require from the vendor the production of the relevant Government lease as proof of title to that land. The problem of missing and illegible leases may hinder the smooth property conveyancing. To overcome this problem, Government intends to enact a new legislation to reconstitute the missing and illegible leases.

Current position of the proposed legislation

3. The proposed legislation aims to provide a mechanism to reconstitute the missing and illegible Government leases and related land documents so that the reconstituted leases and related land documents will have the status of the original ones. It is therefore necessary to ensure that the reconstituted terms and conditions of the land leases will be as close to the original as possible. However, the original and reconstituted terms and conditions may not be completely the same. In the event, the proposed legislation needs to provide avenues for those affected to raise objections and appeals or to seek legal redress in order to help safeguard their property interests.

4. We are in the process of identifying a workable reconstitution mechanism and intend to consult the major stakeholders on the proposals before finalising them for introduction into the Legislative Council. The proposed legislation is highly technical and complex, and it will take time to complete the necessary consultation and law drafting procedures. We envisage that the relevant bill may only be ready in 2004/2005.

5. It should be noted that conveyancing is still possible even if the relevant land lease is missing or illegible. If there is clear and cogent secondary evidence of the contents of a missing or illegible Government lease and of its due execution, the relevant legal requirement for conveyancing is fulfilled and property transaction can take place. Other than this, the Lands Department also deals with missing and illegible Government leases on a case by case basis by way of surrender and regrant of land. Under this mechanism, the land owner surrenders all his interests in the lot concerned and Government regrants the same lot to him upon mutually agreed terms and conditions.

Housing, Planning and Lands Bureau
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