

**Case conference attended by LegCo Members
and representatives of the Administration**

**Conversion of part of the Beauty Court shopping arcade in Yuen Long
into residential care homes for the elderly**

Concerns raised at the case conference

According to representatives of the Owners' Committee of the Beauty Court, the developer of the captioned residential development had lodged conversion applications to the relevant government departments without consulting the other owners. They considered that converting part of the shopping arcade into a residential care home for the elderly (RCHE) contravened the relevant provisions in the Deed of Mutual Covenant (DMC) and the Occupation Permit of the Beauty Court as well as paragraph 6.2 of the "Code of Practice for Residential Care Homes (Elderly Persons)" issued by the Social Welfare Department. The Code of Practice stated that it was the responsibility of the operator to ensure that his/her premises for the operation of the RCHE comply with the lease conditions and the DMC.

2. LegCo Members noted that the Buildings Department (BD) had informed the deputation earlier that if the premises for the operation of the RCHE was in compliance with building requirements in the areas of building structure, fire precaution and hygiene, the Building Authority (BA) would not object to the establishment of a RCHE in the non-domestic part of a building. In fact, the BA had already issued a notice of no objection under section 25 of the Buildings Ordinance (Cap. 123) in respect of the conversion works to be carried out in the Beauty Court shopping arcade.

3. LegCo Members considered that the BA's decision was unfair to the other owners of the concerned residential development who had not been consulted on the conversion, and that the conversion would deprive them of their rights to use shopping facilities.

Issues referred to the Panel on Planning, Lands and Works

4. According to section 25 of the Buildings Ordinance, the BA may permit/raise no objection to an application for change of use of a building. However, the existing mechanism does not require any consultation with the other affected owners and residents before the lodging of applications for change of use of buildings. LegCo Members consider that this situation has to be improved. The reason is that in permitting an application for the conversion of an existing building to a RCHE, the BA may have to consider changing the plot ratio of the concerned building. Such a change in plot ratio has a definite impact on the other owners/residents, and goes against the reasonable expectations of the owners for the design of and the facilities in the buildings at the time when they purchased their residential units and signed the contracts.

5. LegCo Members consider that the Government has not only failed to establish a mechanism for affected owners and residents to be consulted on an application for change of use of a building, but has even permitted the unilateral alteration of private contracts by the developers. The Government has explained that as the Administration is not a party to the DMC, it is not in a position to meddle in the dispute about the contents of the same. However, LegCo Members do not accept this explanation. Being held responsible for maintaining social justice, the Government should amend the relevant Ordinance for the purpose of establishing a consultation mechanism to facilitate the access of all relevant information by both sides in a fair and reasonable manner.