

立法會  
*Legislative Council*

LC Paper No. CB(1)2029/03-04  
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by the Administration)

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**Panel on Housing**

**Minutes of special meeting  
held on Thursday, 25 March 2004 at 4:30 pm  
in the Chamber of the Legislative Council Building**

- Members present** : Hon Albert HO Chun-yan (Chairman)  
Hon NG Leung-sing, JP (Chair of the meeting)  
Dr Hon David CHU Yu-lin, JP  
Hon LEE Cheuk-yan  
Hon Fred LI Wah-ming, JP  
Hon James TO Kun-sun  
Hon CHAN Yuen-han, JP  
Hon LEUNG Yiu-chung  
Hon Andrew WONG Wang-fat, JP  
Hon Howard YOUNG, SBS, JP  
Hon YEUNG Yiu-chung, BBS  
Hon SZETO Wah  
Hon Abraham SHEK Lai-him, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Hon Frederick FUNG Kin-kee  
Hon IP Kwok-him, JP
- Members absent** : Hon CHAN Kam-lam, JP (Deputy Chairman)  
Dr Hon YEUNG Sum  
Dr Hon LO Wing-lok, JP  
Hon WONG Sing-chi  
Hon LAU Ping-cheung

**Public officers attending** : Mr C M LEUNG, JP  
Permanent Secretary for Housing, Planning and Lands  
(Housing)

Mr TAM Wing-pong, JP  
Deputy Director of Housing (Strategy)

Mr Carlson CHAN  
Assistant Director of Housing (Strategic Planning)

**Clerk in attendance** : Miss Odelia LEUNG  
Chief Council Secretary (1)4

**Staff in attendance** : Ms Sarah YUEN  
Senior Council Secretary (1)6

Ms Christina SHIU  
Legislative Assistant

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Action

- I. Review of domestic rent policy for public rental housing**  
(LC Paper No. CB(1)1361/03-04(01) -- Information paper provided by the Administration  
LC Paper No. CB(1)1361/03-04(02) -- Background brief on "Median rent-to-income ratio of public rental housing" prepared by the Legislative Council Secretariat)

Election of member to chair the meeting

The Panel Chairman advised that this special meeting had been called to enable the Administration to seek members' views on the Housing Authority (HA)'s proposed framework for conducting the rent review as ordered by the High Court pursuant to the outcome of the judicial review (JR) in respect of the HA's decisions to defer the review of public rental housing (PRH) rents in 2001 and 2002. The Court of First Instance of the High Court ruled in favour of the two applicants for the JR (the Applicants) on 11 July 2003. The HA then lodged an appeal against the High Court's ruling, which was scheduled for hearing by the Court of Appeal in April 2004.

2. The Panel Chairman then declared interests that his law firm was representing the Applicants, and considered it inappropriate to chair the meeting

due to possible conflict of interests. He informed members that Mr CHAN Kam-lam, Deputy Chairman, had urgent commitment and could not attend the meeting. Members then elected Mr NG Leung-sing to chair the meeting. Mr NG declared that he was a member of HA. Without objection by members, Mr NG took the chair.

#### Briefing by the Administration

3. Members noted the following papers provided by the Administration and tabled at the meeting -

- (a) Powerpoint presentation material on "Proposed Framework for Reviewing Public Rental Housing Rents"; and
- (b) Summary of PRH Rent Review Proposals.

*(Post-meeting note: The above papers were circulated to members vide LC Paper No. CB(1)1399/03-04 on 26 March 2004.)*

4. The Permanent Secretary for Housing, Planning and Lands (Housing) (PSH) briefed members on the information paper provided by the Administration. He said that given the potentially far-reaching implications of the rent review for the HA's financial conditions and the long-term sustainability of the public housing programme, the HA would continue to listen to the views of the community on the approaches and options before taking a firm view on how the PRH rents were to be adjusted. With the aid of a powerpoint presentation, the Assistant Director of Housing (Strategic Planning) (AD of H(SP)) introduced the proposed framework for reviewing PRH rents.

#### Need to adjust public rental housing rents downwards

5. Members in general saw a need to adjust PRH rents downwards on the following grounds-

- (a) The Housing Ordinance (HO) (Cap. 283) stipulated the ceiling of median rent-to-income ratio (MRIR), and it was against law not to abide by the ceiling. The HA should expeditiously reduce PRH rents to comply with the law notwithstanding its financial difficulty. After rent reduction, the HA should then work out with the parties concerned on how its financial difficulty could be overcome, such as by reviewing the rent policy, or amending HO;
- (b) There was a need to reduce PRH rents to alleviate the hardship of the grassroots. Moreover, rents of estates commissioned around 1997 were very high; and

- (c) It was unfair that the HA had increased rents readily over the past many years but hesitated to reduce rents in the light of changing circumstances.

6. In response, PSH agreed to relay members' views to the HA for consideration. He however pointed out that whether the existing rent levels were really beyond the affordability of the majority of PRH tenants required further examination.

7. In this connection, Mr Frederick FUNG Kin-kee enquired whether the HA would adjust the rents in the event of its successful appeal. In his view, the HA should reduce the rents irrespective of the outcome. Mr LEE Cheuk-yan shared his views. In response, PSH said that the HA would need to examine the judgment of the appeal first before determining the next course of action. Meanwhile, according to the legal advice to the HA, comment should not be made in this regard to avoid pre-empting the judgment.

#### Implications of the rent review proposals on the financial situation of the Housing Authority

8. Many members felt that the financial difficulty of the HA was caused by factors other than the need to reduce rents pursuant to the relevant Court Order. Miss CHAN Yuen-han opined that HA's financial difficulty was the direct result of the cessation of the sale of Home Ownership Scheme (HOS) flats. While agreeing that sale of HOS flats was the main source of HA's income, PSH pointed out that if the option of an across the board rent reduction of 38% was adopted, the HA would face greater financial difficulty than under option (iv), i.e., rent waiver for Comprehensive Social Security Assistance (CSSA) households plus 10% rent reduction for non-CSSA households. He also relayed the views from certain applicants on the Waiting List (WL) that rent reduction should not be excessive so as not to adversely affect the public housing programme and the waiting time. According to him, some PRH tenants also felt that the rent adjustment should be reasonable.

9. Mr Abraham SHEK Lai-him pointed out that by converting surplus HOS flats into PRH, the implications of PRH rent adjustment on the public housing programme and WL applicants could be mitigated. He also considered it the Government's responsibility to improve the living conditions of the needy and as such it should be ready to inject funds into the HA to improve its financial position. In response, PSH reiterated that even though PRH was a kind of welfare service, its provision should be reasonable and not excessive.

10. Mr LEUNG Yiu-chung said that the highlighted financial implications of each of the HA's rent review proposals had somehow been unfairly and arbitrarily exaggerated. This was because the HA had failed to inform the public and members that reimbursement of overcharged rents would be capped at one year

only. Moreover, the HA was planning to consult the public later in the year on the formulation of a comprehensive, objective and flexible domestic rent policy, and there might be greater flexibility in increasing or reducing PRH rents as necessary. In response, PSH urged members to note that it was necessary to fully inform the public the likely scenarios and hence the financial implications of the various rent reduction proposals. Also in order not to pre-empt the outcome of the rent policy review, it was undesirable to take account of the possible outcome of the policy review in assessing the implications of the rent review proposals.

11. Mr LEE Cheuk-yan opined that in presenting the financial implications of HA's rent review proposals, the Administration should at the same time present the financial implications of the cessation of HOS sale. In response, PSH advised that the latter could hardly be ascertained accurately because it would hinge on the relevant discount rates, public response to the sale, etc.

12. In this regard, Mr Fred LI Wah-ming said that the HA should resume the Tenants Purchase Scheme to increase income as well as reduce its burden of managing and maintaining existing PRH estates. He also questioned whether the HA had done its best to save costs and increase incomes to improve its financial state. He asked for explanation as to why the average PRH rents, which were \$1,500 and in general higher than the management fees of private flats, could not cover the maintenance and operating expenses of the PRH estates.

13. On efforts made by the HA to save costs and increase incomes, PSH elaborated that as reported to the Legislative Council (LegCo) on a number of occasions, various measures had been taken to achieve the above purposes, including review of the organization of the Housing Department (HD) and plans to divest HA's retail and car-parking facilities. HD would delete 3 500 posts before March 2007. A paper proposing to delete nine assistant directorate posts would also be submitted to the Establishment Subcommittee of LegCo's Finance Committee for endorsement. He assured members that HD and HA would make every effort to optimize the use of HA's resources to ensure its effective operation. Miss CHAN Yuen-han however expressed concern about the planned deletion of HD posts, and opined that HA's financial difficulty should not accelerate reduction of posts. In response, PSH agreed to relay Miss CHAN's views to the HA for consideration.

14. On the management costs of PRH flats, PSH highlighted that unlike private flats, there was a need to enforce tenancy provisions in PRH estates. Notwithstanding, with further reorganization put in place since January 2004 to enhance the cost-effectiveness of estate management, the management costs of PRH were gradually reducing to a level comparable to that of private flats.

#### Possible approaches for rent review

##### *Differential rent reduction*

15. Mr Fred LI quoted the results of a survey conducted by the Democratic Party (DP), which showed that most PRH tenants requested rent reductions of 10 to 20%. While the various proposed rent adjustment options could achieve such effect, he was dissatisfied with all of them because most of them were targeted at certain categories of PRH tenants. In his view, to achieve fairness and help those most in need, differential rent reductions should apply to different classes of tenants according to their incomes. He therefore urged the HA not to limit itself to considering its proposed rent adjustment options only. Mr James TO Kun-sun echoed his views, and called upon the HA to provide relevant figures to DP and other political parties as soon as practicable to facilitate them to devise other rent adjustment proposals. In his opinion, PRH tenants with different levels of affordability should pay different rents. The Panel Chairman also urged the HA to consider DP's proposal and other more reasonable options, if any, such as the waiving of rates and Government rent of PRH so that PRH rents could be significantly reduced.

16. Responding to Mr Fred LI's view on differential rent reductions, PSH pointed out that this approach would entail extremely high administrative costs. Moreover, there was no objective basis for determining the relative extent of rent adjustment. Different rent adjustments for different income groups might result in lower income group paying higher rent in certain circumstances. Mr LI however opined that the administrative costs could be kept to a minimum by requiring tenants to make income declarations and conducting random checks only. In this regard, the existing mechanism for vetting eligibility for rent assistance could be modified for the purpose. Mr James TO pointed out that many HA schemes were operated with random checking with reference to the relevant compliance rates and delinquency rates. As such, the administrative costs of a tiered system in rent reduction would not add much burden to the HA. As to the Administration's concern that lower income group might pay higher rent should differential rent adjustment be adopted, Mr TO said that this could be avoided and suggested the HA to make reference to the marginal relief arrangements provided for in the Estate Duty Ordinance (Cap. 111) and the Stamp Duty Ordinance (Cap. 117).

17. As to whether the proposed rent adjustment options were fair, PSH explained that each of the proposed option had its pros and cons. While there could be many options other than the ones put forward by the Administration, to ensure the proposals were reasonable they should as far as possible be premised on the following broad principles -

- (a) That any proposed variation of rents should comply with the Court Order and bring the MRIR down to 10% or below in accordance with section 16(1A) of HO;
- (b) That they should not undermine the HA's appeal which was presently underway;

- (c) That they should take into full account the affordability of PRH tenants;
- (d) That they should be practicable and easy to implement;
- (e) That they should be in line with the principle of rational utilization of public resources; and
- (f) That they should as far as possible seek to strike a balance between the interest of PRH tenants and that of other sectors of the community.

18. PSH further advised that the rent adjustment options were worked out for further examination after taking into account the general principles set out above. The Administration had no particular preference for any of them and welcomed members' comment.

19. Mr James TO was unconvinced. He said that the manner in which the rent adjustment proposals were presented showed that the Administration in fact had preference for some of them. His views were shared by Mr LEUNG Yiu-chung. Mr TO then referred to the options and pointed out that some of them were also tiered. DP only called for the introduction of more tiers so that rents could be adjusted according to tenants' affordability. He strongly urged the Administration to relay DP's views to the HA for consideration. PSH undertook to do so and emphasized that the Administration also aimed to identify a balanced option agreeable to all. He agreed to provide the relevant information to DP and requested DP to provide HD with details of its proposal for introducing different rent reduction levels for tenants under different income brackets.

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20. On whether the HA had explored the possibility of waiving rates and Government rent for PRH estates, PSH answered in the negative and said that the HA had to work within the legal framework for PRH rents which included the above two elements. Moreover, the decision as to whether rates and Government rent could be waived rested not with the HA but the relevant Government departments.

*Across the board rent reduction*

21. Emphasizing that PRH was an important means to improve the life of the grassroots, Miss CHAN Yuen-han preferred rent reduction for all households across the board. However, she recognized that if households whose MRIR exceeded 10%, such as those already paying higher rents, and elderly people who usually had little or no income, could be identified, targeted rent reduction could achieve the best result.

22. In response, PSH pointed out that it would incur extremely high administrative costs to identify households fulfilling certain criteria. Miss Chan was unconvinced, and said that every option would incur administrative cost. In reply, PSH reiterated that while all options incurred administrative costs, the costs incurred by different options would be different.

23. Pointing out that PRH rent increase in the past had all along been implemented across the board, Mr Frederick FUNG considered it inconsistent with the existing policy that the Administration should propose a targeted approach for rent adjustment. Mr LEUNG Yiu-chung echoed his views, and pointed out that if the HA had voluntarily reduced PRH rents according to HO instead of freezing them in 2001 and 2002, the rents would have been cut across the board.

24. In response, PSH made the following points -

- (a) HA's rent adjustment proposals were put forth in response to the Court Order delivered on 12 August 2003, in which the High Court directed the HA to "forthwith review and determine the variation of rents of the class (or batch) of public housing units to which the applicant's public housing unit is part, according to the true meaning and effect of section 16(1A) of Cap. 283". The current rent review was in response to the High Court's ruling on the JR cases. The HA was reviewing the overall domestic rent policy and intended to collect public views in mid-2004 on how PRH rent could be adjusted more rationally, drawing a closer link with tenants' affordability and helping promote the long-term sustainability of the public housing programme;
- (b) How PRH rents would be reviewed in response to the outcome of the appeal had not been decided yet. The Administration noted that there were diverse views on the subject, even amongst members of the Panel;



- (c) Both the rent waiver for CSSA households plus 10% rent reduction for non-CSSA households and an across the board rent reduction of 38% could comply with the statutory requirement of bringing the MRIR down to 10% or below following any rent adjustments;
- (d) Before making the rent adjustment proposals, the HA had already sought legal opinion from senior counsels to ensure the proposals were legally sound; and
- (e) The HA had not frozen PRH rents as claimed but had deferred review of them since 1999.

*Rent waiver for CSSA households plus 10% rent reduction for non-CSSA households*

25. Mr Tommy CHEUNG Yu-yan stated that each of the rent adjustment proposals would have great financial implications on HA and hence the public housing programme. The initial view of the Liberal Party was that each proposal had its shortcomings. The Liberal Party was still examining the proposals and was conducting consultation. It had yet to finalize its views. He asked if the option of rent waiver for CSSA households plus 10% rent reduction for non-CSSA households (option (iv)) was adopted, whether the savings achieved by the Social Welfare Department (SWD) would be transferred to the HA to make up for its financial loss resulting from PRH rent reductions. In reply, PSH confirmed that reduction in CSSA payment under option (iv), amounting to \$1.8 billion a year, would not be transferred to the HA automatically. However, any saving in public money would help should there be a need to inject funds into HA by the Government.

26. In reply to Mr Tommy CHEUNG on how long the HA could sustain its operation if option (iv) was adopted without fund injection from the Government, PSH advised that it would hinge on the effect of the effectiveness of measures to save costs and increase incomes described in paragraph 13 above. He admitted that with the cessation of HOS sale, HA's account would run into deficits in the long term. Adoption of option (iv) would help defer the need for fund injection by the Government.

27. Mr James TO cast doubt on whether option (iv), which sought to change the long established way of calculating the MRIR, could comply with the Court Order. He also opined that it would lead to poor people subsidizing even poorer people. This was because owing to rent waiver for CSSA households (poorer people), the other households (poor people) would only get 10% rent reduction. Without waiving the rents of the CSSA households, the rent reduction for non-CSSA households could have been greater. For this reason, CSSA households might be discriminated against. Moreover, since SWD did not have to reimburse

rent to CSSA households, it would save costs and might be more lenient in approving CSSA cases. It might thus be necessary to work out measures to guard against potential abuse. Mr LEE Cheuk-yan likewise had reservation about option (iv).

28. PSH said that the rent waiver option did not involve any non-CSSA tenants subsidizing CSSA tenants. He emphasized that under this option and other proposed rent reduction options, the interest of CSSA households would not be adversely affected nor would they receive any additional benefits.

29. In response to members' enquiries on the calculation of MRIR, AD of H(SP) explained that in determining the overall MRIR, the rent-to-income ratios (RIRs) of individual households in PRH were first worked out. The RIRs for all the PRH households (around 600 000 at present) were then placed in an ordered sequence. The middle RIR was the MRIR. As this was a "median" figure, about half of the households would have their RIRs above the median figure, and another half below it. Section 16(1A) of HO did not require that following any rent adjustment, individual tenants would pay less than 10% of their income as rents. The 10% capping only applied to the overall MRIR of all the PRH tenants. He then clarified that CSSA households had all along been included in working out the MRIR. Under option (iv), the MRIR would continue to be worked out according to the existing procedure. The only difference was that the RIRs of CSSA households would be reduced to zero following the rent waiver, thereby bringing down the MRIR substantially. Section 16(1D) provided that the calculation of the MRIR should be determined in accordance with a procedure established by the HA. The HA's legal advisers were content that this option was legally sound.

30. Mr LEE Cheuk-yan remained unconvinced. He considered that the statutory ceiling would be complied by fiddling the MRIR figures. The Panel Chairman was concerned that if the MRIR could be so fiddled, the HA might be able to increase rents instead of reducing rents in the end. In response, PSH stressed that the Administration had adopted a transparent approach in explaining how the MRIR would be brought down under option (iv). Members and the public were welcome to comment on it. He pointed out that waiving the rents of CSSA households to bring their RIRs to zero would correct the distortion to the overall MRIR given that CSSA households did not have any affordability problem per se. AD of H(SP) then referred members to page 9 of the powerpoint presentation material, and explained how the MRIR was compiled by way of random sampling as provided for under section 16(1D) of HO. He reiterated that option (iv) was not premised upon any change in the methodology for calculating the MRIR. Although the RIRs of the CSSA households would be reduced to zero, they would still be included for calculating the MRIR. He stressed that this was not a fiddling with figures as the HA would incur substantial loss in rental income as a result of waiving the rents of CSSA households.

Other comments

31. Mr Abraham SHEK said that in West Kowloon Cultural District development and the cessation of HOS sale, the Government made a decision without consulting the LegCo or the public. However in the present case, the Administration was consulting LegCo because any decision made might arouse criticism as it would be difficult to strike a balance between the interests of PRH tenants and the society as a whole. His views were shared by the Panel Chairman. In response, PSH emphasized that it was appropriate that in soliciting members' views, all relevant proposals and their financial implications were presented for members to consider. He would relay the views expressed by members at this meeting to the HA for consideration.

**II. Any other business**

32. There being no other business, the meeting ended at 6:40 pm.

Council Business Division 1  
Legislative Council Secretariat  
4 June 2004