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Panel on Housing

Median rent-to-income ratio of public rental housing

Background brief

Purpose

This paper outlines the issue concerning the median rent-to-income ratio (MRIR) of public rental housing (PRH) and summarizes the concerns of members on the issue.

Background

2. Section 16(1) of the Housing Ordinance, Cap. 283, provides for the power of the Housing Authority (HA) to determine the rents of its public housing estates. Public housing rents are determined by the HA on the basis of tenants' affordability, i.e. ability to pay. The general principle of affordability has been translated into MRIR ceiling. MRIR means 50% of households' rent-to-income ratios (RIR) are below the median figure while the other 50% are above it. Administratively the HA set two MRIR ceilings in determining public housing rents as follows -

- (a) 15% for the minimum space allocation standard of 5.5 square metres Internal Floor Area (IFA) per person (set in 1986); and
- (b) 18.5% for the higher space allocation standard of 7 square metres IFA per person (set in 1991).

3. Other factors taken into account by the HA are the comprehensive values of estates; location and transportation; management and maintenance costs; inflation and rates. Before March 1998, review of PRH rents was conducted by the HA every two years.

Housing (Amendment) Ordinance 1997

4. The former Legislative Council passed at the meeting of 27 June 1997 the Housing (Amendment) (No. 3) Bill 1996. The Bill was a Private Member's Bill introduced by Hon LEUNG Yiu-chung. The Bill as amended (Amendment Ordinance 1997) provides, inter alia, that any determination of variation of rent should only take effect at least three years after coming into effect of the previous rent determination and that the overall MRIR of all public housing estates should not exceed 10% after any rent variation (section 16(1A)).

Housing (Amendment) Ordinance 1998

5. To resolve the operational difficulties of the Amendment Ordinance 1997, the Administration introduced and the Provisional Legislative Council passed the Housing (Amendment) Ordinance 1998 on 25 February 1998 to achieve the following effects -

- (a) disapplying the restrictions stipulated in the Amendment Ordinance 1997 in respect of better-off tenants and tenants receiving rent assistance;
- (b) excluding from the scope of the Amendment Ordinance 1997 the license fees charged on cottage areas and interim housing; and
- (c) providing clearly that the calculation of the MRIR should be determined in accordance with a procedure established by the HA.

6. After the enactment of Amendment Ordinance 1998, the then Secretary for Housing appointed 13 March 1998 as the day on which the Amendment Ordinance 1997 came into effect.

Change of MRIR

7. Since the enactment of the Amendment Ordinance 1997, HA has frozen the rents of newly completed PRH estates at the July 1997 level. It has also deferred repeatedly the rent reviews for existing PRH. However, with the downturn of the economy after the change of sovereignty, both the incomes of the general public and the rents of private domestic premises were dropping over the past few years. Legislative Council Members have been keeping track whether the MRIR has exceeded the statutory ceiling of 10%. Three questions on the subject were raised at the Council meetings during 1999 to 2001. The Panel on Housing discussed the rent policy and rent review of PRH on 3 May 1999 and 5 February 2001. Members noted with concern that

the overall MRIR for the third quarter of 2000 was at 10.2%, exceeding the statutory ceiling. The figure continued to rise to 14.2% for the second quarter of 2003. Some members called upon the Administration to reduce the rents of PRH to comply with the 10% ceiling in the Amendment Ordinance 1997.

8. The stance of the Administration then was that the law only requires the HA, when revising the rents of PRH, to ensure that the overall MRIR of PRH households does not exceed 10%. If the MRIR rises above the ceiling of 10% because of reasons other than an increase in rent, such as a reduction of incomes of public housing tenants, the HA is not required to reduce rent.

9. The MRIRs from the first quarter of 1998 to the second quarter of 2003 are shown in **Appendix I**.

Judicial Review

10. In October and November 2002, two PRH tenants applied for leave to apply for judicial review in respect of the decisions of the HA to defer the review of rents of its rental estates in 2001 and 2002 respectively at the Court of the First Instance (the Court).

11. On 11 July 2003, the Court ruled in favour of the applicants. In gist, the Court found that -

- (a) the HA is under a duty to review rent regularly;
- (b) the applicants had a legitimate expectation to have their rents periodically and regularly reviewed; and
- (c) when the HA carries out its duty to review rent, the 10% MRIR ceiling must be abided by.

12. The Panel on Housing held a special meeting on 16 July 2003 to discuss the implications of the outcome of the Judicial Review. Members of the Panel considered that the Administration must respect the Court ruling and reduce rents for PRH expeditiously. The Panel passed a motion to urge the Administration to adjust the rents of PRH downwards to comply with the ceiling stipulated in the law. The wording of the motion is in **Appendix II**.

13. The Court issued the Order of Relief on 12 August 2003. The Order directs the HA to review and determine the variation of rents of the batch of PRH units, of which the two applicants' public housing units are part, according to the true meaning and effect of section 16(1A) of the Housing Ordinance. In August 2003 HA appealed against the Judgement and the Order.

14. Upon HA's application for a stay of execution of the Order, the Court ruled on 26 August 2003 that HA does not have to implement rent adjustment after rent review before conclusion of the appeal.

Rent review

15. The HA established an Ad Hoc Committee in March 2001 to review its domestic rent policy but adjourned the review pending the litigation. Following the Court's ruling, the Ad Hoc Committee resumed work. In March 2004, the HA put forward its proposed framework for reviewing PRH rent. Two approaches comprising five rent adjustment options were identified as follows:

- (a) a simple across the board approach whereby the rents of all units concerned would be reduced by 38%; and
- (b) a targeted approach whereby differential rent reductions are applied to different classes of tenants or estates with a view to addressing direct the main causes for the rise in the MRIR. Under this targeted approach, four rent adjustment options are set out as follows -
 - (i) reducing the rents of only those households with RIRs exceeding 10% by 40%;
 - (ii) adopting different rent reductions for different estates. Under this option, the rents of new estates, which are usually higher than those of the old ones, would be given a greater rate of reduction, i.e. 31% for estates completed before 1973 (the so-called pre-HA estates); 36% for estates completed between 1974 and 1992; and 41% for post-1993 estates (mainly comprising Harmony blocks and those converted from HOS courts);
 - (iii) waiving the rents of elderly households by invoking the power under section 17 of the Housing Ordinance plus an across the board rent reduction of 17% for other non-elderly households; and
 - (iv) waiving the rent of Comprehensive Social Security Assistance (CSSA) households (under section 17 of the

Housing Ordinance) plus an across the board rent reduction of 10% for other non-CSSA households.

16. The Panel on Housing was consulted on these five rent adjustment options on 25 March 2004. Some members were in favour of across-the-board rent reduction as rent increase was implemented in the same manner in the past. Other members considered a targeted approach more effective in addressing the problem of RIR exceeding 10% for certain households and in assisting those who were most in need.

17. On 30 March 2004 the HA decided, subject to the outcome of the appeal, to adopt the option which would incur the least financial outlay, i.e. waiving the rent of CSSA households plus an across the board rent reduction of 10% for other households.

Latest position

18. The appeal against the Judgement of the Judicial Review was heard by the Court of Appeal in April 2004. The Court of Appeal has yet to deliver the judgement.

19. The relevant papers concerning the MRIR issue with their hyperlinks are in **Appendix III**.

Council Business Division 1
Legislative Council Secretariat
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Appendix I

Medium Rent-to-Income Ratio (MRIR) for Housing Authority Public Rental Housing (excluding Interim Housing)

Year /Qtr	MRIR (%)
1998Q1	8.8
1998Q2	8.9
1998Q3	9.3
1998Q4*	8.6
1999 Q1*	9.4
1999 Q2	9.8
1999 Q3	9.6
1999 Q4	10.0
2000 Q1	9.9
2000 Q2	10.2
2000 Q3	10.2
2000 Q4	10.3
2001 Q1	10.4
2001 Q2	10.7
2001 Q3	11.5
2001 Q4 [#]	7.6
2002 Q1*	11.2
2002 Q2*	11.7
2002 Q3*	12.0
2002 Q4*	12.1
2003 Q1	13.8
2003 Q2	14.2

Notes:

[#] The figure has reflected the rent waiver for public rental housing units for December 2001.

* The figures have reflected the rates rebates taken place during the respective periods.

Appendix II

Wording of the motion passed at the special meeting of the Panel on Housing held on 16 July 2003

“That, in the light of the High Court’s judgment on the rent review of public housing, this Panel urges the Housing Authority to meet as soon as possible following the High Court’s making of an order in respect of the judgment to review the rent of public housing units and adjust the rent in accordance with the law to a level not exceeding the median rent-to-income ratio ceiling of 10%.”

Median rent-to-income ratio of public rental housing

List of references

Council/Committee	Date of meeting	Paper
Council Meeting	27 June 1997	Hansard (http://www.legco.gov.hk/yr96-97/english/lc_sitg/hansard/970627fb.doc)
Bills Committee	6 February 1998	PLC Paper No. CB(2) 1126 (http://www.legco.gov.hk/yr97-98/english/bc/bc57/minutes/bc570602.htm)
Council Meeting	25 February 1998	Hansard (http://www.legco.gov.hk/yr97-98/english/counmtg/hansard/980225fa.doc)
Housing Panel	3 May 1999	LC Paper No. CB(1)1235/98-99(06) (English version only) (http://www.legco.gov.hk/yr98-99/english/panels/hg/papers/hg03056a.htm) LC Paper No. CB(1)1235/98-99(07) (http://www.legco.gov.hk/yr98-99/english/panels/hg/papers/hg03056b.htm) LC Paper No. CB(1)1235/98-99(08) (http://www.legco.gov.hk/yr98-99/english/panels/hg/papers/hg03056c.htm) LC Paper No. CB(1)1796/98-99 (http://www.legco.gov.hk/yr98-99/english/panels/hg/minutes/hg030599.htm)
Council Meeting	20 October 1999	Hansard (http://www.legco.gov.hk/yr99-00/english/counmtg/hansard/991020fe.pdf)

Council/Committee	Date of meeting	Paper
Council Meeting	31 May 2000	Hansard (http://www.legco.gov.hk/yr99-00/english/counmtg/hansard/000531fe.pdf)
Council Meeting	10 January 2001	Hansard (http://www.legco.gov.hk/yr00-01/english/counmtg/hansard/010110fe.pdf)
Housing Panel	5 February 2001	LC Paper No. CB(1)525/00-01(06) (http://www.legco.gov.hk/yr00-01/english/panels/hg/papers/a525e06.pdf) LC Paper No. CB(1)525/00-01(07) (http://www.legco.gov.hk/yr00-01/english/panels/hg/papers/a525e07.pdf) LC Paper No. CB(1)1742/00-01 (http://www.legco.gov.hk/yr00-01/english/panels/hg/minutes/hg050201.pdf)
Housing Panel	16 July 2003	LC Paper No. CB(1)2217/02-03(01) (http://www.legco.gov.hk/yr02-03/english/panels/hg/papers/hg0716cb1-2217-1e.pdf) LC Paper No. CB(1)2217/02-03(02) (English version only) (http://www.legco.gov.hk/yr02-03/english/panels/hg/papers/hg0716cb1-2217-2e-scan.pdf) LC Paper No. CB(1)2459/02-03 (http://www.legco.gov.hk/yr02-03/english/panels/hg/minutes/hg030716.pdf)
Housing Panel	25 March 2004	LC Paper No. CB(1)1361/03-04(01) (http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg0325cb1-1361-1e.pdf) LC Paper No. CB(1)1399/03-04(02) (http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg0325cb1-1399-2e.pdf)

Council/Committee	Date of meeting	Paper
		LC Paper No. CB(1)2029/03-04 http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg040325.pdf