

# 立法會

## *Legislative Council*

LC Paper No. CB(1) 1911/04-05

Ref : CB1/PL/HG

### **Report of the Panel on Housing for submission to the Legislative Council**

#### **Purpose**

This paper gives an account of the work of the Panel on Housing during the Legislative Council session 2004-05. It will be tabled at the meeting of the Council on 6 July 2005 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

#### **The Panel**

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to private and public housing matters. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 18 members, with Hon CHAN Kam-lam and Hon LEE Wing-tat elected as Chairman and Deputy Chairman respectively. The membership list of the Panel is in **Appendix II**.

#### **Major work**

##### Disposal of surplus Home Ownership Scheme flats

4. How the surplus Home Ownership Scheme (HOS) flats, including Private Sector Participation Scheme (PSPS) flats, should be disposed of consequent to Government's policy decision to cease these schemes remained high on the agenda of the Panel throughout the legislative session. The Panel noted that unsold/returned HOS flats and unsold blocks in partially occupied/sold HOS courts would continue to be sold to Green Form applicants as the land grants concerned restricted the use of these flats to HOS purpose only. However, these flats would not be put up for sale as subsidized housing before the end of 2006. Members generally considered such an arrangement a waste of resources since the suspended sale would not only result in

loss of income but also incur substantial costs for maintaining these flats, thereby further aggravating the financial hardship faced by the Housing Authority (HA). In view of the gradual revival of economy, including the property market, and the increased aspiration for home ownership of the public, members called on the Administration to resume sales of unsold/returned HOS flats and unsold blocks in partially occupied/sold HOS courts by phases. Despite repeated requests from members, the Administration still declined to resume early sale of returned and unsold HOS flats on the ground that it was incumbent upon the Government to maintain the integrity of the housing policy. In this connection, the Panel passed the following motion -

“That this Panel urges the Administration to sell the HOS flats under Lists A and B referred to in LC Paper No. CB(1) 190/03-04(03) to Green Form applicants as soon as possible.”

5. The announcement of the plan to demolish and redevelop the Hunghom Peninsula PSPS project by the developer in November 2004 had aroused much public concern, particularly on the possible impact of demolition on the environment. The Panel subsequently held a meeting to discuss the subject, during which members raised questions on how the Government should deal with application for redevelopment/lease modification from the developer, the legal basis upon which the Government could require the payment of additional premium for redevelopment and whether such a requirement could prevent demolition and redevelopment etc. In this connection, the Administration was requested to make public all its correspondence with the developer as well as papers and minutes of internal meetings at which the disposal was discussed. Noting that the Administration only agreed to provide information in accordance with the Code on Access to Information, the Panel passed a motion to recommend to the Legislative Council for the setting up of a select committee to inquire into the Government's sale of Hunghom Peninsula. The Administration subsequently provided the relevant information. In December 2004, the developer announced that it would not proceed with the demolition of Hunghom Peninsula.

#### Divestment of Housing Authority's retails and car-parking facilities

6. In November 2004, the Panel received an update on the progress of divestment of HA's retail and car-parking facilities (RC facilities) through the establishment of a Real Estate Investment Trust (The Link REIT). There was concern that the RC facilities were sold at a low price at the expense of taxpayers' money. The Administration was urged to enhance the transparency of the divestment exercise to facilitate proper monitoring of the process. Questions were also raised on the impact of the divestment on both the financial situation of HA and the staff of the Housing Department (HD). While acknowledging that there would not be any forced redundancy of civil servants as a result of the divestment, and that a scheme had been worked out to assist outgoing contract staff, members remained concerned about the impact of the divestment on stakeholders, such as commercial tenants and

service providers, given that many existing lease conditions were not included in tenancy agreements but governed by HA's policy, which might not be adopted by The Link Management Limited (The Link Management) set up to manage the RC facilities. They urged HA to secure an undertaking from The Link Management to address the existing commercial tenants' concerns on tenancy and rent policies. Consideration should also be given to exempting these tenants from any new arrangements to be introduced by The Link Management. To members' disappointment, the Administration held the view that it was not appropriate to impose any condition on how The Link Management should manage the RC facilities. In this connection, the Panel passed the following motion -

“That this Panel urges HA and The Link Management to jointly discuss with the commercial tenants as soon as possible the specific transitional arrangements, including the tenancy policy, in concrete terms before the listing of the Real Estate Investment Trust , so as to ensure that the commercial tenants will not suffer a sharp increase in rent, or even be forced out of business as a result, thereby saving the residents from having to bear the adverse impact of rising prices, and that HA should put the listing arrangements on hold until a consensus has been reached between The Link Management and the commercial tenants.”

7. Following the application for judicial review of HA's statutory power to divest its assets by two public rental housing (PRH) tenants, HA announced its decision to postpone the listing of The Link REIT in December 2004.

#### Rent policy for public rental housing

8. In mid-2003, the Court of First Instance ruled in favour of the applicants in the judicial review of HA's decision to defer rent review in 2000 and 2001. The Government lodged an appeal against the judgment. In the light of the judgment delivered by the Court of Appeal in November 2004, the Panel called a meeting to discuss the rent policy for PRH during which deputations were also invited to express their views. Members noted with disappointment HA's reluctance to implement any rent relief measures lest this would jeopardize HA's position in future legal proceedings that might arise if the applicants sought appeal to the Court of Final Appeal. In view of the financial hardships as highlighted by the deputations, members urged HA to reduce PRH rents or introduce rent relief measures as soon as practicable irrespective of whether the applicants would appeal further.

#### Financial situation of the Housing Authority

9. The delay in the listing of The Link REIT and the pending proceedings in relation to rent review coupled with the suspension of sale of HOS flats had given rise to concern on how HA could ensure the availability of adequate and stable funding for sustainable development of the public housing programmes. To improve HA's financial situation, some members suggested that HA should resume the Tenants

Purchase Scheme (TPS). Consideration should also be given to early resumption of HOS sales immediately. While there was general support for early resumption of HOS sales, concern was raised on the proposed resumption of TPS lest this would affect the PRH stock and hence the waiting time for PRH. Besides, the management problems relating to TPS had yet to be resolved. The long-term solution would be for the Government to inject fund into HA.

#### Review of income and asset limits for public rental housing

10. Having regard to previous comments made by the Panel and other stakeholders, HA had identified a number of possible areas for examination in relation to the annual review of the Waiting List Income and Asset Limits for 2005-06. These included taking the non-housing expenditure of the second quarter expenditure group for the purpose of calculating the average non-housing expenditure and raising the asset limits for elderly households etc. In February 2005, the Panel received a briefing on the preliminary assessment of the implications of taking on board these suggestions. Members maintained the view that the “second lowest quarter expenditure group” should be used to calculate the average non-housing expenditure. Some members pointed out that following the cessation of HOS sale, households which were marginally ineligible for PRH were now left with no housing assistance since they could not seek housing in PRH. As such, consideration should be given to expanding the eligibility net of PRH to cover these households.

11. Members also agreed to the need to raise the asset limits for elderly households since most elderly had retired and had to rely on savings to meet their daily expenses. They also considered that the provision of housing assistance to the elderly should be pursued from a wider perspective in preparation for the aging of the population. In this connection, HA was urged to review the “property ownership restriction” which barred elderly owner-occupiers of dilapidated properties from applying for PRH to improve their living condition.

#### Housing for senior citizens

12. The Panel received an update on the allocation of Housing for Senior Citizens (HSC) flats. Members noted that HSC was not the preferred choice among elders because they had to share kitchens and bathrooms with other tenants. This had resulted in a relatively high vacancy rate of 16.8% for HSC flats. To make the best use of public housing resources, the Administration had opened up allocation of HSC flats to non-elderly applicants. HSC blocks with high vacancy were also considered for conversion to self-contained rental flats or other beneficial uses, including leasing of HSC in one PRH estate to an operator of residential care home for the elderly, subject to structural and technical feasibility.

13. While agreeing that the need to share kitchens and bathrooms in HSC was rather inconvenient and might give rise to disputes among tenants, some members pointed out that the provision of cleansing and warden services, emergency alarm system and common area in HSC was worth commending. They therefore urged the

Administration to accord greater flexibility in the allocation of HSC such that elders were given a choice of their roommates which would help avoid disputes. Where disputes arose, effort should be made to arrange for transfers as soon as possible. Noting that HSC flats had been included for allocation under the Express Flat Allocation Scheme, members held the view that the offer of HSC flats should not form part of the three-time rule for PRH applicants given the unpopularity of HSC flats.

14. In the light of the Panel's concern about the daily living problems faced by some elderly property owners in dilapidated buildings, HA has decided to put in place a discretionary, ex gratia arrangement allowing them to move into HSC flats on a licence basis under the Compassionate Rehousing Scheme. During their stay in HSC, the elderly property owners can dispose of their property if they wish to apply for PRH.

15. The ex gratia arrangement was discussed by the Panel in March 2005. While appreciating the introduction of the ex gratia arrangement, some members pointed out that some elderly property owners were reluctant to move to HSC flats because they might have difficulty in sharing facilities with other tenants owing to their special needs. Instead of offering HSC flats to elderly property owners, HA should consider relaxing the property ownership restriction so that they could apply for PRH, which was the most direct means of assistance to these elderly property owners. Members also held the view that the Housing Society (HS) should play a role in helping these elderly property owners as part of its social responsibility. They opined that HS should consider acquiring the properties of elderly owners for rent or sale after renovation, the profits from which could be given to the elderly owners concerned to enable them to pay their PRH rents and other living expenses. Consideration might also be given for HS to arrange reverse mortgage for elderly property owners so that they could support their living using the interest generated without the need to apply for Comprehensive Social Security Assistance.

#### Interim Housing

16. The policy on Interim Housing (IH) was discussed by the Panel in November 2004 during which deputations were invited to express their views. It was noted that due to high tenant turnover resulting from faster allocation of PRH, the overall vacancy rate of IH remained high, standing at 43.3% in March 2004. To better utilize the scarce housing resources, some vacant IH flats were converted to PRH flats. Members opined that as incentives to expedite the conversion, consideration should be given to relaxing the three-time rule for PRH applicants who were willing to accept PRH flats converted from IH flats and relaxing the residence requirement in assessing applications for overcrowding relief transfer to these converted flats. They also urged HA to allocate more time for IH residents in selecting PRH flats.

### Facilities and hygiene in public rental housing

17. In November 2004, the Panel received an update on the progress in implementing the Marking Scheme for Tenancy Enforcement in Public Housing Estates, which was introduced in August 2003 in line with the measures to boost hygiene and cleanliness in Hong Kong announced by the Team Clean. Deputations were invited to express their views. Members noted with concern that additional misdeeds, including dripping laundry, accumulation of stagnant water leading to mosquito breeding and water dripping from air-conditioners, had been included under the Scheme following a review. Given that the Marking Scheme could lead to tenancy termination, members held the view that this should only target at life-threatening offences, such as throwing objects from height. Minor offences should be dealt with through improvement of facilities in PRH estates. They also pointed out that the allotment of penalty points for acts which were already subject to fines and even prosecution under different legislation would result in double penalty, which was not fair to PRH tenants, many of whom were helpless elderly people.

### Procurement of services for public rental housing estates

18. Protection of the interests of non-skilled workers employed by HA's contractors remained the concern of the Panel. Despite the introduction of enhancement measures on procurement of services for PRH estates, members held the view that labour exploitation would not cease if contracts were awarded to the lowest tender since contractors were tempted to cut cost at the expenses of workers. Besides, penalties for non-compliance with contract requirements were too light to deter irregularities. To this end, they opined that apart from tender prices, HD should take into consideration the track record of tenderers in awarding service contracts. Tenderers who were willing to pay higher "committed wages" should be given additional scores. Consideration should be given to terminating the contracts if contractors concerned were found guilty of labour exploitation. HD should also step up monitoring of the performance of contractors. Notwithstanding, members were pleased to note that the Labour Department was preparing a standard employment contract for non-skilled workers employed by Government contractors, which was expected to complete in early 2005.

### Clearance of HA's old flatted factory estates

19. The Panel received a briefing on HA's plan to clear five aged and substandard flatted factory estates in phases. As most of the tenants in these factory estates were small business operators, members were concerned that they might have difficulties in finding suitable premises in the private market with comparable sizes and rents to continue their business after clearance of the factory estates. The ex gratia allowance offered by HA was also too low to enable the affected tenants to re-establish business. They might have no choice but to wind up their business. Some members further pointed out that the planned clearance exercise ran contrary to the Government's policy intent of using HA's vacant old factory estates to promote the development of creative industries.

Sales description of overseas and local uncompleted properties

20. The Panel was disappointed at the Administration's decision of not resuscitating proposals to regulate sales brochures for local and overseas uncompleted residential properties as recommended by the Law Reform Commission. Members could not accept that the Administration should rely on the self-regulatory regime implemented by the Real Estate Developers Association of Hong Kong to regulate local uncompleted residential properties. They pointed out that unlike legislation which had sanctions against contravention and malpractice, there was no control over non-compliance of the self-regulatory regime. As regards overseas uncompleted residential properties, members maintained the view that there should be legislation to regulate sales brochures on overseas uncompleted residential properties printed and distributed in Hong Kong. In the event that the overseas properties were a joint venture involving a developer in Hong Kong, the developer concerned should be held responsible for any problems incurred.

Others

21. The Panel was briefed on the water quality in public housing estates, transparency of private sale of local uncompleted residential units, one-person applicants for PRH and development near Choi Wan Road and Jordan Valley.

22. From October 2004 to July 2005, the Panel held a total of 13 meetings.

Prepared by  
Council Business Division 1  
Legislative Council Secretariat  
4 July 2005

**Panel on Housing**

**Terms of Reference**

1. To monitor and examine Government policies and issues of public concern relating to private and public housing matters.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Panel on Housing**

**Membership list for 2004-2005 session**

<b>Chairman</b>	Hon CHAN Kam-lam, JP
<b>Deputy Chairman</b>	Hon LEE Wing-tat
<b>Members</b>	Hon Fred LI Wah-ming, JP Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP Hon James TO Kun-sun Hon CHAN Yuen-han, JP Hon LEUNG Yiu-chung Dr Hon YEUNG Sum Hon Abraham SHEK Lai-him, JP Hon Tommy CHEUNG Yu-yan, JP Hon Albert CHAN Wai-yip Hon Frederick FUNG Kin-kee, JP Hon WONG Kwok-hing, MH Hon Alan LEONG Kah-kit, SC Hon LEUNG Kwok-hung Hon CHEUNG Hok-ming, SBS, JP Hon Patrick LAU Sau-shing, SBS, JP Hon Albert Jinghan CHENG
	(Total : 18 members)
<b>Clerk</b>	Miss Becky YU
<b>Legal Adviser</b>	Mr KAU Kin-wah
<b>Date</b>	8 February 2005