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Panel on Housing
Meeting on 9 May 2006

Background brief
on divestment of Housing Authority's retail and car-parking facilities
(Updated version as at 4 May 2006)

Purpose

This paper provides background information on the divestment of retail and car-parking (RC) facilities of the Housing Authority (HA) and summarizes major discussion on related issues by the Panel on Housing and on other occasions of the Legislative Council (LegCo).

Background for the divestment

2. HA currently holds approximately one million square metres of retail facilities and some 100 000 car-parking spaces, amounting to some 11% and 16% of the market respectively. Divestment of HA's RC facilities was first mooted in 2000, with the objective of enabling HA to focus its resources on its core function as the provider of public housing in Hong Kong. This objective was in line with the direction provided in the Report on the Review of the Institutional Framework for Public Housing published in June 2002, which recommended that HA should progressively divest its non-core assets, i.e. the commercial portfolio (RC facilities).

3. In July 2002, HA appointed a consultant to assess the feasibility of the divestment, recommend the divestment strategy and formulate an implementation proposal. Based on the findings of the consultancy study, the Administration put forward a divestment proposal to the Chief Executive in Council for consideration on 15 July 2003. The Chief Executive in Council decided that HA's agreement be sought to divest its RC facilities, and that the net proceeds from the divestment should entirely go to HA. On 24 July 2003, HA agreed in principle to divest its RC facilities and approved, inter alia, the establishment of the Supervisory Group on Divestment to monitor and steer the divestment project.

Reasons for the divestment

4. The reasons for the divestment, according to the Administration, are two-fold. First, it would enable HA to focus its resources on its core functions as a provider of subsidized public housing. Second, with the cessation of production and sale of Home Ownership Scheme flats, HA lacks a recurrent source of income. HA's cash balance is forecast to decrease from \$22 billion at the beginning of 2003/04 to minus \$5.5 billion by the end of 2005/06. Proceeds from the divestment will help to meet HA's funding requirements in the short term.

Details of the divestment

5. HA agreed to adopt the following broad strategy to take forward the divestment –

- (a) A Real Estate Investment Trust (REIT)¹ structure (The Link REIT) would be established to hold HA's RC facilities to be divested;
- (b) A new company to manage The Link REIT, The Link Management Limited (The Link), would be set up. This company would be beneficially owned by unit-holders of The Link REIT and held in trust by The Link REIT's trustees;
- (c) Initially, HA would assign the cash flow of the RC facilities to The Link and sign a sale and purchase agreement with it in respect of RC facilities. On this basis, The Link would make an initial public offering (IPO) on The Stock Exchange of Hong Kong;
- (d) At a later stage when preparation of relevant land leases were completed, HA would transfer the legal title of the RC facilities to The Link; and
- (e) The Link would pay to HA for the sale of the RC facilities by two installments: a major proportion of the sale amount would be paid immediately after the IPO and the balance would be paid upon the completion of transfer of legal titles.

6. HA also decided that other than a small proportion of the RC facilities which might be unsuitable for divestment because of their poor location, small scale, old age or obsolescent condition, all RC facilities would be divested in one go. The divestment project has included 180 RC facilities.

¹ According to the Code on Real Estate Investment Trusts (REIT Code) issued by the Securities and Futures Commission, a REIT is a collective investment scheme constituted as a trust that invests primarily in real estate with the aim to provide returns to holders derived from the rental income of the real estate. Funds obtained by a REIT from the sale of units in the REIT are used in accordance with the constitutive documents to maintain, manage and acquire real estate within its portfolio.

Listing of The Link REIT

7. The Link was incorporated in February 2004 as a HA wholly owned subsidiary, and it assumed in March 2005 the management functions for the 180 RC facilities to be divested.

8. On 8 December 2004, one day before the closing of the public offering period for The Link REIT, two public rental housing (PRH) tenants filed an application for judicial review of HA's statutory power to divest its asset. The application was first considered by the Court of First Instance (CFI) which ruled that HA did have such a power. One of the two tenants then filed an appeal to the Court of Appeal of the High Court which upheld CFI's ruling. Both Courts had expedited their deliberation process at the request of HA. The tenant later filed an appeal to the Court of Final Appeal (CFA) and refused to accept HA's proposal to expedite the court procedure. As it was not possible for CFA to give a ruling on the matter before the scheduled listing date of The Link REIT, HA announced on 20 December 2004 its decision to postpone the listing of The Link REIT.

9. On 20 July 2005, CFA ruled that HA plainly had the power to divest its RC facilities. HA then announced on 6 September 2005 the decision to re-launch the global offering of units in The Link REIT. On 14 November 2005, an Offering Circular for the re-launched IPO was issued. The Link REIT was subsequently listed on 25 November 2005.

Major concerns expressed by Members

Discussions at Panel meetings

10. The Panel on Housing was first briefed on the divestment project on 3 November 2003, after HA had agreed in principle to divest its RC facilities. Members also received progress up-date on the divestment project and discussed its possible impacts at subsequent meetings held in 2003, 2004 and 2005. Some members expressed reservations about and stated opposition to the divestment project. Their major concerns are summarized in **Appendix I**.

Impact of the divestment on commercial tenants

11. Of particular concern to the Panel on Housing was the impact of the divestment on commercial tenants and service providers of RC facilities. In this regards, the Panel met with 10 deputations coming from the retail, catering, and medical sectors for views on the subject at the meeting on 5 July 2004. A list of concerns and suggestions raised by the commercial tenants are set out in **Appendix II**. In this connection, members considered that The Link should maintain dialogue with the commercial tenants to see how their concerns could be addressed, and that the Administration should play an active role in the process.

12. When the subject was discussed at the meeting of the Panel on Housing on 20 October 2005, members expressed concern about the rent policy and the

rent-setting mechanism of The Link. They considered it necessary for The Link to maintain dialogue with shop tenants to address their concerns about possible rental increases. The Chief Executive Officer of The Link (CEO/The Link) said that rental increase was not the key point of The Link's business strategies as evidenced from the Offering Circular. The Link's primary focus would be on controlling operating costs and improving operational efficiency of the divested RC facilities as set out in the Offering Circular. The Link intended to implement various initiatives aimed at improving the overall commercial attractiveness of, and shopper traffic and tenants' sales at, the divested RC properties, which would in turn enhance their rental potential. Like any landlord, The Link would consider a variety of factors, such as the trades operated by the tenants, the market situation and the rental value of similar premises in the vicinity, when setting rent. The market mechanism would effectively point to any adjustments required to keep the rents at a reasonable level. The Link viewed the shop tenants as an important partner of its business and was keen to maintain communication with them. The Link would pro-actively approach the shop tenants to discuss tenancy renewal before the expiry of their tenancy agreements.

Concerns about the listing of The Link REIT

13. Abnormal price movements on The Link REIT arising from continuous acquisition of substantial units by hedge funds in November 2005 and potential conflict of interest between Mr Paul CHENG's advisor role with Deutsche Bank and his role as the Chairman of the Board of Directors of The Link² had aroused considerable public concern. The Panel on Financial Affairs held a special meeting on 14 December 2005 to discuss the conflict of interest issue and other financial issues related to the listing of The Link REIT. On members' concern about possible conflict of interest between Mr Paul CHENG's two roles, the Administration explained that as Deutsche Bank was not involved in the IPO preparatory work or in providing services to The Link REIT or The Link, the question of conflict of interest between the two roles of Mr CHENG did not arise before the publication of the Offering Circular for The Link REIT IPO. As regards whether Mr CHENG's advisory role with Deutsche Bank had prejudiced decision made by the Board of The Link on allocation of unit to subscribers during the IPO given that Deutsche Bank was among the subscribers, after careful examination of the circumstances of the case, the Administration was satisfied that allocations to subscribers under the IPO had been made objectively and impartially.

14. Members noted that on 11 January 2006, Mr Paul CHENG announced that he would not renew his advisory position with Deutsche Bank upon expiry of the current term on 31 March 2006. The Panel on Financial Affairs further discussed the conflict of interest issue and other financial issues involved in and after the listing of the Link REIT at its meeting held on 3 April 2006.

² Mr Paul CHENG was appointed as the Chairman of the Board of Directors of The Link on 1 April 2005, and was appointed by Deutsche Bank as a Senior Advisor to its Asia Pacific Regional Advisory Board on the same day. Deutsche Bank also acquired substantial units of The Link REIT, amounting to 5.05% as at early December 2005.

Protection of interest of commercial tenants and tenants of public housing estates

15. At the meetings of the Panel on Housing and the Panel on Financial Affairs held on 20 October and 14 December 2005 respectively, concern was raised about how the Administration or HA would protect the interests of the commercial tenants and public rental housing (PRH) tenants after completion of the divestment project. In particular, some members expressed concern on whether there were measures to ensure RC facilities would continue to serve residents of the housing estates, prevent possible joint actions taken by significant holders of The Link REIT to replace the Board of Directors of The Link, sell The link REIT's assets, or demand for higher returns by imposing huge rent increase on the commercial tenants concerned. CEO/The Link assured that The Link would adhere to the guideline of maintaining a large and diversified portfolios of convenience-based RC facilities to continue serving the residents, the visitors and others. According to the Administration, HA had taken into account the multiple layers of protection available to a REIT in designing the structure of The Link REIT with a view to addressing concerns about one or a group of investors acquiring a controlling interest in The Link REIT. Under the REIT Code of the Securities and Futures Commission and/or the Trust Deed of The Link REIT, there are features that may limit the ability of a significant unit-holder from controlling The Link REIT to its advantage beyond what is realized by unit-holders generally. Such features are set out in **Appendix III**. The Administration further advised that, in the divestment of the 180 RC facilities, HA had adopted a fundamental principle that the facilities should continue to be used for retail or car-parking purposes after the divestment. This principle had been incorporated into relevant provisions in the property sale and purchase agreement and in the land leases for the facilities concerned. Any entity owning or controlling those facilities had to comply with those provisions. In other words, any change in the management or control of the facilities would not affect the facilities to be continuously used for retail or car-parking purposes, and would not affect the terms of use prescribed by the applicable land lease.

Discussions at Council meetings

16. Given that the Administration and HA had disregarded the motion passed by the Panel on Housing at the meeting on 22 November 2004, inter alia, to put the listing of The Link REIT on hold, a motion for adjournment for the purpose of discussing the divestment was moved at the Council meeting on 1 December 2004. In view of the far-reaching implications of the Government's privatization plan, including The Link REIT, a motion demanding the suspension of privatization plans was moved at the Council meeting on 1 June 2005. The two motions were negatived. The wordings of the motions are set out in **Appendix IV**.

17. In view of public concern on the divestment of HA's RC facilities, the impacts of the projects on stakeholders, the listing arrangements for The Link REIT, LegCo Members have been monitoring development of the subject through raising questions at the Council meetings during 2004 to 2006. The details are hyperlinked in **Appendix VII**.

Latest developments

18. At the meeting of the Panel on Housing on 3 April 2006, given recent complaints concerning rent increases on commercial premises in shopping centres and markets managed by operators of The Link, members raised concerns about The Link's policies on letting and setting/adjusting rents for commercial tenants, policy on contracting out the management of RC facilities to operators and the monitoring of operators' performance. As the provision and management of RC facilities had great impact on the daily life of PRH tenants, members considered that The Link had the responsibility to ensure proper provision and management of such facilities in meeting tenants' needs. Concern was raised on how The Link would fulfill its corporate social responsibility in this regard. As on the role of the Administration or HA, members held the view that the Administration or HA had the responsibility to provide suitable and adequate RC facilities for PRH tenants. Concern was raised about how the Administration or HA would protect the interest of tenants concerned after divestment of RC facilities. In particular, whether the Administration or HA would consider taking measures in the event that there was mal-functioning in the provision of RC facilities adversely affecting the interest of PRH tenants, and the details of these measures.

19. To address the above concerns, the Panel on Housing decided to invite representatives of The Link and the Administration to its meeting to be held on 9 May 2006 to discuss the provision and management of RC facilities in PRH after the divestment of the facilities by HA.

20. At the Council meeting held on 26 April 2006, Hon Albert CHENG raised a written question on letting of shops and market stalls to single operators by The Link. Details of the question and the Administration's reply are in **Appendix V**.

References

21. A chronology of relevant events is in **Appendix VI**. The relevant papers relating to the subject with their hyperlinks are in **Appendix VII**.

Members' major concerns expressed at meetings of the Panel on Housing

Impact on HA's financial situation

Noting that rental income from the RC facilities was a major source of recurrent income for HA, Panel members were concerned that HA would incur deficit in the long run after divestment of these facilities.

Impact on staff of the Housing Department

2. As the divestment would affect some 650 civil servants, ranging from professionals to front-line officers, currently managing or maintaining the RC facilities, concern was raised on the job security of staff, in particular contract staff in the Housing Department (HD). According to the Administration, a voluntary exit scheme (VES) would be introduced for those who wished to leave the civil service. VES would cover only the 646 departmental grade posts being identified to be surplus to requirement arising from the divestment. Any civil servants working in HD who were in the same ranks as these 646 posts would be eligible to apply, provided that they had more than five years' active service prior to normal retirement and were not subject to disciplinary proceedings. The benefits under the VES would include, inter alia, immediate payment of pension benefits irrespective of whether or not the officer concerned had attained the normal retirement age, but subject to completion of the stipulated minimum qualifying length of service. It was expected that some of the existing staff might be required to support the new company during the initial stage through secondment or service contracts. Staff might also be recruited by the new company given their operational knowledge and experience. Members however remained concerned that the introduction of VES and redeployment of surplus staff might not resolve the problem. They urged the Administration to sort out measures to mitigate impact on the contract staff.

3. At the special meeting of the Panel held on 22 November 2004, members received an update on the latest progress of the divestment. According to the Administration, HD would redeploy surplus staff to other duties such as estate management, and there would not be any forced redundancy of civil servants arising from the divestment. On the progress of VES, the Administration advised that during the two-month application period ending 18 September 2004, 156 civil servants in HD had applied for VES. The Administration later advised that 72 applications were approved and 84 applications were subsequently withdrawn. Among the 72 approved applications, 13 joined The Link. An additional 48 HD staff not eligible for VES had also joined The Link.

4. As regards members' concern about the impact of the divestment on contract staff, the Administration's explanation was that all possible measures had been considered to mitigate the impact. These included introducing more flexible contract terms to enable job sharing and redeploying surplus contract staff to other jobs in HA

as far as possible. A scheme had also been worked out to assist outgoing contract staff to better equip themselves for the job market through training, and to recommend them to prospective employers where appropriate. There had been some successful cases. At the Panel meeting on 20 October 2005, the Administration advised that 44 contract staff had joined The Link.

Impact on commercial tenants

5. Of equal concern to the Panel was the impact of the divestment on stakeholders, such as commercial tenants and service providers. At the Panel meeting on 5 July 2004, 10 deputations coming from the retail, catering, and medical sectors were invited to express views on the subject. Their main concerns included rent increase, security of tenure, continuity of letting/contracting policies, payment of stamp duty, changes in trade mix as well as policies on name change and fire insurance, etc. A list of their concerns and suggestions are set out in **Appendix II**. In this connection, members considered that the new company should maintain dialogue with the commercial tenants to see how their concerns could be addressed, and that the Administration should play an active role in the process.

6. When the subject was again discussed at the Panel meeting on 22 November 2004, members noted the following major requests raised by the Concern Group on Divestment of Housing Authority's Retail and Car-parking Facilities –

- (a) The Link should ensure existing tenants would have priority in renewing their tenancy agreements and be able to opt for contracts of three, six or nine years;
- (b) A transparent and reasonable rent adjustment mechanism linked to the consumer price index be established; and
- (c) An exit clause be included in the tenancy agreements to enable existing commercial tenants to terminate the agreements should they find difficulty in adopting to the new tenancy arrangements introduced after the listing of The Link REIT.

Members called upon HA and The Link to seriously consider the above requests given that many existing lease conditions were not included in the tenancy agreements but governed by HA's tenancy policy, which might not be adopted by The Link having regard to its commercial nature. Some members held the view that HA should secure an undertaking from The Link to accede to the requests, bearing in mind that some of these commercial tenants were resettled to HA's commercial premises as part of the resettlement programme to re-provision shops in cottage areas displaced by previous clearance operations. Consideration should also be given to exempting existing commercial tenants from new arrangements, if any, to be introduced by The Link. According to the Administration, it would not be appropriate to impose any condition on how The Link should manage the RC facilities. Nevertheless, it undertook to convey members' requests and views to The Link for consideration. Not being convinced by the Administration's response, the Panel passed the following motion –

“That this Panel urges the Housing Authority (HA) and The Link Management Limited (The Link) 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 the HA should put the listing arrangements on hold until a consensus has been reached between The Link and the commercial tenants.”

Operation and structure of the new company

7. Members had expressed the following concerns about the operation and structure of the new company –

- (a) There was a possibility of monopoly or oligarchy of the RC facilities by a limited number of big corporations which had sufficient financial strength to buy up all the shares of the new company;
- (b) If HA did not retain any share in the new company, it would not have any role to play in its management to ensure continuity of tenancy policy;
- (c) The new company should have a proper corporate structure to ensure that it would not be controlled by a few persons and the terms of its board of directors would not be extended indefinitely; and
- (d) After divestment, the RC facilities would be operated fully on a commercial basis. The new company would be more ready to increase rents and the burden of which would eventually be passed onto consumers in terms of higher prices for goods and services.

Transparency of the divestment exercise

8. Members stressed the need to enhance the transparency of the divestment exercise, which in their view was important to facilitate proper monitoring of the process and to assure the commercial tenants that their interest would not be compromised by the divestment. They however noted with disappointment that the Administration was not able to disclose the listing details prior to publication of the relevant prospectus under the listing regulations.

Valuation of the retail and car-parking facilities

9. There were concerns that the RC facilities were sold at a low price at the expense of taxpayers' money. A member was sceptical that HA had deliberately under-estimated the full market value of the RC facilities in order to get a higher yield for investors. Another member cast doubt on the credibility of the valuation, which according to him, was conducted behind closed doors. Besides, one of the personnel

involved, namely the Chief Executive Officer of The Link Management, had a notorious track record and questionable integrity. He considered that the Panel should not accept the HA's divestment plan until specific details on the valuation and relevant arrangements were available. The Administration's explanation was that according to legal advice, disclosure of the valuation details would be problematic in the light of local and overseas listing regulations.

(Source: Extracts from the background brief prepared by the Legislative Council Secretariat LC Paper No. CB(1)62/05-06(01))

**Major concerns and suggestions raised by commercial tenants
on divestment of retail and car-parking facilities
of the Housing Authority**

1. Rental policy

- 1.1 Rental increase by MgtCo for pursuit of higher profits?
- 1.2 Possibility of rent review on a three-year cycle, in accordance with Consumer Price Index (CPI) movements?

2. Various tenancy terms

- 2.1 Continue with the existing arrangement, including those for -
 - (a) air-conditioning charges;
 - (b) management fees (of which the rent is inclusive);
 - (c) rent deposit (ie generally two-months' rent, in cash and / or bank guarantee);
 - (d) exemption from stamp duty payment;
 - (e) area of letting being expressed in Internal Floor Area, instead of Gross Floor Area;
 - (f) negotiation mechanism on rental levels; and
 - (g) termination of tenancy
- 2.2 As a comfort to sitting commercial tenants -
 - (a) Will they be eligible (or enjoy priority) for tenancy renewal? [Note : Some groups have asked for tenancy renewal up to 9 years.]
 - (b) Alternatively, will the tenancy period for these tenants be extended (say, to 5 years)?
 - (c) Will MgtCo be prohibited from exercising "early termination" provision against these tenants?
- 2.3 Any one-off and unconditional waiver for the so-called "conspired sub-letting"?

- 2.4 Any ex-gratia payment (and, for those let on premium tender, return of premium) to those opting to move out, or those with tenancies not renewed by MgtCo?
- 2.5 Insurance against damage to the premises (by fire and other perils such as typhoon and flood) continues to be provided at the cost of the landlord?
- 2.6 Arrangement for commercial tenants benefited from the 2001 Rent Assessment Exercise, bearing in mind that the lower rent assessed under the exercise will expire by end of October 2004?
- 2.7 Arrangement for rent relief measures such as "rent adjustment" for new estates with slow population intake?

3. Trade mix

- 3.1 Continue with the existing trade mix to avoid unhealthy competition?
- 3.2 Prospect for MgtCo to minimize vacancy rate by compromising the original trade mix?

4. Interests of small tenants / social responsibility of MgtCo

- 4.1 How to protect the interest of small tenants?
- 4.2 How to avoid monopoly / oligarchy of RC facilities by individual operators (especially those of big names)?
- 4.3 More fundamentally, how to avoid MgtCo being "taken over" by large corporations?
- 4.4 Given MgtCo's priority to financial returns, how to ensure its social responsibility (e.g. provision of healthcare services) and commitments to the tenants?
- 4.5 Will MgtCo sell off RC properties under its portfolio, as they have an incentive to do so in respect of those with low return rate?
- 4.6 Will HA retain a certain degree of control over the operation of MgtCo after divestment?

5. Maintenance / repair cost

- 5.1 Will the MgtCo take up the cost of maintenance / repair services?
- 5.2 Will the MgtCo cut the budget for maintenance / repair services for these properties given their low return rate?

6. Communication channels with tenants

- 6.1 Any channel for commercial tenants to monitor the transitional arrangement?
- 6.2 Any consultation / communication mechanism between the MgtCo management and the commercial tenants?
- 6.3 Any appeal mechanism on MgtCo's decision in future? Any mechanism to monitor its policy (e.g. rental policy) and operation?
- 6.4 Will commercial tenants be represented on MgtCo's board of directors?

7. Operational management

- 7.1 Small tenants against a wider use of the single-operator system, but this is advocated by the existing "single operators".
- 7.2 Continue with the existing policy of out-sourcing carpark management to outside companies?
- 7.3 Ability for MgtCo to take up at once the management of a massive portfolio of RC facilities?
- 7.4 Will estate common areas and prohibited zones be clearly carved out to minimize potential management problems after divestment?
- 7.5 Important to ensure a smooth transfer of existing contracts or financial instruments (e.g. letter of guarantee) to MgtCo.

8. Others

- 8.1 Given all the adverse implications of the divestment project on the commercial tenants, will HA defer / call off the project?
- 8.2 Provision of clinic services according to population ratio?
- 8.3 Possible to exclude clinics from divestment, having regard to their social service nature?
- 8.4 Possible for commercial tenants to subscribe for The Link REIT units on a pre-emptive basis?
- 8.5 Possible for sitting tenants to buy their own shops?
- 8.6 Compensation arrangement for redevelopment?

(Source: Annex B to LC Paper No. CB(1) 2291/03-04(08) provided by the Administration)

Features under the REIT Code of the SFC and/or the Trust Deed of The Link REIT

- (a) The Link REIT's key business must be to invest in real estate which will generally produce sustainable income. It cannot engage in property development or speculative investments. If The Link REIT wishes to sell a property within two years of its acquisition, the sale must be approved at a general meeting of unit-holders by a special resolution¹.
- (b) No unit-holder has a right to require that any assets of The Link REIT be transferred to him. A significant holder² and its related parties are prohibited from voting their units or being part of a quorum for any meeting of unit-holders convened to approve any matter in which the significant holder has a material interest in the business to be conducted.
- (c) If The Link REIT is terminated, its real estate assets must be disposed of under the oversight of the Trustee by either public auction or open tender. Proceeds from the disposal will then be distributed to all unit-holders according to provisions of the Trustee Deed.
- (d) There is no provision which compels minority unit-holders to sell their units to any significant unit-holder.
- (e) Under the REIT Code, the Manager is required to distribute to unit-holders as dividends each year at least 90% of the audited annual net income after tax of The Link REIT.
- (f) The gearing ratio of The Link REIT cannot exceed 45% of its gross asset value.

¹ The passing of a special resolution requires a quorum of two or more unit-holders holding at least 25% of all units in issue.

² Under the Trust Deed, a significant holder means a person who owns 10% or more of the units in issue.

Wordings of motions negated at Council meetings

Wordings of motion negated at Council meeting on 1 December 2004

“That this Council do now adjourn for the purpose of enabling Members, having regard to the Administration’s and the Housing Authority’s disregard for the motion passed by the Panel on Housing of this Council at its special meeting on 22 November this year that the Housing Authority should put the listing arrangements for The Real Estate Investment Trust (“The Link REIT”) on hold until a consensus has been reached between The Link Management and the commercial tenants, to debate and express opinions on the listing and public offering arrangements, evaluation of assets and all matters relating to the divestment of retail and car-parking facilities in public rental housing estates in respect of The Link REIT.”

Wordings of motion negated at Council meeting on 1 June 2005

“That, as the Government’s recent public asset privatization plans, such as the listing of The Link Real Estate Investment Trust, the privatization of the Airport Authority Hong Kong, and the proposed merger of the two railway corporations, have aroused public concerns, and such plans involve issues of whether the implementation of privatization is beneficial to the community as a whole and whether it will affect people’s livelihood and widen the disparity between the rich and the poor, etc, this Council demands that the Government should act prudently and suspend the privatization plans concerned and that, before the implementation of any public asset privatization plans, ad hoc committees comprising representatives from various sectors of the community should be set up to comprehensively and thoroughly assess and study their cost-effectiveness, return, legality and impact on the general public, etc and, based on the findings of such assessments and studies, conduct full and extensive consultations; furthermore, the Government should ensure that any privatization plan which involves the public interest is for the benefit of the general public and must be subject to public scrutiny.”

Written question raised by Hon Albert CHENG on letting of shops and market stalls to single operators by The Link at the Council meeting on 26 April 2006

Question:

Regarding The Link Management Limited's ("The Link Management") letting the shops in shopping arcades and market stalls in public housing estates by batches to Single Operators, will the Government inform this Council:

- (a) whether it knows if The Link Management has imposed any restrictions on the rate of increase in the rentals of market stalls to be introduced by Single Operators when the relevant tenancies expire this year;
- (b) given that Single Operators were required by the Housing Authority ("HA") to let shops or market stalls according to the designated mix of trades, as well as designate the permitted types of trade for each shop/stall, whether the Administration has required The Link Management to impose the same requirements on its Single Operators; and
- (c) given that HA had offered rent concessions to sub-tenants through Single Operators during economic downturn in the past few years, whether it knows if the same arrangements will still be adopted by The Link Management?

Reply by the Administration:

Upon public listing of The Link Real Estate Investment Trust on November 25, 2005, the Link Management Limited (The Link) has become a private entity, whose business strategies and day-to-day operations are entirely independent of the Housing Authority. After the divestment, so long as The Link's operations comply with prevailing legislation, conditions of government leases, and terms of covenants and agreements made between The Link and the Housing Authority, the Government and the Housing Authority cannot intervene. There is no need for us to be apprised of the business relationships and contractual agreements between The Link and its tenants, nor should we ask The Link to implement any measures to manage its commercial facilities.

Appendix VI

Divestment of Housing Authority's Retail and Car-parking Facilities

Chronology of events

Date	Event
15 July 2003	The Chief Executive in Council approved the divestment plan
24 July 2003	HA approved the divestment plan
31 October 2003	HA announced appointment of Global-Coordinator and advisers to assist in the divestment plan
3 November 2003	Meeting of the Panel on Housing to discuss divestment of HA's RC facilities
1 December 2003	Meeting of the Panel on Housing to discuss divestment of HA's RC facilities
9 December 2003	HA's Supervisory Group on Divestment met with commercial tenants
December 2003	The Administration met with staff unions and staff of the Commercial Properties Sub-division to exchange views
February 2004	Incorporation of the Link Management
21 April 2004	HA appointed Chief Executive Officer and Chief Financial Officer of the Management Company
21 April 2004	The Administration announced the voluntary exit scheme for Housing Department staff affected by the divestment plan
3 May 2004	Meeting of the Panel on Housing to discuss the progress of divestment of HA's RC facilities
5 July 2004	Meeting of the Panel on Housing to listen to views of deputations on the divestment

Date	Event
22 November 2004	Meeting of the Panel on Housing to discuss the progress of the divestment
25 November 2004	The Administration went ahead with the listing arrangements and published the offering circulars of The Link REIT
1 December 2004	Motion for adjournment for the purpose of discussing the divestment moved and negated at the Council meeting on 1 December 2004
8 December 2004	An application for judicial review which challenged the HA's power to divest its property was filed by two PRH tenants one day before the public offering period for The Link REIT closed
20 December 2004	HA announced its decision to postpone the listing of The Link REIT
1 June 2005	A motion demanding the suspension of privatization covering the Link REIT was moved at a Council meeting and negated
20 July 2005	The Court of Final Appeal ruled unanimously that HA had the power to divest its RC facilities
6 September 2005	HA announced the decision to re-launch the global offering of units in The Link REIT
20 October 2005	Meeting of the Panel on Housing to discuss the latest progress on the divestment of HA's RC facilities
25 November 2005	The Link REIT was listed in The Stock Exchange of Hong Kong
14 December 2005	Special meeting of the Panel on Financial Affairs to discuss financial issues related to the listing of The Link REIT
3 April 2006	Meeting of the Panel on Financial Affairs to discuss the conflict of interest issue and other financial issues involved in and after the listing of The Link REIT

Divestment of the Housing Authority's Retail and Car-parking Facilities

List of relevant papers

Council/Committee	Date of meeting	Paper
Housing Panel	14 January 2003	Minutes http://www.legco.gov.hk/yr02-03/english/panels/hg/minutes/hg030114.pdf
Council Meeting	2 April 2003	LegCo question http://www.legco.gov.hk/yr02-03/english/counmtg/hansard/cm0402ti-translate-e.pdf
Housing Panel	3 November 2003	File Ref: HD(CR)/(CS) Div/DV/3 http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg1103cb1-hplb-e.pdf LC Paper No. CB(1)190/03-04(04) http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg1103cb1-190-4e.pdf LC Paper No. CB(1)190/03-04(05) http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg1103cb1-190-5e.pdf LC Paper No. CB(1)438/03-04(03) http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg1201cb1-438-3e.pdf Minutes http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg031103.pdf

Council/Committee	Date of meeting	Paper
Housing Panel	1 December 2003	LC Paper No. CB(1)438/03-04(03) http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg1201cb1-438-3e.pdf Minutes http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg031201.pdf
Housing Panel	3 May 2004	LC Paper No. CB(1)1638/03-04(03) http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg0503cb1-1638-3e.pdf Minutes http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg040503.pdf
Establishment Committee	16 June 2004	EC(2004-05)9 http://www.legco.gov.hk/yr03-04/english/fc/esc/papers/e04-09e.pdf
Housing Panel	5 July 2004	LC Paper No. CB(1)2291/03-04(07) http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg0705cb1-2291-7e.pdf LC Paper No. CB(1)2291/03-04(08) http://www.legco.gov.hk/yr03-04/english/panels/hg/papers/hg0705cb1-2291-8e.pdf Minutes http://www.legco.gov.hk/yr03-04/english/panels/hg/minutes/hg040705.pdf

Council/Committee	Date of meeting	Paper
Council meeting	20 October 2004	LegCo question (http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm1020ti-translate-e.pdf)
Housing Panel	22 November 2004	LC Paper No. CB(1) 276/04-05(01) (http://www.legco.gov.hk/yr04-05/english/panels/hg/papers/hg1122cb1-276-1e.pdf) LC Paper No. CB(1) 276/04-05(02) (http://www.legco.gov.hk/yr04-05/english/panels/hg/papers/hg1122cb1-276-2e.pdf) LC Paper No. CB(1) 1025/04-05(01) (http://www.legco.gov.hk/yr04-05/english/panels/hg/papers/hg1122cb1-1025-1e.pdf) Minutes (http://www.legco.gov.hk/yr04-05/english/panels/hg/minutes/hg041122.pdf)
Council meeting	1 December 2004	Motion debate (http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm1201ti-translate-e.pdf)
Housing Panel	3 January 2005	Minutes (http://www.legco.gov.hk/yr04-05/english/panels/hg/minutes/hg050103.pdf)
Council meeting	5 January 2005	LegCo question (http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0105ti-translate-e.pdf)
Financial Affairs Panel	19 January 2005	Minutes (http://www.legco.gov.hk/yr04-05/english/panels/fa/minutes/fa050119.pdf)

Council/Committee	Date of meeting	Paper
Housing Panel	21 January 2005	Minutes (http://www.legco.gov.hk/yr04-05/english/panels/hg/minutes/hg050121.pdf)
Council meeting	26 January 2005	LegCo question (http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0126ti-translate-e.pdf)
Council meeting	2 March 2005	LegCo question (http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0302ti-translate-e.pdf)
Council meeting	25 May 2005	LegCo question (http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0525ti-translate-e.pdf)
Council meeting	1 June 2005	Motion debate (http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0601ti-translate-e.pdf)
Housing Panel	21 June 2005	LC Paper No. CB(1) 1787/04-05(05) (http://www.legco.gov.hk/yr04-05/english/panels/hg/papers/hg0621cb1-1787-5-e.pdf)
Housing Panel		LC Paper No. CB(1) 2256/04-05(01) (http://www.legco.gov.hk/yr04-05/english/panels/hg/papers/hgcb1-2256-1-e.pdf)
Housing Panel	20 October 2005	LC Paper No. CB(1) 62/05-06(03) (http://www.legco.gov.hk/yr05-06/english/panels/hg/papers/hg1020cb1-62-3-e.pdf) LC Paper No. CB(1) 62/05-06(01) (http://www.legco.gov.hk/yr05-06/english/panels/hg/papers/hg1020cb1-62-1-e.pdf)

Council/Committee	Date of meeting	Paper
		Minutes (http://www.legco.gov.hk/yr05-06/english/panels/hg/minutes/hg051020.pdf)
Council meeting	9 November 2005	LegCo question (http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1109ti-translate-e.pdf)
Council meeting	16 November 2005	LegCo question (http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1116ti-translate-e.pdf)
Financial Affairs Panel	14 December 2005	LC Paper No. CB(1) 514/05-06(01) (http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/fa1214cb1-514-1e.pdf) LC Paper No. CB(1) 514/05-06(02) (http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/fa1214cb1-514-2e.pdf) LC Paper No. CB(1) 514/05-06(03) (http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/fa1214cb1-514-3e.pdf) LC Paper No. CB(1) 532/05-06(01) (English version only) (http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/fa1214cb1-532-1e.pdf) Minutes (http://www.legco.gov.hk/yr05-06/english/panels/fa/minutes/fa051214.pdf)
Housing Panel		LC Paper No. CB(1) 815/05-06(01) (http://www.legco.gov.hk/yr05-06/english/panels/hg/papers/hgcb1-815-1-e.pdf)

Council/Committee	Date of meeting	Paper
Council meeting	8 March 2006	LegCo question (http://www.legco.gov.hk/yr05-06/chinese/counmtg/floor/cm0308ti-confirm-c.pdf)
Financial Affairs Panel	3 April 2006	LC Paper No. CB(1) 1152/05-06(01) (http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/fa0403cb1-1152-1e.pdf) LC Paper No. CB(1) 1152/05-06(02) (http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/fa0403cb1-1152-2e.pdf) LC Paper No. CB(1) 1179/05-06(03) (http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/fa0403cb1-1179-3e.pdf) LC Paper No. CB(1) 1179/05-06(04) (http://www.legco.gov.hk/yr05-06/english/panels/fa/papers/fa0403cb1-1179-4e.pdf)

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