

立法會 *Legislative Council*

LC Paper No. CB(1)1859/05-06

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 2005-06. It will be tabled at the meeting of the Council on 12 July 2006 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 20 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

Divestment of Housing Authority's retail and car-parking facilities

4. The divestment of Housing Authority (HA)'s retail and car-parking facilities (RC facilities) through the establishment of The Link Real Estate Investment Trust (The Link REIT) remained high on the agenda of the Panel throughout the legislative session. Following HA's announcement to re-launch the Initial Public Offer (IPO) of The Link REIT, the Panel called a special meeting to receive an update from The Link Management Limited (The Link) and the Administration on the progress of the divestment exercise. While some members expressed support for the divestment project, some members had reserved their position. Concern was raised about selling RC facilities at a low price at the expense of taxpayers' money. Given that HA

would not retain any equity in The Link REIT, members remained concerned about the impact of the divestment on commercial tenants and service providers. Questions were raised about the rent policy and rent setting mechanism of The Link. Members urged The Link to maintain dialogue with shop tenants to address their concerns about possible rent increases.

5. The divestment project was completed with the public listing of The Link REIT in November 2005. However, complaints concerning huge rent increases on commercial premises in The Link's shopping centres and markets, as well as management problems of operators engaged by The Link have aroused considerable public concern. While acknowledging that The Link had become a private entity, given that the provision and management of divested RC facilities had great impact on the daily life of public rental housing (PRH) tenants, the Panel considered The Link had a corporate social responsibility to ensure proper provision and management of such facilities in meeting tenants' need. It was also the responsibility of the Administration or HA to ensure suitable and adequate RC facilities were provided to PRH tenants as stipulated in the Housing Ordinance (Cap. 283) (HO). The Panel therefore invited representatives from The Link to discuss issues concerning its rent setting policy and rent adjustment mechanism and how it would continue to serve PRH residents. To members' disappointment, The Link had declined the Panel's invitation. As such, the Panel passed the following motion:

(Translation)

“That, given that Mr Paul CHENG Ming-fun, Chairman of The Link Management Limited (The Link), and Mr Victor SO Hing-woh, Executive Director and Chief Executive Officer of The Link, have refused to attend meetings of the Legislative Council (LegCo) for discussion of issues under their purview, this Panel proposes that the above officers of The Link and the public officers concerned be invited again to attend a meeting of this Panel, and if the above officers of The Link still refuse to attend the meeting, this Panel further proposes that the power conferred under the Legislative Council (Powers and Privileges) Ordinance be exercised to summon the above officers of The Link and the public officers concerned to attend the meeting of LegCo.”

6. Announcement of The Link's plan to re-group its property management contracts and change the manpower arrangement for the management of RC facilities have spurred grave public concern about the impact on non-skilled workers engaged by The Link's contractors. A joint meeting of the Panel and the Panel on Manpower was held in June 2006 with representatives from The Link and the Administration to discuss matters relating to the provision and management of divested RC facilities and protection of interests of non-skill workers engaged in services contract out by The Link. At the joint meeting, members expressed deep disappointment about huge rent increases by The Link on its commercial premises, which might force small businesses to close and have negative impact on consumers who were mainly PRH

tenants. Despite The Link's claim that there had been increase in patronage and shoppers' traffic in the majority of its shopping centres, members were not convinced and urged The Link to honour its previous undertaking of enhancing the overall commercial attractiveness of retail properties before considering rent increases on the commercial properties. Consideration should be given to providing parking privileges at shopping centres with low patronage to promote business therein. Members also called on The Link to continue with the concessionary rent arrangement for welfare facilities, such as clinics, to meet the needs of PRH tenants; and temporary use of venues by non-profit making bodies for holding community activities. Regarding the protection of interests of non-skill workers engaged by The Link's service contractors, members expressed grave concern about The Link's plan to reduce some 1 400 jobs and called upon The Link to ensure reasonable working conditions and level of wages for these workers. The Link was urged to strengthen monitoring of its contractors to stop labour exploitation, and adopt the Government's practice of only engaging service contractors who offered wage rate for non-skilled workers not lower than the average monthly wages for the relevant industry/occupation as published by the Census and Statistics Department. In this regard, The Link stressed its commitment to providing better service to customers and PRH tenants, and protecting the interests of non-skilled workers. It also undertook to follow up on the various complaints and closely monitor its contractors.

Rent policy for public rental housing

7. In November 2005, the Court of Final Appeal (CFA) ruled in favour of HA in respect of its decision to deter rent reviews in 2000 and 2001. CFA's ruling also confirms that HA is not under a statutory duty to ensure that the median rent-to-income ratio (MRIR) does not exceed 10% at any time. The Administration considers CFA's judgement underlines the importance of identifying a viable rent adjustment mechanism to promote the long term sustainability of PRH programme. HA published the Consultation Paper on Review of Domestic Rent Policy (the Consultation Paper) in early March 2006 to seek public views on proposals for improving the policy and adjustment mechanism of domestic rents of PRH. Given the wide public concern on the Consultation Paper and the far-reaching implication of the proposals on the community, after the Panel received a briefing from the Administration, it held a series of meetings in April and May 2006 with deputations to hear their views on the Consultation Paper. The Panel met with a total of 30 deputations including academics and received 21 written submissions from them.

8. On the whole, the Panel considered the proposal of introducing a rent adjustment mechanism with reference to movements in the consumer price index (CPI) or tenants' household income would better measure tenants' affordability. However, it also noted the grave concern expressed by a number of deputations that proposals in the Consultation Paper, such as measures to improve the compilation of MRIR and introducing exclusive rents, were means to pave the way for HA to increase rents. Members urged the Administration to examine the proposals carefully to avoid creating unfairness to certain sectors of PRH tenants, as such those receiving

Comprehensive Social Security Assistants. Some members shared this view and requested HA to reduce PRH rent first by 10% to 20% to keep in line the decline in tenants' household income in the past few years before reviewing the rent adjustment mechanism. The Administration re-iterated the importance of establishing an objective, clear, viable, better reflect tenants' affordability mechanism that would allow both upward and downward rental adjustment alongside examining the issue of how the current rents should be adjusted. On the suitable rent level upon which the new mechanism should operate, the Administration maintained an open mind and welcomed public views. As the Administration did not undertake to reduce PRH rents, the Panel passed the following motion:

(Translation)

“That this Panel requests the Housing Authority to immediately accept the Panel’s view that rent reduction should be introduced first, followed by a review of the rent adjustment mechanism.”

9. The lack of an express indication in the Consultation Paper of the need to amend the HO had given rise to suspicion from members and deputations that the Government would bypass the Legislative Council and the existing HO and introduce a rent increase through administrative means. Members stressed the importance to implement the various proposals in a sound and fair basis. In particular, they called upon the Administration to make suitable amendments to the HO for establishing a rational and sustainable rent adjustment mechanism.

10. The proposal of implementing differential rents in PRH flats taking into account of factors such as floor level, views and orientation had sparked off wide public concern. Whilst the proposal aimed at better reflecting the rental value of different units and providing greater choice to tenants, deputations and members did not support the proposal on concerns about the labeling effect on poor tenants, the negative impact on social stability, and the high administrative costs involved. There was also reservation about the suitability of introducing market principles in determining PRH rents. The Panel was pleased to note the Administration would consider all the concerns before making a decision on the matter including the suggestion to reduce rents for flats in unpopular locations or vacated for a long time so as to reflect their rental values and improve the letting rate.

Disposal of surplus Home Ownership Scheme flats

11. While the Government maintains its policy of indefinitely ceasing production of HOS flats, how the surplus Home Ownership Scheme (HOS) flats, including Private Sector Participation Scheme (PSPS) flats, should be disposed of remains a major concern of the Panel. The Administration consulted the Panel on the proposed arrangements for disposing of 16 633 surplus HOS/PSPS flats through sale as subsidized housing in phases from 2007 onwards within a period of three years. To provide flexibility in the sale programme and to meet the housing needs of people affected by clearance programmes, members suggested consideration be given to

adjusting the split ratio between Green Form and White Form applicants and extending the priority to clearees affected by the Urban Renewal Authority and the Hong Kong Housing Society so as to facilitate urban renewal. The Administration agreed to consider the suggestions in the light of the actual take-up situation in the sale programme. Some members expressed concern that the cessation of buyback arrangement for the surplus HOS flats would dampen the interest of low-income group in buying the flats and might encourage speculation as buyers who brought the flats at discounted prices could sell them in the open market immediately for profiteering. The Administration assured members that while buyers of the surplus HOS flats could sell the properties in the market sooner than before, they had to pay the premium before doing so. As such, the cessation of buyback arrangement should not result in speculative activities in the property market.

12. Given that the surplus HOS flats had been left vacant for a long time after their completion, members considered it was the Administration's responsibility to ensure the flats were up to a reasonable standard before sale. To protect the interests of prospective buyers, members further suggested to provide longer defect liability period (DLP) and structural safety guarantee (SSG) for the flats concerned. The Administration assured members that Housing Department (HD) would carry out defect rectification and maintenance programme at the surplus HOS flats before the roll out of the sale programme and a DLP of one year would be provided which was in line with the normal practice in the private market where flats had been left vacant for a long time before sale. To address the concern about SSG for the flats, the Panel noted that for unsold HOS blocks/developments, HA would offer a ten-year SSG which was counted from the first sale of the unsold blocks. For HOS projects in Tin Shui Wai, SSG would be extended to 20 years.

13. To ascertain the quality of the surplus HOS flats, the Panel conducted a visit to two surplus HOS/PSPS developments in February 2006. Members who joined the visit generally considered the conditions of the flats satisfactory.

Review of income and asset limits for public rental housing

14. The Panel noted that the methodology for setting the Waiting List asset limits, which was introduced in 1998, pegged the limits to the expenditure required for renting private units comparable to PRH for six years. The reference to six years' rentals was adopted mainly to take account of the average waiting time for PRH prevailed at the time. This methodology had been criticized for lacking a coherent and scientific foundation. The shortening of the average waiting time from six years to around two years now had further eroded the original basis of the existing methodology. HA had therefore examined possible options to improve the methodology for setting the asset limits. These included deriving the limits based on the total household expenditure of the applicants, pegging the limits at certain times of the income limits, and adopting the current limits as the basis for future adjustments with reference to movements in CPI(A) over the year.

15. The Panel was briefed on the review of income and assets limits for 2006-07. Given that CPI(A) was a broader-based price indicator as compared to rental index, HA decided to improve the methodology for setting assets limit by adopting the current asset limits as the basis for future adjustments with reference to movements in CPI(A) over the year. While members opined that the new methodology would provide a more practical and transparent review mechanism, they cautioned that the new methodology should not result in major deviations in the limits from the current levels which were on the whole accepted by the community. As for the income limits, some members considered the average increase of 2.7% had failed to reflect the prevailing socio-economic conditions of the low-income households. HA was urged to take into account households' affordability for private housing and the prevailing socio-economic circumstances in setting the income limits to ensure that the derived limits would reflect a reasonable standard of living and a reasonable quality of accommodation for applicants.

Management of public housing construction projects

16. As a result of the contractor's failure to deliver according to contracts, HA re-entered into three PRH construction sites in February 2006. Due to the resultant delay in completing Shek Pai Wan Estate Phase 2, which was the reception estate of Wong Chuk Hang (WCH) Estate redevelopment, the Panel met with affected residents groups to understand their concerns. The Panel urged the Administration to take concrete measures to address residents' concerns about the hygiene, security and shopping problems and liaise closely with them to follow up their concerns and requests. In this regards, the Administration had taken on board members' views to strengthen security and cleaning services in the estate and explore the feasibility of providing free shuttle bus service to facilitate tenants' shopping activities in Aberdeen. While the Administration had reduced rents for retail facilities in the estate to encourage them to stay, it had not acceded to residents' request for reducing domestic rent having regard to the significant implications. Instead, HD had adopted special arrangements to expedite the delivery of Shek Pai Wan Estate Phase 2 to meet the early re-housing needs of residents and committed to maintaining a satisfactory living environment in WCH Estate.

17. The forfeiture of the three building contracts also caused concerns about HD's project management and site supervision mechanisms. The Administration assured members that professional staff were deployed to supervise the construction of PRH projects and there were resident site staff to closely monitor the day-to-day activities at construction sites to keep track of works progress and quality. Vigorous site monitoring system had facilitated HD in identifying problems in the three building contracts promptly and taking the re-entry action at the earliest possible opportunity. Members were keen to ensure HD would not compromise works quality in expediting the uncompleted works in the three projects. The Panel was assured that only HD's listed contractors with consistent outstanding performance would be invited to bid for the completion contracts. To enhance monitoring on the projects, HD would strengthen site management and works inspection.

18. Some members also expressed concern about the problem of wage arrears in the three housing projects and urged HA to step up measures in protecting interests of workers. The Panel noted that HA had implemented enhanced measures to address the problem of wage arrears. These included the payment of wages through designated autopay accounts, monitoring of sub-contract layering, and appointment of Labour Relations Officer(s) to work on sites to check and verify the records of workers in employment, attendance, payment of wages and acknowledgement of receipt of wages.

Hygiene in Housing Authority's residential and commercial premises

19. In the light of operational experience and feedback from the public, HA had further reviewed the Marking Scheme for Tenancy Enforcement in PRH, which was introduced in August 2003 in line with the measures to boost hygiene and cleanliness in Hong Kong announced by the Team Clean. In December 2005, the Panel received an update on the progress in implementing the scheme and discussed improvement measures, which, amongst other, included the inclusion of smoking or carrying a lighted cigarette in public lift and illegal hawking of cooked food as additional misdeeds under the scheme and increasing the penalty for misdeed in relation to throwing of objects from heights. The Panel noted that the scheme had been effective in heightening tenants' sense of responsibility in upkeeping the cleanliness of PRH estates as evidenced by decline in number of related complaints and positive feedbacks from tenants. On the additional misdeed relating to smoking, while acknowledging the need to discourage smoking in public area, members were concerned that enforcement might be a problem and could result in double penalty on residents as it was already an offence under the law to smoke in non-smoking area. In this regard, members noted that HD could rely on closed circuit televisions installed inside lifts and reports' from tenants in enforcement.

20. HA had also implemented a Yellow Line Scheme under the Marking Scheme for Tenancy Enforcement in its markets to deal with obstructions of public areas in 2003. In view of the success of the Yellow Line Scheme and in order to enhance the effective management of HA's markets, HA proposed in April 2006 to expand the Yellow Line Scheme to establish a new Enhanced Marking Scheme (EMS) for commercial premises by incorporating all environmental hygiene related breaches stipulated in the tenancy agreement. Under EMS, points would be allotted for nine types of offence which would be valid for two years. When tenants accrued 16 points, HD would decide to terminate the relevant tenancy. To gauge the views of commercial tenants and Estate Management Advisory Committees of PRH estates, HA commenced a three-month consultation on EMS in May 2006. Members questioned the need to introduce EMS as HD could already enforce hygiene-related clauses in the tenancy agreement for effecting improvements. In the absence of a clear definition in the scope of each offence, members were concerned about ambiguity in enforcement, leading to disputes and complaints from commercial tenants. Moreover, the lack of adequate and proper facilities in HA's markets was

often the cause for commission of the offences under EMS. It would be unfair to penalize tenants, especially the elderly running small stalls for breaching hygiene-related rules. To address concern about strictness of EMS, the Panel called on HD to consider suggestions, including relaxing the two-year validity period of the penalty points, giving warning and written notices for all offences and allowing sufficient time for tenants to make rectification before allotting the penalty points, ensuring consistent enforcement of the scheme in a flexible and understanding manner.

Facilities in and maintenance of public rental housing estates

21. In September 2005, HA embarked on a comprehensive structural investigation programme to ascertain the building conditions of nine aged public housing estates with a view to identifying necessary repair and maintenance works. The Panel received a briefing on the progress of the programme and outcomes of the investigation for two estates in May 2006. The Panel supported HA's decision to demolish So Uk Estate given its dilapidated conditions and undertake repairs works for Sai Wan Estate. In view of the large population of elderly tenants in So Uk Estate, members called for the early set up of Community Service Teams to assist residents in the clearance exercise. HD was also urged to exercise flexibility in making re-housing arrangements, including re-housed affected households in estates in the same or vicinity districts. To address the concern of commercial tenants of So Uk Estate, members noted that rents had already been frozen upon the announcement of the clearance project and would be subject to six-month review to take account of decrease in population in the estate.

22. The Panel supported HA's scheme to install condensation drain pipes for air-conditioners at the external walls of some 330 PRH blocks to address the problem of water dripping from air-conditioners. To effectively tackle the problem, members opined that HD should expedite the installation works and complete the scheme before the target of 2010. HD had also taken on board members' views to accord priority for installation works in estates where the problem of water dripping was more serious or where more complaints were received. Where appropriate, prefabricated drain pipes and gondolas would be used to speed up the installation works. The Panel also welcomed HA's initiative to review whether dripping from air-conditioners should be made a misdeed under the Marking Scheme for Tenancy Enforcement after completion of the installation programme.

23. The Panel discussed HA's proposal of launching the Total Maintenance Scheme in early 2006 featuring in-flat inspection and enhanced services upon tenants' requests for repairs with a view to improving the standard of maintenance within the flats. Members highlighted the needs for HA to take into account factors, such as contractors' track record, alongside tender prices in awarding maintenance contracts, and to enhance its monitoring of contractors for ensuring delivery of quality service to tenants. As regards the concern about responsibility for costs of the internal maintenance of flats, members noted that while HD would bear the costs of

large-scale rectification works and repairs for defects due to normal wear and tear, tenants were required to pay for repair of defects caused by themselves, the requirement of which had been clearly specified in the tenancy.

24. The Panel welcomed HA's initiatives to provide additional support and care services for visually impaired residents in PRH estates, which, amongst others, included provision of tactile guide paths, voice synthesizer and tactile marking and Braille letter on call buttons inside lifts, and enhancement in communication between estate management and visually impaired residents. Given the aging population and the need to care for other types of disabled persons, members urged HA to consider providing suitable access facilities in PRH estates. Consideration should be given to installing lifts in blocks of old estates and outdoor lifts for those situated on slopes. In this regards, members noted that HD had put in place a transfer scheme under which needy tenants with difficulty in staying at the existing estates due to insufficient access would be transferred to other suitable flats.

Procurement of services for public rental housing estates

25. Protection of the interests of non-skilled workers employed by HA's contractors remained the concern of the Panel. The Panel was briefed on HA's enhanced measures on procurement of services for PRH estates. The tightened measures which took effect in May 2006 covered areas of tender evaluation, contract administration and list management and were supported by rigorous monitoring system and education and publicity programme to achieve maximum effectiveness.

26. Members generally indicated support for the tightened measures in order to strengthen the deterrent effect against employment related offences and unscrupulous practices of contractors. Members particularly welcomed the measure to remove contractors with accumulated convictions and demerit points relating to employment related offences from HA's approved lists for a period of five years. Under the measure, registered directors of de-listed contractors would also be blacklisted. Members considered it was the responsibility of the contractors to ensure their sub-contractors did not exploit workers. In this connection, to enhance deterrent effects of the list management measure, members urged HA to consider delisting contractors from the approved lists if their sub-contractors were convicted of employment related offences. Members also held the view that the existing contract requirement of capping the number of part-time workers at no more than three-eighth of the total workforce for each contract (the cap) was too lenient. They urged HA to reduce the cap and consider additional contract requirements to regulate the wages and fringe benefits of part-time workers. The Administration agreed to consider the suggestion relating to the cap with labour unions and trade associations. As education and publicity efforts might not be effective in encouraging workers to report labour exploitation as they were concerned about their job security, the Panel saw the need to protect the identity of workers to ensure their interests would not be jeopardized by reporting on exploitation. Despite the introduction of tightened

measures, members were concerned 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. To this end, they urged HD to closely monitor the service quality of contractors to ensure no deterioration.

Work of the Estate Agents Authority and sales of first-hand residential properties

27. The Panel followed closely issues relating to the regulation of the practice of the estate agency trade. Members met with the representatives of the Estate Agents Authority (EAA) in February 2006 and discussed the latter's work. The Panel supported EAA's work in promoting professionalism of practitioners to help protect the interest of consumers. Noting the surge in number of complaints against practitioners in recent years, members urged EAA to conduct an analysis on the nature of the complaints so as to understand the causes and identity suitable measures to address possible concerns. They also called on EAA to step up action in collaboration with Police and trade associations in maintaining proper order at first-sale sites.

28. Recognizing the importance of providing prospective buyers with accurate property information to make informed decisions, some members urged the Administration to actively look into the feasibility of introducing legislation and setting up a regulatory body to regulate the sale of new residential properties and govern the provision and dissemination of information on residential properties by estate developers and practitioners in order to protect the interests of prospective buyers and prohibit misconduct and malpractices in the trades. However, some members were of the view that there were already legislation governing acts of fraud and misrepresentation involving use of false transaction information. Moreover, the enhanced self-regulatory regime implemented by the Real Estate Developers Association of Hong Kong (REDA) to regulate developers and the joint efforts of the Consumer Council and EAA to publish a checklist for insertion in sales brochures listing out the things that buyers of first-hand residential properties should pay particular attention to and reminding buyers that they should think carefully and make appropriate enquiry before purchasing properties, were sufficient to safeguard consumers' interests. In this regard, the Administration had agreed to follow up with REDA on members' suggestions regarding prompt provision of price list for additional units on offer during first-sale and standardizing the calculation of gross floor area of units, as well as to consider other appropriate measures to strengthen the deterrent effect of the existing mechanism.

Others

29. The Panel was briefed on the review of transfer arrangements for PRH tenants, impact of the relaxation of security of tenure on tenants, directorate establishment of HD, development of district open spaces in Kwai Chung Estate and Sau Mau Ping.

30. From October 2005 to July 2006, the Panel held a total of 16 meetings.

Council Business Division 1
Legislative Council Secretariat
7 July 2006

Appendix I

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.

Appendix II

Panel on Housing

Membership list for 2005-2006 session

| | |
|------------------------|--|
| Chairman | Hon CHAN Kam-lam, SBS, JP |
| Deputy Chairman | Hon LEE Wing-tat |
| Members | Hon Albert HO Chun-yan 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 Dr Hon Joseph LEE Kok-long 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 : 20 members) |
| Clerk | Ms Connie SZETO |
| Legal Adviser | Mr KAU Kin-wah |
| Date | 13 October 2005 |