

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2358/06-07  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/HG/1

**Panel on Housing**

**Minutes of special meeting  
held on Friday, 13 April 2007, at 8:30 am  
in the Chamber of the Legislative Council Building**

- Members present** : Hon LEE Wing-tat (Chairman)  
Hon LI Kwok-ying, MH, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon Fred LI Wah-ming, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon James TO Kun-sun  
Hon CHAN Yuen-han, JP  
Hon CHAN Kam-lam, SBS, JP  
Dr Hon YEUNG Sum  
Hon Abraham SHEK Lai-him, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Hon WONG Kwok-hing, MH  
Dr Hon Joseph LEE Kok-long, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Prof Hon Patrick LAU Sau-shing, SBS, JP
- Member attending** : Dr Hon KWOK Ka-ki
- Members absent** : Hon LEUNG Yiu-chung  
Hon Frederick FUNG Kin-kee, SBS, JP

- Public officers Attending** : Mr Kenneth MAK Ching-yu, JP  
Deputy Director (Corporate Services)  
Housing Department
- Mr Deryk YIM  
Chief Manager / Management (Support Services) 4  
Housing Department
- Attendance by Invitation** : The Link Management Limited
- Mr Victor H W SO  
Chief Executive Officer
- Ms Rachel M S MIU  
Head of Corporate Communications
- Clerk in attendance** : Ms Connie SZETO  
Chief Council Secretary (1)6
- Staff in attendance** : Ms Sarah YUEN  
Senior Council Secretary (1)6
- Ms Michelle NIEN  
Legislative Assistant (1)9
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Action

- I Provision and management of retail and carparking facilities in public housing estates after the Divestment of the facilities by the Housing Authority**
- (LC Paper No. CB(1)1306/06-07(01) -- Submission from The Link Management Limited
- LC Paper No. CB(1)1337/06-07(01) -- Submission from Tsz Wan Shan Centre Market Stall Operators Association
- LC Paper No. CB(1)1337/06-07(02) -- Submission from Tsz Wan Shan Tsz Ching Estate Ching Tak House Mutual-Aid Committee
- LC Paper No. CB(1)1337/06-07(03) -- Submission from The Federation of H.K., KLN. and N.T. Public Housing Estates Resident and Shopowner Organizations

- LC Paper No. CB(1)1337/06-07(04) -- Submission from a public rental housing tenant in Fanling
- LC Paper No. CB(1)562/06-07(03) -- Information paper provided by the Administration for the meeting on 4 January 2007
- LC Paper No. CB(1)562/06-07(08) -- Letter dated 8 December 2006 from the Clerk to The Link Management Limited
- LC Paper No. CB(1)562/06-07(04) -- Submission from The Link Management Limited for the meeting on 4 January 2007
- LC Paper No. CB(1)562/06-07(05) -- Background brief on "divestment of Housing Authority's retail and car-parking facilities" prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)1235/06-07 -- Minutes of meeting on 4 January 2007
- LC Paper No. CB(1)648/06-07(01) -- Submission from Linkwatch on "Provision and management of retail and carparking facilities in public housing estates after the Divestment of the facilities by the Housing Authority"
- LC Paper No. CB(1)648/06-07(02) -- Submission from a general practitioner in private practice on The Link's "One-Stop Medical Zone" Concept
- LC Paper No. CB(1)648/06-07(03) -- Submission from a resident of Wong Tai Sin on The Link's "One-Stop Medical Zone" Concept
- LC Paper No. CB(1)648/06-07(04) -- Submission from a resident of Lam Tin on The Link's "One-Stop Medical Zone" Concept)

Members noted the following submissions tabled at the meeting:

- (a) Submission from the Lion Rock Institute;
- (b) Submission from New Territories Association of Societies;
- (c) Submission from an investor of the Link Real Estate Investment Trust (The Link REIT); and
- (d) Submission from Estates' Restaurants (HK) Merchant Association.

*(Post-meeting note: The above submissions were subsequently circulated to members vide LC Paper No. CB(1)1357/06-07 on 13 April 2007.)*

Briefing by The Link Management Limited

2. At the Chairman's invitation, the Chief Executive Officer/The Link Management Limited (CEO/The Link) briefed members on The Link's submission by highlighting the following points:

- (a) Since the listing of The Link REIT, The Link had been committed to developing its portfolio's optimal potential and attracting more people to the retail and carparking (RC) facilities divested by the Housing Authority (HA). The progress concerned was satisfactory. As a result, for the latest six-month financial results reporting period (ended on 30 September 2006), occupancy rate for The Link's overall portfolio had increased by 1.3% to 92.3% over the preceding reporting period, and approximately 150,000 square feet of previously vacant retail spaces had been taken up by tenants. This had brought more shopping and leisure choices catering for customers' needs and preferences. It was also estimated that at least 800 additional jobs for the neighbourhood had been created by these new businesses opening in The Link's properties. In addition, existing commercial tenants had taken the initiative to make improvements in goods display and service quality to enhance their competitiveness. As a result, all stakeholders, including shoppers, tenants, investors and the community could all benefit from The Link's work;
- (b) As a result of The Link's efforts, some 90 new tenants had opened about 200 shops in the divested facilities. Customers found both the quality and prices of their goods and services satisfactory;
- (c) The Link had successfully rectified the inadequacy of banking service and facilities in the divested facilities. For example, bank branches and ATM machines had been opened and installed at Fu Tai Shopping Centre in Tuen Mun and Yat Tung Shopping Centre in Tung Chung respectively, which did not have any banking facilities in the past;

- (d) In the past year, some 1.6 million vehicles had been attracted to use the car parks at The Link's shopping centres through the introduction of parking promotions. Such promotions had increased the patronage of the shopping centres;
- (e) According to the independent customer opinion survey conducted in March 2007 by The University of Hong Kong, respondents' ratings of shopping and dining choices went up by 18% during the 18 months from September 2005. 88% of the respondents supported The Link's direction of introducing more shopping and dining choices in its properties. Over 60% also said that the prices of goods available from the commercial tenants were affordable. These were encouraging results and The Link would continue to enliven its properties to keep pace with customers' evolving demands; and
- (f) The Link attached great importance to good corporate citizenship and had been pursuing initiatives aiming to serve the community. For example, 8% of The Link's total retail floor area was designated for leasing at concessionary rent by non-profit making organizations. Moreover, The Link also regularly (ranging to about 1 000 hours every month) granted community groups rent-free access to its promotion venues, thereby facilitating them to host a great number of worthwhile community events in its shopping centres. In recognition of such efforts, The Link was recently presented with the "Devoted Sponsorship and Promotion Award" by the Social Welfare Department.

3. Summing up, CEO/The Link undertook to keep up the above efforts, and to continue to enhance the divested facilities to create value for The Link's shoppers, tenants, investors and the community.

### Discussion

#### *The Link's leasing policy and rental increases*

#### Impacts on staff of the commercial tenants

4. Mr WONG Kwok-hing pointed out that despite the creation of 800 additional jobs by new businesses opening in The Link's properties, The Link had refused to renew tenancies with existing tenants which had resulted in closure of many shops, like Fung Tak Lau Seafood Restaurant in Tsz Wan Shan Centre (Fung Tak Lau), leading to unemployment of many workers. He requested The Link to provide the estimated number of jobs lost and created as a result of changes in tenancies of the RC facilities since the listing of The Link REIT. In response, CEO/The Link pointed out that as The Link understood, Fung Tak Lau employed fewer than 200 staff members, and many of them had been employed by the two new restaurants replacing Fung Tak Lau, which together recruited more than 260

staff members. As vacant premises in shopping centres were quickly taken up by other tenants, jobs so created could make up for the jobs lost. Moreover, according to a survey conducted recently, 91% of the respondents found that the choice and quality of food offered by the above two new restaurants were better.

5. Mr LI Kwok-ying expressed concern about The Link's leasing policy, which had placed too much emphasis on profit-making. Mr LEUNG Kwok-hung queried whether the number of jobs created in The Link's properties could really make up for the jobs lost as a result of changes in tenancies, pointing out that many people also lost their jobs because of the contracting out of services by The Link. Mr Tommy CHEUNG added that some of the middle-aged or aged workers of the closed-down restaurants could not find employment in the new restaurants because they might not be able to fit in with their styles.

Impacts on the catering trade

6. Mr Fred LI pointed out that Cantonese restaurants were the centre of attraction in many shopping centres, and asked if the premises vacated by these restaurants would be taken up by other similar style restaurants. CEO/The Link agreed that restaurants played an important role in attracting people to shopping centres, and confirmed that they and other food premises normally took up about 30% to 40% of the retail floor space of The Link's shopping centres. As such, despite changes in tenancy, premises originally let to restaurants would usually not be taken up by other types of shops. However, customers' preference would be essential in determining the types of restaurants in a shopping centre. Traditional large Cantonese restaurants might therefore need to be flexibly split up into a few smaller restaurants offering different cuisines to cater for customers' tastes.

7. Mr LI Kwok-ying highlighted changes in the trade mix of the divested facilities, and expressed concern that Hong Kong style cafes which were popular among Hong Kong people had been forced to close even though the operators were willing to accept rental increase. Pointing out that the objective of improving the trade mix in shopping centres was to offer customers greater choice, he opined that Hong Kong style cafes should be retained in every shopping centre in recognition of the Hong Kong culture they represented. In particular, Mr LI was concerned that as shown in a recent case, the non-renewal of tenancy was to make way for chain fast food shops. In response, CEO/The Link emphasized that every shopping centre under The Link's portfolio had its own identity and every trade mix decision was a commercial decision with due regard to customer needs and objective to enhance the overall patronage of the centre. He believed that small and large shops could satisfactorily co-exist in a shopping centre.

8. Mr Tommy CHEUNG pointed out that despite the need to make adjustment in the sizes and cuisines of restaurants in keeping with the times, unlike The Link, owners of private retail facilities normally encouraged existing restaurant operators to make such adjustment themselves instead of recovering the premises concerned for leasing to other tenants. Existing restaurants were seldom required to be re-located in the same shopping centre when having their tenancies renewed as it

was recognized that restaurant operators had to invest heavily in interior decoration and hence required longer tenancy to recover the investment. Mr CHEUNG then referred to The Link's undertaking to existing restaurants that they would have priority in renewing their tenancies and be able to opt for contracts of three or six years as in HA's days, and urged The Link to honour the undertaking.

9. In response, CEO/The Link confirmed that there was not such an undertaking. The arrangement highlighted was only one of the options which The Link was willing to negotiate with individual restaurant operators on a case-by-case basis in the light of their needs and circumstances. Moreover, instead of just looking at the interests of existing tenants, potential tenants who were keen to rent The Link's premises should be given the opportunity so as to provide better and wider variety of services to shoppers. In fact, while the waiting list for renting The Links' premises was long, many existing commercial tenants were operating more than one shop in The Link's shopping centres. To effect better business for all commercial tenants of The Link's shopping centres, a decision on the positioning of each shopping centre was made according to commercial principles. Changes to the trade mix would then be introduced accordingly to provide customers greater choice, and hence to boost patronage.

10. Miss CHAN Yuen-han, however, stressed the need to conduct thorough consultation with the commercial tenants and customers concerned during the process. For example, customers should be alerted to the possible impacts of the changes, such as the likely increase in the prices of goods and services. As such, Miss CHAN found it undesirable that The Link had arbitrarily conducted asset enhancement works at Tsz Wan Shan Shopping Centre, and the tenancy of Fung Tak Lau had not been renewed to allow the operator an opportunity to consider introducing changes in keeping with the enhancement project. She further pointed out that according to the survey she had conducted, respondents had raised concern about price increases after The Link's asset enhancement projects. In her view, by failing to properly consult stakeholders before adjusting its leasing policy and ensure six-year tenancy for restaurants in line with the prevailing market practice, The Link was in fact worse than operators of private retail facilities.

11. In response, CEO/The Link re-iterated that the renewal of tenancy for restaurants would need to be decided on a case-by-case basis and was a commercial decision. In this regard, regular customer surveys would be conducted to follow up on the prices and quality of the services and goods in The Links' shopping centres in ensuring provision of the best services for the neighbourhood. He further clarified that negotiation with the operator of Fung Tak Lau in fact started at a very early stage.

12. Mr Tommy CHEUNG maintained that The Link had made undertakings to the catering trade regarding minimum six-year tenancy and that it would not consider rental increase on commercial properties before improvements in the business environment and patronage of the properties were seen. In his view, these undertakings were important because firstly, the shopping centres under The Link's portfolio were different from other commercially-operated shopping centres

owing to their unique historical background. Secondly, it was an established practice that restaurants renting HA's premises would automatically get their tenancies renewed at least once in view that HA's standard three-year tenancy was shorter than that offered in the private market. Mr CHEUNG therefore urged The Link to seriously consider renewing the tenancy of existing restaurants at the divested facilities for at least three years in order to allow them sufficient time to recover their investment. In reply, CEO/The Link pointed out that some private shopping centres also offered three-year tenancy for large Chinese restaurants. While The Link had to make efforts to attract more customers to its shopping centres, the commercial tenants themselves also had to make efforts to improve their business.

Impacts on the medical sector

13. Dr KWOK Ka-ki expressed grave concern that both The Link and the Administration had failed to honour the many undertakings they had made before the listing of The Link REIT. According to him, The Link was taking various deplorable measures to force the many long existing clinics in Wong Tai Sin Shopping Centre to relocate to a so-called "Medical Zone" in Lung Cheung Mall. Moreover, while The Link claimed it would listen to the views of both the doctors and the users on the "Medical Zone" concept, preparatory work for the Zone were already actively underway to facilitate early opening of the facility despite objections raised. He was also aware that similar deplorable tricks were played to force a doctor practising in Lok Fu Shopping Centre to move to a remote location of the centre. He therefore questioned whether The Link was giving any regard to the interests of patients and the public.

14. In reply, CEO/The Link pointed out that in the above quoted cases in Wong Tai Sin Shopping Centre, the rents had not been increased for ten years, and despite the proposed increases, the new rents were still below market level. The fees charged by the doctors concerned had however increased by a few times. Regarding the "Medical Zone" concept, he said that consultation with the patients' rights organizations had revealed that the concept was agreeable in consideration of the merits including providing the public with one-stop access to medical, dental and other related services such as laboratory, in a self-contained and integrated service facility with flexible service hours. As to the case referred to in Lok Fu shopping centre, The Link had only reminded the doctor concerned that there would be renovation works in the vicinity of his clinic, and advised that it might be more convenient for him to move to the new location early. While the doctor concerned had found the location inconvenient, many doctors presently not practising in The Link's properties were eager to rent the premises.

Impacts on public rental housing tenants

15. Dr KWOK Ka-ki pointed out that the provision and management of the divested facilities by The Link had aroused much public concern. In particular, despite The Link's claim that it still aimed to serve public rental housing (PRH) tenants, of whom over 30% belonged to the lowest income strata, many PRH

tenants found the services and goods at The Link's shopping centres beyond their affordability after the closure of many small shops. He called on the Administration to play a more active role to improve the above situation.

16. Given that some of The Link's shopping centres were easily accessible to the public, Mr Alan LEONG opined that The Link's target customers were hence not necessarily restricted to PRH tenants. On the other hand, both the Offering Circular for public listing of The Link REIT (the Offering Circular) and the legal proceedings against the divestment exercise had highlighted the need for the divested facilities to continue meeting PRH tenants' shopping needs. Hence it was necessary to ascertain if The Link's present leasing policy could strike a balance between the above, and had not breached the above principle. It was also necessary to provide an objective basis for determining whether PRH tenants could still get the services, or that they were in fact forced to use more expensive services as a result of The Link's asset enhancement exercise. He therefore enquired about the availability of any objective mechanism to ascertain the impacts and acceptability of changes to The Link's leasing policy; and if so, details of the mechanism.

17. In reply, CEO/The Link elaborated that some 90 operators had been attracted to open about 200 shops in The Link's shopping centres in recognition of the spending power of PRH tenants. It was believed that these operators would be keen to offer services and goods which were welcomed by and affordable to PRH tenants. It was therefore market forces that would determine the changes to the operation of and the trade mix in The Link's shopping centres. Shops that catered to the basic needs of customers such as fresh markets and supermarkets, etc. were still available in most shopping centres under The Link's portfolio. Higher rents might not necessarily lead to higher prices of goods and services if the business of shops was good. In fact, according to independent opinion surveys conducted on The Link's shopping centres, many respondents supported the asset enhancement works and found the prices of goods available at the enhanced centres affordable. The Link would make reference to such useful findings when determining the future trade mix of its shopping centres.

18. In response to Mr Alan LEONG's enquiry about the frequency for conducting the opinion surveys, CEO/The Link confirmed that the surveys were conducted regularly, especially after reopening of a shopping centre after completion of the enhancement project. At the Chairman's request, he agreed to provide information on the opinion surveys, in particular those follow-up surveys conducted from time to time to gauge feedbacks of tenants and customers on the enhancement projects.

*(Post-meeting note: The Link's response in this regard was circulated to members vide LC Paper No. CB(1)1774/06-07(01) on 29 May 2007.)*

19. Pointing out that The Link was proceeding to sub-contract and might later consider selling the RC facilities, Mr WONG Kwok-hing enquired whether the Administration or HA had put in place any measure to ensure that The Link would continue to provide suitable and adequate RC facilities for PRH tenants. He also enquired whether the Administration would conduct surveys of its own in monitoring The Link's performance. In response, the Deputy Director (Corporate Services) of the Housing Department (DD of H(CS)) said that competition among shopping centres could help keep the prices of goods and services at The Link's RC facilities affordable. Moreover, since The Link's shopping centres were situated at or close to PRH estates and mainly served PRH tenants, the shops there, big or small, would have to meet the needs and spending pattern of PRH tenants if they were to operate successfully. The Link's shopping centres had to face keen competition from other retail facilities in the neighbourhood. That was why The Link had made great efforts to provide customers with wider and better choice of services.

20. Miss CHAN Yuen-han considered that it was the duty of HA to secure the provision of housing and such amenities ancillary thereto, as well as ensure that such facilities were suitable and adequate for PRH tenants. In her view, The Link's leasing policy, which only focused on raising rental income without giving regard to the interests of tenants and customers, was not consistent with HA's objectives above. She therefore asked how HA would ensure The Link's leasing policy would render the goods and services at the divested facilities affordable to PRH tenants.

21. In this regard, Mr Albert CHAN expressed concern about measures to ensure The Link would fulfil its corporate social responsibility in providing and managing the divested facilities to meet the needs of PRH tenants. He considered that relying on the proximity of the divested facilities to PRH estates would not ensure that the goods and services at the facilities were affordable to PRH tenants, especially after the hedge funds had become the majority unit-holder of The Link REIT (the funds) which aimed at boosting the rental value of the facilities with a view to reaping huge returns within a short time. In his view, it was necessary to check the aggressive practices adopted by the funds. Otherwise the commercial tenants might be forced to take drastic actions to protect their interests, and the Government might be forced to buy back units of The Link REIT as the funds hoped.

22. In response, DD of H(CS) explained that The Link enjoyed full autonomy in managing and operating the RC facilities. So long as The Link's operations complied with prevailing legislation, conditions of government leases, and terms of covenants and agreements made between The Link and HA, the Government and HA could not intervene into The Link's day-to-day management, business strategies and mode of operation. He however re-iterated that market forces would effectively keep the prices of goods and services at a reasonable and affordable level. While the media reported that The Link intended to increase its rents to a greater extent, the actual rental reversion rates was only 8.3% on average during the latest six-month reporting period. The Administration had been monitoring the

changes in the prices of goods and services offered at the divested facilities and had not observed any cause for alarm so far. CEO/The Link added that all investors in The Link REIT hoped The Link REIT could perform well. To achieve that, The Link had to attract more customers to its facilities through asset enhancement work by improving the trade mix and the physical structure. These asset enhancement projects would not only benefit the commercial tenants and The Link but also PRH tenants in the neighbourhood by providing them with a wider range of shopping and dining choices.

Concerns about rental increase

23. Mr WONG Kwok-hing referred to a survey conducted by The Federation of H.K., KLN. and N.T. Public Housing Estates Resident and Shopowner Organizations that over 90% of the respondents who had renewed tenancies with The Link had been forced to pay higher rents. The rate of rental increase ranged from 10% to 30% for over 22% of the renewal cases, and over 96% of the respondents were strongly opposed to the substantial rental increase. He expressed grave concern about The Link's move and requested The Link to provide information on changes in tenancies of the divested facilities since the listing of The Link REIT, including the number of previous tenancies with HA not renewed by The Link. In response, CEO/The Link said that most of the commercial tenants who had not renewed tenancies with The Link had made their decision voluntarily. He also pointed out that there were changes in tenancies of the RC facilities both before and after the divestment. He agreed to provide the above requested information after the meeting.

*(Post-meeting note: The Link's response was circulated to members vide LC Paper No. CB(1)1774/06-07(01) on 29 May 2007.)*

24. In this regard, Mr LEUNG Kwok-hung pointed out that information on The Link's rental increases had not included increases introduced by the single operators of its markets. He further pointed out that the prices of goods and services at Lok Fu Shopping Centre, which many residents of Kowloon Tong patronized, had already gone up as a result of substantial rental increase and were no longer affordable to PRH tenants in the neighbourhood.

25. The Chairman commented that the only improvement he could observe from the divestment was the improvement in banking services and facilities in the divested facilities in remote districts. He recalled that before the divestment, CEO/The Link had estimated that with enhancement in the divested facilities, and efforts in controlling costs, there would be increase in profits without resorting to rental increase. He therefore queried the need for The Link to increase rents, and whether the Board of Directors of The Link (The Link Board) had decided to pursue higher returns.

26. In response, CEO/The Link stressed the need to view The Link's leasing strategy from a wider perspective. Apart from increasing rents and hence income from the divested facilities and controlling operating costs, as stated in the Offering

Circular, The Link had also implemented various initiatives aimed at improving the overall commercial attractiveness of, and shopper traffic and tenants' sales at, the divested facilities, which would in turn enhance their rental potential. For example, various parking promotions had been offered. New restaurants and shops which were more attractive had also been introduced progressively to improve the present problem of low patronage in some shopping centres, especially during night time.

*The security of tenure for tenancies*

27. Mr Albert HO highlighted complaints about cases where The Link had directly issued tenancy termination notices without discussing with the commercial tenants concerned. He enquired whether there were really such cases and if so, the reasons involved. In response, CEO/The Link said that The Link had adopted a flexible leasing strategy in order to attract and retain commercial tenants with a view to enlivening its facilities and improve trade mix. To tie in with implementation of the asset enhancement work, The Link also needed to align the duration of tenancies for tenants where necessary.

28. Mr Albert HO opined out that if the commercial tenants could not effectively respond to customer needs, they could not maintain a viable business. As such, whether tenants could continue to operate in the shopping centres should depend on market forces instead of arbitrary actions of The Link. Moreover, if changes in trade mix were solely made to upgrade shopping centres to suit new clientele, HA might fail to fulfil its duty of securing the provision of suitable and adequate amenities ancillary to housing for PRH tenants. In response, CEO/The Link said that it had already been clearly stated in the Offering Circular that while the divested facilities would still continue to serve PRH tenants in the vicinity, the facilities would be enhanced to attract other residents in the neighbourhood where possible. However, since shoppers at the divested facilities were still mainly PRH tenants, market forces would effectively keep the prices of goods and services affordable to PRH tenants.

29. Mr Albert CHAN opined that tenancy renewal for existing shops in The Link's shopping centres was dependent on its leasing strategy formulated by The Link Board. If the sole objective of The Link Board was to maximize profits, problems would inevitably arise. In this regard, he pointed out that the renewal rate of the RC facilities before the divestment was around 90%. However, as he understood, The Link Board had instructed that the rate be reduced to 65%. Moreover, about 70% of The Link's rental income was generated from some 50 of its well-patronized shopping centres. As a result, while The Link initially planned to carry out asset enhancement projects in eight shopping centres a year, The Link Board had subsequently decided to conduct the projects in the 50 shopping centres in one go with a view to boosting profits and hence the price of The Link REIT. Mr CHAN was concerned that the pressure so arising would intensify in October 2007 when the two-year moratorium on sale of the divested facilities expired.

30. In response, CEO/The Link declined to comment on the policy decisions of The Link Board. He however clarified that no target on tenancy renewal rate had been set, and re-iterated the need for The Link to adopt a flexible leasing strategy in keeping with change with the times and circumstances. He further stressed the importance for the Link to respond to the shopping needs of customers, and for The Link Board to meet the demand of The Link REIT's investors. At the Chairman's request, CEO/The Link agreed to provide information on tenancy renewal rates of the RC facilities since the listing of The Link REIT. The Link was requested to provide information covering the respective rates for shopping centres and markets, the respective percentage changes in respect of the total retail spaces in shopping centres and markets under The Link's portfolio.

*(Post-meeting note: The Link's response was circulated to members vide LC Paper No. CB(1)1774/06-07(01) on 29 May 2007.)*

*Concerns about control of The Link REIT by hedge funds*

31. Mr Fred LI referred to the comment made by The Link's ex-Chairman Mr Paul CHENG as reported in the media that the acquisition of substantial units of The Link REIT by the hedge funds, which aimed at realizing profit within the shortest possible time and hence keen to see rental increase for the divested facilities, had resulted in changes in the original objectives of the divestment. He asked whether the situation pointed out by Mr CHENG had affected The Link's undertakings to its commercial tenants made before the divestment. CEO/The Link explained that as CEO of The Link, it was inappropriate for him to comment on Mr CHENG's remarks save that it was natural that all unit-holders of The Link REIT hoped to see The Link's good performance. To meet such expectation, The Link had to attract more customers to the RC facilities, and charge commercial tenants rents reflecting the rental value of the facilities by adopting the principle of "value for rent" in setting rents.

32. Mr Fred LI was concerned how the Government would tackle the possible change in the control of The Link in maintaining the original objectives of the divestment. Dr KWOK Ka-ki added that the Government was to blame for allowing The Link REIT to fall under the control of the hedge funds, and urged The Link to refrain from taking more actions that would harm the public. In response, DD of H(CS) explained that it was the stated objective of HA to divest completely its ownership and control of the 180 RC facilities to enable the facilities to be operated fully on a commercial basis. As such, the Administration had imposed no restriction on the ownership of the units of The Link REIT. The Administration however believed that since the facilities under The Link's portfolio mainly served PRH tenants, market forces would come into play to ensure that the prices of goods and services provided at these facilities could meet PRH tenants' needs and affordability.

33. In consideration of the control of The Link by the hedge funds, Mr Albert CHAN expressed concern about the expiry of the two-year moratorium on the sale of the divested facilities by The Link in October 2007. In response, DD of H(CS)

explained that it was a conscious decision made before the divestment not to impose any restriction on The Link on the disposal of the divested facilities two years after the acquisition. However, the government leases concerned had stipulated that the divested facilities could only be used for retail and carparking purposes. If The Link wished to change the land use specified in the government lease, it had to obtain prior agreement from other owners of the lots concerned (HA and, depending on the type of estates in question, owners of Home Ownership Scheme (HOS) or Tenants Purchase Scheme flats) as well as approval of the Lands Department. Even if these facilities were sold in future, the land use condition in the lease remained effective and had to be observed by all subsequent successors in title. These lease restrictions were to ensure continued provision of RC facilities in public housing estates to meet residents' shopping and carparking needs. In addition, the divested shopping centres could only be sold as a whole and not in parts, and this restriction would also bind subsequent purchasers of the facilities. As to the Chairman's enquiry on whether these subsequent purchasers, if any, would be required to provide the RC facilities meeting the needs of PRH tenants, DD of H(CS) replied that while there was no such specific requirement, it was believed that since the primary customer base of the divested facilities was PRH tenants, market forces would ensure that the facilities would cater to PRH tenants' needs.

34. Mr LEUNG Kwok-hung considered it undesirable that the divested facilities, which were originally public assets, had fallen into the hands of the hedge funds, and many commercial tenants had been affected as a result. Recalling how he had urged other Members to oppose to the divestment, he expressed regrets that few people had listened to his views then.

*Further divestment of HA's RC facilities*

35. Pointing out that certain RC facilities of HA had yet to be divested (the remaining facilities), Mr WONG Kwok-hing opined that HA should keep the provision and management of the divested facilities under close monitoring before deciding on the divestment of the remaining facilities. In response, DD of H(CS) said that in recognizing HA's duty to secure the provision of housing and such amenities ancillary thereto, both the Administration and HA had been closely monitoring the provision and management of the divested facilities to ensure they could meet PRH tenants' needs. He assured members that the Administration had so far not seen any evidence which substantiated that the types of goods or services provided at The Link's shopping centres could not meet the basic needs of PRH residents, or that the prices of those goods and services were not affordable to them. In fact, as revealed in some submissions to the Panel, some members of the public had welcomed the introduction of new shops and restaurants in the divested facilities to provide them with wider shopping and dining choices. The independent opinion surveys conducted on The Link's asset enhancement projects also reflected similar views expressed by PRH tenants in the neighbourhood. The Administration and HA would continue to closely monitor the situation.

36. Prof Patrick LAU enquired about HA's plan in divesting the remaining facilities. In response, DD of H(CS) explained that the remaining facilities were mainly RC facilities considered unsuitable for divestment due to their poor location, small scale, old age or obsolescent condition; facilities where related technical problems such as title problems had yet to be resolved; facilities which were newly completed. HA's policy remained to divest the remaining facilities so that HA would focus its resources on its core function as the provider of public housing in Hong Kong. However, there was no specific timetable in this regard, and HA would take time to review The Link's performance before proceeding further. Prof LAU, however, remarked that it might be advisable to maintain the status quo to retain a certain degree of competition to ensure both HA and The Link would satisfactorily manage the RC facilities. In response, DD of H(CS) assured members that should there be any plan to further divest the remaining facilities, HA as well as the Panel would be consulted.

37. Dr KWOK Ka-ki expressed reservation about further divestment of the remaining facilities to The Link, and called upon HA not to pursue any plan in this regard. In his view, The Link was playing tricks by showing Panel members its willingness to discuss The Link's leasing policy with parties concerned, while in fact all along it had refused to talk with the relevant parties. In response, CEO/The Link urged Dr KWOK to contact those doctors who had raised complaints earlier. As he understood, these doctors were satisfied with the latest arrangements after further negotiation.

*The fire incidents in The Link's markets*

Follow-up actions taken by The Link and the Administration

38. Referring to the fire incidents in Hau Tak Market and King Lam Market in Tseung Kwan O, Mr CHAN Kam-lam enquired about The Link's overall responsibility in following up the incidents in recognition that the management of both markets had been contracted out to single operators. Mr CHAN was concerned that both the stall operators in the markets and the residents in the neighbourhood were suffering as a result of the incidents. Thus, he urged the relevant parties to take immediate actions to help the stall operators resume business as soon as practicable.

39. In reply, CEO/The Link said that the fire which happened in King Lam Market (the King Lam Fire) was of a small scale and hence only two to three stalls were affected. The market was therefore reopened the following day. In the case of the fire in Hau Tak Market (the Hau Tak Fire), about one quarter of the market was affected. As regards follow-up on the Hau Tak Fire, the senior management of The Link were holding meetings with the single operator of the market (the Single Operator) nearly every day to ensure early reopening of the part of the market not affected by the fire. In this regard, the Single Operator was also actively liaising with the 50 stall operators concerned with a view to solving problems that might prevent early resumption of business. For the stall operators affected, after they had recovered their personal belongings from their stalls, The

Link would help them clear up their stalls. The work would take about two weeks. The Single Operator would then be given six weeks to renovate the stalls in the hope to enable stall operators resuming business within two months. However, some of the affected operators had yet to recover their belongings from the ruined stalls to enable the above process to commence. To meet the daily shopping needs of nearby residents, shuttle bus service between the estates in the neighbourhood and other markets in Tseung Kwun O had been arranged for the time being.

40. Pointing out that the same issues might happen in HA markets, Mr CHAN Kam-lam enquired about HA's practices in this regard. In response, the Chief Manager/Management (Support Services), Housing Department (CM/M(SS)) said that only a few markets of the Housing Department (HD) had been contracted out, and HD had been closely monitoring their operation by conducting regular inspections. The introduction of the Enhanced Marking Scheme for commercial premises of HA also helped to ensure a safe operating environment in HA's markets. To enhance fire safety for HA's markets, HA had made a special inspection to markets in the wake of the Hau Tak Fire. All facilities concerned had been found to be in satisfactory condition.

41. Mr LEUNG Kwok-hung expressed dissatisfaction with the actions taken by The Link and the Administration in following up the Hau Tak Fire. Firstly, CEO/The Link was unwilling to meet with him and the affected stall operators. Secondly, The Link did not see it as its responsibility to assist the affected operators because the Hau Tak Market had been contracted out. Thirdly, as he understood, the affected operators had been unfairly requested to give up their rights to claim damages in exchange for the refund of the three-month rent deposit they had paid. Fourthly, The Link had only focused on generating profits from the RC facilities and failed to handle matters which it should attend to, such as following up the Hau Tak Fire. The Administration, however, could do nothing to monitor The Link's work. Mr LEUNG urged CEO/The Link to meet with the affected stall operators and the Single Operator to solve all problems relating to the Hau Tak Fire. In response, CEO/The Link said that as The Link understood, the Single Operator was actively liaising with all stall operators concerned in the hope of reopening Hau Tak Market as soon as practicable.

*Assistance and compensation for affected operators*

42. Addressing Mr CHAN Kam-lam's concern that proper arrangements would be made to ensure the affected stall operators could be compensated for their loss, CEO/The Link explained that the Single Operator and some of the affected operators had taken out insurance for the market and their stalls respectively. Some of the affected operators had already assessed their loss and the renovation cost for their stalls. Given that there was direct contractual relationship between the Single Operator and the affected operators, the Single Operator was actively following up with individual affected operators in dealing with the aftermath of the Hau Tak Fire. For example, the affected operators had been refunded their three-month rent deposit to help them tide over cashflow problem. Undertaking had also been made to allow operators to immediately reopen their stalls after

completion of the renovation works. In addition, temporary arrangement had been made to enable some of the affected operators to operate in the market in the nearby Ming Tak Shopping Centre for free.

43. The Chairman pointed out that as he understood, all single operators of HA and The Link's markets were required to take out fire insurance for the markets concerned. Individual stall operators however might not purchase insurance themselves. On insurance arrangement for stall operators, CEO/The Link said that as understood from the Single Operator, before entering into tenancy agreements with the stall operators of Hau Tak Market, stall operators had been given a pamphlet highlighting the need for them to take out insurance on the stalls. However there was no compulsory requirement for the stall operators in this regard. Notwithstanding, as learnt from the Single Operator, he would be willing to bear the part of responsibilities he should shoulder if it was proved that he was responsible for the Hau Tak Fire. In this connection, CM/M(SS) confirmed that HA markets adopted similar practices regarding fire insurance.

44. Mr Fred LI asked whether The Link would consider providing the affected stall operators ex-gratia relief payment instead of arranging refund of the three-month rent deposit as a demonstration of The Link's good corporate citizenship behaviour. In his view, the suggestion would not pose any financial burden on The Link, which was making substantial profits. In response, CEO/The Link clarified that the Single Operator had the contractual responsibility to satisfactorily deal with the aftermath of the Hau Tak Fire. Moreover, since the loss of individual stalls would be different, arrangements for compensation should be made after ascertaining their loss. It might be inappropriate to make the same compensation to all affected operators.

45. Notwithstanding the need to ascertain responsibility and loss before claims for damages could proceed, Mr LI Kwok-ying opined that The Link should provide ex-gratia relief payment to all affected operators as some of them had not taken out insurance themselves. Moreover, as a large corporation making huge profits, The Link should step up efforts in assisting the affected stall operators in improving its corporate image.

46. Mr Tommy CHEUNG enquired whether in the case of the Hau Tak Fire, compensation for the affected stall operators would be available only when negligence could be proved. If it was the case, Mr CHEUNG opined that in order to enhance protection for market stall operators, The Link and HA should urge market single operators to take out a more comprehensive fire insurance covering compensation for loss without the need of proof of negligence. In response, CEO/The Link pointed out that early resumption of business in the market would be the greatest help to the affected operators. Although the Single Operator had taken out insurance for the whole market, individual stall operators still had to take out insurance for their stalls to protect their own interests. Notwithstanding, the insurance company of the Single Operator was already quickly following up the Hau Tak Fire. If it could be proved that the Hau Tak Fire had been caused by negligence on the part of the Single Operator, compensation might be paid for the

loss so incurred to third parties.

*Causes of the fire incidents*

47. Mr LI Kwok-ying pointed out that as reported in the media, the Hau Tak Fire, had been caused by the stoppage of the fire services sprinkler system in the market, and the King Lam Fire had been caused by mal-functioning of the sprinkler system. In this regard, he enquired whether regular inspections had been conducted to ensure the proper functioning of fire service installations (FSIs) in The Link's markets. In response, CEO/The Link said that the Fire Services Department (FSD) had already confirmed that the FSIs in King Lam Market were functioning properly during the fire there and as a result the fire was quickly put out. Regarding the Hau Tak Market, as it was undergoing renovation when the fire broke out, the fire services sprinkler system had been temporarily switched off according to existing guidelines in this regard. As a follow-up to the Hau Tak Fire, The Link was liaising with relevant departments including FSD on the need to review the existing guidelines to ensure fire safety when FSIs were shut down to facilitate carrying out of repair or maintenance works.

48. In response to Prof Patrick LAU's enquiry on whether the Hau Tak Fire was related to the renovation works underway in the market, CEO/The Link said that the cause for the fire was still under investigation. It was however true that renovation works were underway when the fire broke out, and the fire services sprinkler system had been turned off. In this connection, Prof LAU urged the relevant parties to meet with the affected operators to understand their needs and provide necessary assistance accordingly. He further remarked that it was dangerous to continue operating a market when renovation works were underway, and urged The Link to refrain from doing so in future.

*Other views and concerns*

49. Miss CHAN Yuen-han expressed grave concern that The Link had cancelled the meeting with the commercial tenants of Wang Tau Hom Shopping Centre scheduled earlier, and repeatedly failed to respond to requests for meetings by commercial tenants of Lok Fu Shopping Centre. In response, CEO/The Link said that since the changes to be introduced by the asset enhancement project in Lok Fu Shopping Centre would be great, The Link had to work out the details before meeting with the commercial tenants concerned.

50. The Chairman said that in enhancing competitiveness of markets in PRH estates, he had repeatedly urged HA to provide air-conditioning for markets, and his own experience with Cheung Fat Market had proved that the direction was correct. He therefore enquired about The Link's plan to provide air-conditioning for all markets under its portfolio. CEO/The Link advised that works in this regard had already commenced for some markets, including Tsui Lam Market and Sha Kok Market. However, whether all Link's markets would be installed with air-conditioning system would depend on the operating environment of and technical considerations in individual markets. The provision of air-conditioning

for markets under The Link was still at the planning stage. At the Chairman's request, CEO/The Link agreed to provide information on The Link's plan for implementing asset enhancement in its markets, in particular the plan and time schedule to provide air-conditioning to the markets.

*(Post-meeting note: The Link's response was circulated to members vide LC Paper No. CB(1)1774/06-07(01) on 29 May 2007.)*

**II Any other business**

51. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1  
Legislative Council Secretariat  
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