

**Re-launching of Home Ownership Scheme (HOS) and revitalization of the HOS
Secondary Market**

**Panel on Housing
Meeting on
Monday, 3 May 2010, at 2:30 pm
in Conference Room A of the Legislative Council Building**

**Outline of submission by Hans MAHNCKE
Assistant Professor
School of Law
City University of Hong Kong**

Having been conceived in the 1970s, the Home Ownership Scheme (HOS) scheme is not a new idea. In a nutshell, the HOS was meant to assist those on low-income to buy their own home. HOS flats are heavily subsidised and their use and re-sale are subject to a number of covenants. Throughout its existence, the HOS scheme has been hugely over subscribed, suggesting a strong public demand. In turn, this suggests an underlying problem with the market forces at work as the public's demand for affordable housing – that is to say for a place to live rather than as a tradable commodity – has not been satisfied.

In 1997, former Chief Executive Tung Chee-Hwa recognised this problem by calling for greatly expanded home-ownership of 70 percent by 2007. He was widely criticised for this policy and it was later dropped altogether. Indeed, Secretary for Transport and Housing, Ms Eva Cheng, stated on 5 November 2008 that, “Encouraging the public to purchase homes is no longer an objective of the Government's housing policy. We consider that a decision on purchasing a property should be a matter of personal choice and affordability.”

But, of course, if things were that easy, we would not be here today. The reason why we find ourselves here is that Ms Cheng's argument suffers from a fatal defect, namely that, for most people in Hong Kong, housing is not affordable. Thus, effectively, there is no “personal choice”.

Why is housing in Hong Kong not affordable? There are a number of reasons, many of which are commonly known, such as the government's artificial restriction of land supply, the government's collusion with property developers and the property developers' oligopoly position.

All of these suggest that Donald Tsang is wrong when he blames market forces for high property prices. Similarly, Frederick Fung is quoted as having stated just yesterday that “If the free market fails to do it [curb rising housing prices], then it is time for the government to intervene” (The Standard, 3 May 2010). The reality is that there is NO

FREE MARKET in the property sector in Hong Kong.

While it may be debated how far the current government has strayed from the ‘positive non-interventionism’ policy, there is no mistaking the fact that the government has for decades interfered with the system of land distribution and allocation, often with catastrophic consequences for ordinary Hong Kong citizens. This interference manifests itself three-fold. First, the government provides heavily subsidised public housing to 3.3 million people, roughly half of the population. Second, all land in Hong Kong is owned by the government which, from time to time and in an unpredictable manner, auctions off leases to certain plots of land. Third, the government administers the so-called land premium system which is highly ill-transparent and subject to claims of favouritism. All these factors represent massive interferences in the operation of the free market.

It seems as if the problem and the solution have been mixed up. The solution is not more government intervention but less. The problem is not the free market but government intervention. The solution is not government intervention but the free market.

Having said that, I think James To was right yesterday when he said that one of the reasons for the rising price of homes is the inflow of investment capital from the mainland. I agree with Mr To that one of the possible solutions could be for the government to build more public housing estates in order to filter out the influence of such investments (The Standard, 3 May 2010). But given the government’s track record of colluding with property developers and rigging the property market, I have no confidence that this would actually work. It would just be used as another opportunity for the property developers to rip off ordinary Hong Kong citizens. The only thing that might work is an overarching and meaningful scheme such as Tung Chee Hwa’s 1997 housing policy with a very high home ownership target (i.e. 70%). If most people own their own property, the rental market shrinks and there are far less opportunities for speculators. Given that housing is a basic human necessity, this should be seen as a good thing. But I do not think that such a scheme, which might actually work in normalising Hong Kong’s housing market, has any chance of being approved or implemented. The property developer’s political influence has become too big (SCMP). Thus, I fear any new scheme would be more akin to something like the Hung Hom Peninsula fiasco in 2004 involving New World Development and Sun Hung Kai Properties.

The only solution which I see working would be the introduction of a capital gains tax for all those who treat their property as some sort of tradable commodity rather than as a place to live. Certain thresholds could be built in, such as resale after 3 or more years does not incur the tax or a family’s first home does not incur the tax either. I think that short of privatising the entire market and selling off all public housing units, the only viable solution to our housing problem is a capital gains tax.