

立法會
Legislative Council

LC Paper No. CB(1) 924/99-00
(These minutes have been seen
by the Administration)

Ref: CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Monday, 1 November 1999, at 4:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon LEE Wing-tat (Chairman)
Hon Gary CHENG Kai-nam, JP (Deputy Chairman)
Hon David CHU Yu-lin
Hon HO Sai-chu, SBS, JP
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Hon SZETO Wah

Members absent : Hon Edward HO Sing-tin, SBS, JP
Hon Albert HO Chun-yan
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Dr Hon YEUNG Sum

Public officers attending : **For Item III**

Housing Bureau

Ms Rebecca PUN
Principal Assistant Secretary for Housing (1)

Ms Cindy KWAN

Assistant Secretary for Housing (1)

Rating and Valuation Department

Mr F G HEATH

Assistant Commissioner (Rent Control & Special Duties)

Mr K S SHUM

Principal Valuation Surveyor

Mr S W LAU

Senior Valuation Surveyor

For Item IV

Housing Bureau

Miss Sandy CHAN

Principal Assistant Secretary for Housing (2)

Housing Department

Mr K N CHEUNG

Acting Assistant Director/Operations & Redevelopment

For Item V

Housing Bureau

Miss Sandy CHAN

Principal Assistant Secretary for Housing (2)

Housing Department

Mr K N CHEUNG

Assistant Director/Operations & Redevelopment

Mr C Y LEE

Chief Housing Manager/Redevelopment

Lands Department

Mr Bernard CHAN

Chief Estates Surveyor

Attendance by : For Item V

invitation

Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong

Mr LEE Wai-keung
Representative

Mr CHAN Shing-ho
Representative

Mr YIM Fu-yin
Representative

Mr LO Chi-kong
Representative

Mr SIU Man-kong
Representative

Ms Ada WONG Ying-kai
Adviser

Mr YEUNG Wai-foon
Adviser

Clerk in attendance : Miss Odelia LEUNG, Chief Assistant Secretary (1)1
Ms LEUNG Siu-kum, Chief Assistant Secretary (1)2

Staff in attendance : Mrs Mary TANG, Senior Assistant Secretary (1)2
Ms Rosalind MA, Senior Assistant Secretary (1)9

I Information paper issued since last meeting

Members took note of the following information papers issued since the last meeting:

LC Paper No. CB(1) 135/99-00 - A complaint letter from a member of the public expressing views on the abuse of tenancy protection by tenants;

LC Paper No. CB(1) 137/99-00 - Extract of minutes of meeting between LegCo Members and Shatin Provisional District Board members concerning pre-sale maintenance of public rental housing estates under the Tenants Purchase Scheme;

LC Paper No. CB(1) 138/99-00 - Booklet on General Housing Policies provided by the Administration;

LC Paper No. CB(1) 185/99-00 - Extract of minutes of meeting between LegCo Members and Wong Tai Sin Provisional District Board members concerning various housing policies and environmental protection issues; and

LC Paper No. CB(1) 233/99-00 - A complaint letter from the “Concern Group on Objecting the 923 Resettlement Criteria Applied to Fat Tseung Street Temporary Housing Areas” and the reply from the Housing Department.

II Date of next meeting and items for discussion

2. Members agreed that the next meeting would be held on Monday, 6 December 1999, at 4:30 pm to discuss “Problem of site settlement in housing estates in Tseung Kwan O”.

(Post-meeting note: The item would be discussed at a joint meeting with the Panel on Planning, Lands and Works scheduled on 6 December 1999 at 4:30 pm. The next regular Panel meeting would be held after the joint meeting at 5:30 pm to discuss problems arising from shared non-self-contained accommodation in public housing estates.)

3. Members noted an outline of study relating to building quality of public housing flats provided by Mr LEE Wing-tat and agreed that special Panel meetings be convened to study the issue.

(Post-meeting note: Special Panel meetings on building quality of public housing flats were scheduled on 7, 9 and 14 December 1999.)

III Proposed amendments to the Landlord and Tenant (Consolidation) Ordinance

(LC Paper No. CB(1) 224/99-00(01))

4. The Assistant Commissioner (Rent Control & Special Duties)/Rating & Valuation Department (AC(RC&SD)/RVD) highlighted the major proposals in the information paper for members' consideration, as follows:

- to streamline the procedures of tenancy renewal in order to facilitate the landlord and tenant to reach agreement on tenancy renewal matters;
- to create a greater deterrent against offences of harassment of tenants and unlawful eviction by imposing heavier penalties so that a person would be liable to a fine of \$500,000 and to imprisonment for 12 months on first conviction ;
- to amend the method of calculating compensation payable to the tenant/sub-tenant by making reference to the rateable value of the respective portion of the flat occupied by the tenant/sub-tenant so that a higher multiplier might apply in calculating the amount of compensation;
- to provide an avenue of appeal to parties aggrieved by the determination of the Commissioner of Rating and Valuation (CRV) in respect of the exclusion of a tenancy from Part V of the Landlord and Tenant (Consolidation) Ordinance(LTO);
- to allow CRV to issue on application at a fee a certificate of the rateable value of the premises affected by redevelopment and the amount of statutory compensation payable;
- to repeal transitional provisions under Part V of LTO in respect of pre-war business premises which were used partly for human habitation; and
- to transfer the power to amend certain Schedules, which were of a minor nature, to the LTO from the Chief Executive to the Secretary for Housing.

Compensation for tenants upon redevelopment

5. The Chairman welcomed the proposed amendment to the method of calculating compensation payable to tenants/sub-tenants with reference to the rateable value of the respective portion of the flat which the tenants/sub-tenants occupied. In response to the Chairman's request for details on the method of calculation, the Principal Assistant Secretary for Housing (1) (PAS for H(1)) said that after amending the Ordinance, the rateable value of the actual portion of the flat occupied by each tenant/sub-tenant would be used as the basis of calculation of the compensation payable. She cited an example to illustrate the existing and proposed methods of calculation. She informed members that the tenant/sub-tenants in the example would obtain a higher amount of compensation by

Admin about 40% under the new method of calculation. She also undertook to provide members with the example in writing after the meeting.

6. AC(RC&SD)/RVD supplemented that CRV would collect details of every sub-tenant affected by the redevelopment. The compensation payable to these sub-tenants would be calculated on the basis of the rateable value of the respective portion of premises they occupied as if they were separately assessed.

Abuse of tenancy protection by professional tenants

7. The Chairman pointed out that the situation where professional tenants took advantage of tenancy protection and deliberately defaulted on the payment of rents had long existed. The complicated procedures for the owners of domestic flats to repossess their premises and to recover arrears of rent should be simplified as soon as possible. Noting that the Housing Bureau had set up a Working Group to review the procedures for repossession of domestic premises on the ground of non-payment of rent and recovery of arrears of rent, he urged the Administration to speed up the process of review so that landlords' rights could be better protected. He remarked that large number of complaints had been received from aggrieved landlords suffering from the lengthy process of evicting those professional tenants and recovering rent arrears.

8. Mr CHAN Kam-lam echoed the Chairman's view and added that existing procedures for the landlords to repossess their premises were too complicated and time-consuming. He urged that the Administration should be more determined to strike a balance between tenancy protection for the tenants and protection for the rights of the landlords.

9. PAS for H(1) said that she appreciated members' concern, which would be fully taken into account by the Working Group in the review. She undertook to consult the Panel on the Working Group's proposals. The Principal Valuation Surveyor/RVD supplemented that RVD had been handling cases of professional tenants and could fully appreciate the difficulties landlords encountered in the eviction of these tenants. It normally took around six to nine months for the landlords to go through the procedures for repossession, but in some cases, they were unable to repossess their premises even after completing the necessary procedures. The Working Group was exploring means to streamline the procedures and to minimize the lead time required for repossession.

10. In response to the Chairman's query on the need to make legislative amendments for streamlining the related procedures, PAS for H(1) said that as the review by the Working Group was still in progress, she was not in a position to say at this stage whether and which legislative amendments would be required. The Chairman reiterated that the progress of the review was far from satisfactory and the matter ought to be taken up with the senior management of the Housing Bureau for more speedy completion of the review.

Penalties on harassment of tenants and unlawful eviction

11. Mr LEE Cheuk-yan welcomed the proposed amendments to the offence provisions by requiring the prosecution to prove “knowing or having reasonable cause to believe that any act done is likely to cause the tenant to give up occupation or refrain from exercising any right or pursuing any remedy in respect of the premises”, instead of proving “intent”. PAS for H(1) said that the amendments were proposed in response to the advice from the Secretary for Justice (S for J) that the requirement for the prosecution to prove the intent was hard to fulfill. In response to Mr LEE’s enquiry on the number of cases of harassment of tenants in recent years, PAS for H(1) confirmed that there were only 14 and seven cases of harassment of tenants handled by RVD in 1997-98 and 1998-99 respectively. Information on harassment cases which involved criminal offences would be provided to the Panel after the meeting as such cases were handled by the Police separately.

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12. In reply to Mr LEE Cheuk-yan’s enquiry on whether the proposed level of penalty was comparable to those for offences of similar severity under the Crimes Ordinance, AC(RC&SD)/RVD said that legal advice from S for J had been sought and the proposed level of fine and period of imprisonment were considered to be in line with penalties for similar types of offence.

13. The Chairman pointed out that some landlords might use unethical means, such as blocking the building’s drainage with concrete, instead of unlawful actions to achieve their objective of evicting the tenants. He enquired about the possibility of prosecuting landlords for using such means. PAS for H(1) undertook to seek legal advice in this regard and inform members in due course. She also advised members that the draft Bill on the amendments was intended to be introduced into the Council in December 1999.

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IV Rehousing criteria for squatters affected by clearance exercises (LC Paper No. CB(1) 224/99-00(02))

Application of the income-cum-asset test on squatters affected by clearance exercise

14. Ms CHAN Yuen-han expressed dissatisfaction with the requirement introduced in September 1998 for squatter clearances to undergo the income-cum-asset test to establish their eligibility for public rental housing (PRH). She opined that squatter residents were mainly from the low-income class and they had been longing for rehousing in PRH upon clearance. Mr LEE Cheuk-yan echoed by adding that the Administration’s changes in rehousing policy were unfair to existing squatter clearances. They were required to undergo stricter means test while previous squatter clearances only had to satisfy the no-domestic-property ownership rule.

15. Mr Fred LI shared these views and said that the new policy had not undergone adequate public consultation before implementation. He recalled that members of the Housing Panel did not support the policy and the Administration had undertaken to carry out a full review of the policy after its implementation.

16. PAS for H (2) explained that as PRH was heavily subsidized by the community at large, the Administration had to ensure that the limited public housing resources were only allocated to those in genuine need. The income-cum-asset test was therefore necessary to identify the housing needs of PRH applicants. She stressed that the proposal of adopting a common set of eligibility criteria for PRH, including means testing, was covered in the Long Term Housing Strategy Review consultative paper which had undergone intensive public consultation in 1997.

17. The Acting Assistant Director/Operations & Redevelopment/Housing Department (Ag AD/O&R/HD) supplemented that since the implementation of the policy, clearerees in all clearance projects, including squatter clearance, had been required to undergo the income-cum-asset test to assess their eligibility for PRH. Up to the present, there were only 13 cases of squatter clearerees failing the income test and three cases failing the asset test. Those failing the income-cum-asset tests were better off ones who should have adequate means to arrange their own accommodation. Nevertheless, people displaced by clearance operations and had failed the means test but satisfied other criteria, if they had a temporary housing need, might be allowed to stay temporarily at interim housing (IH) for not more than one year, during which they had to pay licence fee at market level.

Rehousing of clearerees ineligible for PRH

18. Members expressed concern over the recent arrangements for rehousing squatter clearerees who were not eligible for PRH to IH in remote area such as Yuen Long. The new residence, being far from their normal place of work or study, had brought hardship to these squatter clearerees in terms of travelling time and cost. It was also noted that the construction quality of some new IH was far from satisfactory.

19. Members suggested that the Administration should explore means to provide interim housing in urban areas, such as: -

- converting old PRH blocks pending redevelopment e.g. Block 23 of Tung Tau Estate into IH as in the case of Blocks 10 and 11 of Shek Lei Estate;
- deferring the clearance of Temporary Housing Areas (THAs) in urban areas, e.g. Kai Yiu, Kai Wo and Kai Lok THAs in Kowloon Bay, and converting them into IH; and
- speeding up the re-furbishment process of vacant PRH units so that more resources could be freed up for redeployment.

20. Ag AD/O&R/HD explained that as the Administration pledged to clear all THAs by 2000, all existing THAs (including those in the urban areas) had been announced for clearance. Hence, squatter clearerees had to be rehoused to IH in extended urban, Yuen Long and Tuen Mun districts.

21. Regarding the means to rehouse squatter clearances in urban areas, Ag AD/O&R/HD drew members' attention to the following difficulties: -

- PRH blocks vacated for redevelopment had designated usage and could not be used for IH;
- It would be improper to convert PRH to IH as those clearances who were provided rehousing in IH were originally ineligible for PRH; and
- THA sites in Kowloon Bay would have to be handed over to the Lands Department (LD) once they were cleared for redevelopment and the Housing Department had no authority to decide the future usage of these sites.

22. Ag AD/O&R/HD advised members that the re-furbishment process of PRH units would take about two to three months and the Administration would constantly monitor the re-furbishment as well as re-letting of vacant PRH units. PAS for H (2), while pointing out that it would be impossible to fully satisfy the need of each and every individual given the limited resources, noted members' suggestions of alternative means for providing IH in urban areas. As she did not have details about individual sites mentioned by members, she would refer their suggestions to the relevant parties in the Administration for consideration.

23. In conclusion, members agreed that a subcommittee on the rehousing policy for squatter clearances should be formed under the Panel to further discuss the issue in detail. The Chairman and four other members, including Ms CHAN Yuen-han, Mr Fred LI, Mr LEE Cheuk-yan and Mr LEUNG Yiu-chung, had indicated interest in joining the subcommittee.

(Post-meeting note: A circular was sent to all Panel members vide LC Paper No. CB(1)270/99-00 to invite interested members to join the subcommittee. The first meeting of the subcommittee would be held on 15 December 1999 at 8:30 am.)

V Demolition of Cottage Areas

Meeting with the Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong
LC Paper No. CB(1) 224/99-00(03))

24. At the Chairman's invitation, Mr LEE Wai-keung, on behalf of the Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong (the Coalition) briefed members on their representation. Mr LEE said that structures in Cottage Areas (CAs) were constructed at the expense of the residents with the permission of the Administration. The special status of CAs had been recognized by the Administration in the Long Term Housing Strategy Review released in 1997. Although CA residents did not have ownership of the land, they should be compensated for the demolition of the building

structures which were their assets. Accordingly, the Coalition considered it reasonable to request for the payment of ex-gratia allowance similar to that given to the former residents of Tiu Keng Leng Cottage Area (TKLCA), i.e. \$7,000 per square metre of floor area. In addition, the Coalition requested the Administration to produce the relevant documents which provided the basis for the Administration's conclusion on this issue. Mr LEE sought members' assistance in finding an urgent resolution to the problem in view of the impending eviction of the Tung Tau CA in December 1999.

Meeting with the Administration
(LC Paper No. CB(1) 1760/98-99)

25. PAS for H (2) said that the issue had been under discussion since 1996. She stressed that the Administration did recognize the unique status of CAs and was therefore prepared to offer relaxed rehousing arrangements for CA residents as follows:

- offering PRH flats to eligible households without the income-cum-asset test and domestic property ownership restriction;
- according first priority green form status to those applying for Home Ownership Scheme/Private Sector Participation Scheme/Buy-or-Rent Scheme/Home Purchase Loan Scheme; and
- according green form status to those interested in buying Sandwich Class Housing Scheme flats.

26. In connection with CA residents' request for ex-gratia allowance, PAS for H (2) said that the supporting documents provided by the residents had been carefully examined. The legal advice given to the Administration had suggested that neither the Government nor the Housing Authority (HA) was legally liable to give any compensation to CA residents by demolishing their structures. In the absence of legal backing, it would not be justified to make any application to the Finance Committee to provide funds for the compensation. Ag AD/O&R/HD added that even licensees of LD's short term tenancies (STTs) granted on vacant Government land were not entitled to any ex-gratia allowance upon clearance.

27. Mrs Selina CHOW disagreed with the Administration's stance on rejecting residents' request for ex-gratia allowance. She pointed out that although the Administration was not legally obliged to compensate the residents, there should be some flexibility in the policy in view of the distinct historical background of CAs. Bearing in mind that CA structures were erected with the permission of Urban Council by payment of prescribed fees, it was unreasonable for the Administration to demolish the structures built by residents at their own expenses without compensating their loss. Mrs CHOW stressed that there were indeed precedents for the exercise of some flexibility in giving ex-gratia payment by the Administration. For example, owners of Tsing Yi shipyard had received ex-gratia allowance which was normally not provided for when sites under STT granted by LD were cleared.

(Post-meeting note: the Administration confirmed that the shipyards in Tsing Yi were originally on private land under private treaty grants in 1965. In the late 1960s, owing to financial hardship of the shipyard operators, the Government re-entered the land but allowed the operators to continue the shipyard business under STTs. In other words, the STTs were not granted on vacant Government land. Moreover, all domestic clearances on Government land, including those on land covered by STTs, were not entitled to ex-gratia allowance other than the domestic removal allowance upon clearance.)

28. Echoing Mrs CHOW's views, Ms CHAN Yuen-han said that CAs were set up in the 50's long before the formulation of the Administration's policies on public housing. Residents had spent considerable amount of money at that time to erect their own structures. It would be unfair if their rights for these properties were not recognized and they would not be given any compensation upon clearance. Since CAs were set up before the enactment of the existing Housing Ordinance in 1973, the Administration should give special treatment to CA residents affected by clearance and it would be justifiable to grant ex-gratia allowance to these residents for the demolition of the building structures.

29. Mr Gary CHENG Kai-nam also urged the Administration to review its policy on clearance of CAs. Given the distinct historical background of CAs, a special case for granting ex-gratia allowance to CA clearances could be made, which should not set a precedent case for other housing and public works related clearances. The Chairman reiterated that the Administration should exercise greater discretion in granting ex-gratia allowance to CA clearances even though there was no strict legal requirement to do so.

30. Members noted that the relaxed rehousing arrangements offered by the Administration were granted after CA residents had fought hard for such arrangements. They also noted the Coalition's objection to the requirement for CA residents to vacate their structures upon receipt of the 3-month advance Notice-To-Quit, which was not originally in place when CA residents erected their structures. The Coalition had also found the Administration's housing policies inconsistent in that residents in Fo Tan CA could rent the structures from the Administration whereas residents in other CAs had to build the structures at their own cost.

31. Members also noted that the Apostolic Faith Church of Hong Kong had been providing social services to the community of Tung Tau CA and its adjacent population since 1952. Hence there was a need to allow the church to resettle in adjacent site so that it could continue its services. Mr SZETO Wah opined that the Administration should take into account the special circumstances of the church and the valuable services it provided to the community. He considered that there were grounds for resettlement in adjacent site.

32. Members also noted the Coalition's request to ensure treatment to the five factories in the Tung Tau CA was comparable to those demolished in previous clearance exercises in 1963 and 1976 for road widening works. These factories were resettled in government factory buildings in addition to the granting of compensation.

33. The Chief Housing Manager/Redevelopment/Housing Department (CHM/R/HD) clarified that although the 3-month Notice-To-Quit provision was not in place when the CA residents erected their structures, the Emergency Regulations Ordinance which provided for the setting up of CAs empowered the Administration to resume the land for public interest with even a shorter notice of seven days only. As regards the arrangements for residents of Fo Tan CA to rent the structures from the Administration, he explained that the CA was first built with subsidy from the Government and other welfare organizations for resettlement of victims who became homeless after a typhoon. The occupation was under licences. In the 80's, the vacant units were used for rehousing another group of residents by HA because of urgent need. Tenancy agreements were signed. In view of the special circumstances of the site and different status of residents, the Administration had decided to give all Fo Tan CA residents the same rehousing treatment as residents of other CAs affected by clearance. Regarding resettlement of the factory operators in Tung Tau CA, he said that ex-gratia allowances would be granted to the affected factory operators. However, it would be possible that some operators might not be able to find suitable premises in HA's flatted factory to resume their business because of loading problem and specific large areas required.

34. PAS for H (2) reiterated that although the Administration considered it undesirable to use public funds for the purpose of granting special ex-gratia allowances to CA residents, it had decided to offer relaxed rehousing arrangements for CA residents. The Administration was concerned about the living conditions in CAs, and therefore had undertaken to clear all the remaining five CAs by 2001 in a bid to improve the living environment for CA residents.

35. Members expressed strong dissatisfaction with the Administration's position of not giving compensation to CA residents for demolition of their structures. They urged the Administration to give further consideration to the request of the residents. Otherwise, it would be difficult for them to support the Administration's application to the Finance Committee for funds for the clearance of CAs. In view of the approaching deadline for eviction of the Tung Tau CA in December 1999, the Chairman requested the Administration to give the Panel a reply of its deliberations on this matter in two weeks' time. Should there be a negative response to the request, the Panel would further consider the necessary follow up actions to be taken.

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VI. Any other business

36. There being no other business, the meeting ended at 6:40 pm.