

立法會
Legislative Council

LC Paper No. CB(1) 2115/99-00
(These minutes have been seen
by the Administration and cleared
by the Chairman)

Ref : CB1/PL/HG/1

LegCo Panel on Housing

Minutes of meeting
held on Monday, 5 June 2000, 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 Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing
Hon Ronald ARCULLI, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han
Hon CHAN Kam-lam
Hon LEUNG Yiu-chung
Hon Andrew WONG Wang-fat, JP
Dr Hon YEUNG Sum
Hon SZETO Wah

Member attending : Hon HO Sau-lan

Members absent : Hon HO Sai-chu, SBS, JP
Hon Edward HO Sing-tin, SBS, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP

Public officers attending : **For item III**

Housing Bureau

Mrs Elaine TANG, Principal Assistant Secretary (2)

Housing Department

Mr KWOK Shek-kwun, Assistant Director/Management (1)

Mr CHENG Yau-tim, Chief Manager/Management
(Support Service 2)

Mr C T CHEUK, Senior Housing Manager/Redevelopment

For item IV

Housing Bureau

Ms Lorna WONG, Principal Assistant Secretary (1)

Rating & Valuation Department

Mr C S WONG, Deputy Commissioner of Rating & Valuation

For item V

Housing Bureau

Mr M L WAN, Acting Principal Assistant Secretary
(Project Management)

Housing Department

Mr K H LAU, Business Director (Allocation & Marketing)

Ms Cecilia LEUNG, Senior Planning Officer

Mr C T CHEUK, Senior Housing Manager/Redevelopment

For item VI

Housing Bureau

Mr Gary AU, Assistant Secretary (4)

Housing Department

Mr K H LAU, Business Director (Allocation & Marketing)

Attendance by Invitation : **For item VI**

Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong

Ms Ada WONG
Mr LEE Wai-keung
Mr CHAU Shu-lai
Mr SIU Man-kong

Clerk in attendance : Mrs Mary TANG, Chief Assistant Secretary (1)6

Staff in attendance : Miss Becky YU, Senior Assistant Secretary (1)3

I Confirmation of minutes of previous meetings and endorsement of the report of the Panel on Housing for submission to the Legislative Council and the report of the Subcommittee on Rehousing Arrangements for Residents Affected by Clearance of Squatter Areas

(LC Paper Nos. CB(1) 1722 and 1741/99-00 — Minutes of the special meetings held on 11 and 21 January 2000

LC Paper No. CB(1) 1742/99-00 — Report of the Panel on Housing for submission to the Legislative Council

LC Paper No. CB(1) 1727/99-00 — Report of the Subcommittee on Rehousing Arrangements for Residents Affected by Clearance of Squatter Areas)

The minutes of the special meetings held on 11 and 21 January 2000 were confirmed.

2. Mr LEE Cheuk-yan, Chairman of the Subcommittee on Rehousing Arrangements for Residents Affected by Clearance of Squatter Areas, briefed the Panel on the work of the Subcommittee by highlighting the salient points of the report. He said that the Subcommittee had expressed disappointment and regret over the refusal of key decision-makers in housing policies, i.e. the Chairman of Housing Authority (HA), the Chairman of Rental Housing Committee of HA, the Secretary for Housing and the Director of Housing, to meet the Subcommittee to discuss the policy on the rehousing of squatter clearers. Members of the Panel noted the deliberations of the Subcommittee and its concerns about the need for direct dialogue with key decision-makers on policy issues. They agreed that the Subcommittee's concerns be duly reflected to the House Committee at its meeting on 9 June 2000 by the Chairman of the Panel.

3. Members endorsed the Report of the Panel on Housing for submission to the Legislative Council at its meeting on 21 June 2000.

II Information papers issued since last meeting and matters arising

(LC Paper No. CB(1) 1528/99-00 — Information paper on 643TH - Trunk Road T7 in Ma On Shan provided by the Administration)

4. Members noted the information paper.

III Policy on splitting of tenancy upon redevelopment

(LC Paper No. CB(1) 1743/99-00(01))

5. Mr CHAN Kam-lam said that the present policy on splitting of tenancy upon redevelopment had given rise to disputes and disharmony amongst households living together in shared units. He considered it necessary for the Administration to formulate clear guidelines on the circumstances under which splitting of tenancy would be allowed, instead of giving special consideration on a case-by-case basis. Mr CHAN's concern was shared by Miss CHAN Yuen-han who stressed the need for a clearly defined policy on the splitting of tenancy rather than relying on flexibility and discretion.

6. The Assistant Director of Housing Management (1) (AD/M(1)) said that under the existing policy, splitting of domestic tenancy in public rental housing (PRH) estates, whether or not upon redevelopment, was normally not allowed. As public housing resources were scarce in relation to demand, priority to PRH should be given to more needy families such as applicants on the Waiting List (WL) etc rather than to existing PRH tenants requesting splitting of tenancies. Members of PRH households might however apply for allocation of separate flats through WL. The Housing Department (HD) would try its best to accommodate requests for splitting of tenancies if considered justified. Examples of successful applications for splitting of tenancies were set out in the paper provided by the Administration. These provided some of the circumstances under which special consideration could be given but it would not be possible to list out all the conditions for granting approval since the circumstances of each case differed. In consideration of these applications, HD would adhere to the existing housing policy on redevelopment made available to its staff in the form of a booklet.

Cases involving violence

7. Members expressed concern that applications for splitting of tenancies would not normally be considered unless these cases involved violence and had been reported to the Police. AD/M(1) said that HD would give special consideration to deserving cases. He quoted the case of a singleton male whose application for splitting was approved because it would cause inconvenience and embarrassment if he continued to live with his sister-in-law upon the death of his brother with whom they shared a unit before. He also quoted the case of a large extended family comprising two nuclear families living in two separate units under one tenancy with different living patterns. Their requests for splitting of tenancy upon redevelopment of their housing estate were approved as placing them in one housing unit would result in unavoidable conflicts. These cases did not involve violence and were approved on special grounds. According to AD/M(1), HD would try its best to resolve the conflict amongst the nuclear families as a first step. It would refer deserving

cases to the Social Welfare Department for consideration of compassionate rehousing. Only in cases where the conflict could not be resolved would exceptional consideration be given to allowing for splitting of tenancies.

Divorce cases

8. Mr HO Chun-yan pointed out the difficulties of some estranged couples whose applications for splitting of tenancies could not be approved because they were not able to divorce as their marriage had not been registered. He said that it would pose immense difficulties for these couples if they had to apply to register their marriage first in order to proceed with divorce. He suggested that some form of separation agreement should suffice such that these couples needed not go through divorce proceedings. Sharing the same concern, Ms HO Sau-lan said that more sympathetic consideration should be given to applications for splitting involving divorce and separation, and that such consideration should apply where justified, and not only upon redevelopment. She also stated that de facto marriages should be recognized and that there should not be a need for couples to register their marriage in order to proceed with divorce. She drew members' attention to the plight of some women undergoing divorce who had to wait for a long time before being allocated separate PRH units.

9. AD/M(1) said that in considering applications for splitting on grounds of separation or divorce, HD would need to clarify the marital status. In general, HD would not hastily take steps to remove either party during separation as this might preclude the chance of reconciliation. Depending on the circumstances of the case and to avoid conflict, a separate PRH unit under a conditional tenancy would be provided to allow a family to live apart pending divorce proceedings and the award of custody of children, or until the family crisis was resolved. He stressed that provision of conditional tenancy for couples undergoing divorce was a long established policy and was not only applicable to redevelopment cases.

10. On Mr YEUNG Sum's enquiry about the accommodation arrangements for divorced couples, AD/M(1) explained as follows -

- (a) Tenants were expected to solve their own accommodation problems upon divorce and separate flats would not generally be offered to divorced couples;
- (b) Under most circumstances, custody of young children would usually be granted to the mother. In such cases, HD would normally grant the tenancy to the party having the custody while the other party would have to seek for alternative accommodation; and
- (c) If each party had custody of one or more children, then HD would consider allocating separate housing units in order not to create undue hardship to the family concerned.

11. Mr Andrew WONG was concerned that in the case of divorce, the male party who did not have the custody of the children might refuse to move out, claiming himself to be the principal holder of the tenancy. AD/M(1) said that under such circumstances, a Notice-To-Quit would be issued to the male party requesting him to surrender his unit. In the meantime, a separate unit would be allocated to the female party who had the custody of the children.

Shared tenancies

12. Mr LEUNG Yiu-chung said that he was aware that there were a number of cases where tenants who were unrelated were grouped together by HD in one single tenancy upon allocation of PRH units. These tenants subsequently formed their own families but were still sharing the same unit. If splitting was approved upon redevelopment, only the principal tenant would be rehoused to the announced reception unit while the other sharers would be rehoused to refurbished flats. This had caused a lot of bitterness amongst the tenants who were initially sharing the units on an equitable basis, except that one of them was arbitrarily chosen to be registered as the principal tenant when they first moved in. Mr LEUNG was of the view that tenants who were sharing the unit should not be treated differently but should be given new units upon redevelopment.

13. AD/M(1) said that if the sharers of a unit were from different families with separate application/screening numbers, separate housing would be arranged upon redevelopment of their housing unit. However, for those unrelated squatter clearerees who had chosen to group themselves together in one single tenancy for mutual care and support, they would have to decide amongst themselves as to who would be the principal tenant. The principal tenant would have the rights of addition of spouse while other sharers would not. The Senior Housing Manager/Redevelopment (SHM(R)) added that if splitting upon redevelopment was approved, only the household under the principal tenant would be rehoused to the announced reception estate while other splinter groups would be rehoused to refurbished flats.

14. Members were dissatisfied with the differential treatment given. They considered it unfair that principal tenants who were registered would be allocated new flats while the sharers who were sharing the flats on an equitable basis would be allocated refurbished flats. While acknowledging that it might not be possible to allocate new units to all affected tenants, Mr Andrew WONG enquired whether the tenants of shared tenancies were aware of the significance of registration as the principal tenant and the award of application/screening numbers upon allocation of PRH units back in the 1950s and 1960s. AD/M(1) said that these tenants were aware of their rights and obligations as principal tenants and sharers.

15. Summing up the discussion, the Chairman said that with the housing resources which were presently available, the Administration should be able to remove the anomaly created by shared tenancies and to resolve their conflict through the provision of separate housing units. He stressed the need for a review on the policy on splitting of tenancy. AD/M(1) replied that the Administration was aware of the problems raised. Policies on rehousing and splitting of tenancies would soon be reviewed. The review would hopefully take place in September 2000. The Chairman requested that the review be

Admin published in the form of a consultative document so that Members of the newly elected Legislative Council could be consulted.

IV Revision of Government fees and charges (LC Paper No. CB(1) 1743/99-00(02))

16. The Principal Assistant Secretary for Housing (1) (PAS/H1) said that the Administration was seeking members' views on proposals relating to the revision of Government fees and charges which did not have a direct bearing on people's livelihood. Subject to members' support, the proposals would be implemented as soon as practicable. The Deputy Commissioner of Rating and Valuation (DCRV) added that the revision of fees relating to landlord and tenant services did not require amendments to existing legislation and could therefore be implemented with the approval by the Financial Secretary.

17. Mr LEE Cheuk-yan said that as there was no urgency in the proposed revision of fees and charges, he did not consider it necessary to proceed with the discussion at this meeting in view of the long agenda and the more important items which had yet to be discussed. He suggested that the discussion on these proposals be deferred to the next LegCo session to allow members more time to study and debate the issue. The Chairman pointed out that it was agreed at the House Committee meeting on 14 April 2000 that the respective Panels should be consulted on how the fees and charges within their purview should be increased. With the support of other members, the Panel agreed that the proposals should be discussed at the meeting and that where necessary, the Administration could be asked to provide written responses to members' queries.

18. Responding to Mr LEE Cheuk-yan's enquiry about the computation of the central administrative overhead (CAO), DCRV said that CAO reflected the cost of support services provided by central departments to functional departments. CAO was generally apportioned to a departmental activity on the ratio of functional staff cost of that activity. The central departments attributable to CAO of Rating and Valuation Department would include, inter alia, the Treasury, the Printing Department, and the Government Land Transport Agency.

19. As regards Mr CHAN Kam-lam's concern about the high costs of issuing a certificate for determining the primary user of a tenancy, DCRV said that a lot of manpower and resources were involved in determining the primary user of a tenancy. The need for application for the certificate usually arose as a result of disputes between the landlord and tenant on whether a tenancy was domestic and whether it was subject to control under Part IV of the Landlord and Tenant (Consolidation) Ordinance. Therefore, the staff of the Rating and Valuation Department would need to make site visits to the premises concerned to establish the nature of the tenancy before consideration be given to issuing the certificate.

20. Referring to the sale of the “Hong Kong Property Review”, Miss CHAN Yuen-han was concerned about the high percentage increase of price from \$250 to \$530. PAS/H1 said that the revision of fees and charges was based on a cost recovery basis. Presently, the selling price of the “Hong Kong Property Review” was set at less than half of its cost. Therefore, it was proposed that the selling price be adjusted through incremental increases over six consecutive years. Miss CHAN was worried that the cost recovery principle would be applied to other fees and charges affecting people’s livelihood. Mr LEUNG Yiu-chung shared Miss CHAN’s view that the Government should not attempt to charge its fees on a cost recovery basis, because many of its services were paid by general revenue. He enquired about the time-frame for recovering the cost under the present proposal.

21. PAS/H1 said that except for the increase in selling price of the “Hong Kong Property Review” which would spread over a period of six years at an annual adjustment of less than 14%, all the other proposed increases were within 3 to 8%. Mr LEUNG was of the view that since some of the property information and data were already available on the Internet, few would wish to pay such a high price for the “Hong Kong Property Review”. PAS/H1 said that those in the property business would wish to make reference to the Review and it was believed that the proposed increase would not impose hardship on the buyers concerned.

22. In response to Ms HO Sau-lan as to whether the cost of the “Hong Kong Property Review” could be reduced if it was produced in the form of a compact disc, DCRV said that the cost of producing the Review, be it in the form of a compact disc or a book, would be the same on account of its high production and research costs. Members were of the view that the costs of the Review could be reduced if more choices were given in its reproduction. PAS/H1 thanked members for their views and agreed that these would be looked into.

23. Mr LEE Cheuk-yan said that owing to time constraints, he was not able to raise further questions on the proposed revision of fees and charges. He therefore suggested that the Panel reserved its position on the proposal and discussion should continue in the next LegCo session.

V Redevelopment of North Point Estate

(LC Paper No. CB(1) 1743/99-00(03) — Submission from the Association of North Point Estate Residents Against Estate Redevelopment and Forced Eviction

LC Paper No. CP 941/99-00 — Minutes of the Case Conference on the redevelopment of North Point Estate held on 19 April 2000 with the Administration

LC Paper No. CB(1) 1743/99-00(04) — Information paper provided by the Administration)

24. The Business Director (Allocation and Marketing) (BD/AM) briefed members on the present position of the redevelopment of the North Point Estate (NPE) by highlighting the salient points of the paper provided by the Administration. Members noted that the

registration of the affected tenants of NPE had resumed on 28 April 2000 and that appointments for rehousing registration had been arranged with a registration rate of 80%.

In situ rehousing

25. Dr YEUNG Sum said that the affected tenants of NPE had all along requested for in situ rehousing. They had suggested that some of the existing recreational areas within the district could be used to build reception estates to rehouse tenants through a phased development programme. According to Dr YEUNG, the Leisure and Cultural Services Department as well as the Planning and Lands Bureau did not object to the suggestion as long as the recreational facilities would be reprovisioned in the redeveloped area. He enquired whether HD would be prepared to consider the suggestion.

26. BD/AM said that the areas identified by the affected tenants were currently designated for special purposes. Some of them could not be used for residential purposes due to physical constraints, such as proximity to dangerous goods pier or sewage treatment plants etc. As to the use of the existing playground at King's Road to build reception estates, this was not advisable according to the current planning standards as there was insufficient open space in North Point District as a whole. Besides, the said playground was frequented by local residents. HD had earmarked sufficient housing resources in the Eastern District, i.e. Oi Tung Estate at Aldrich Bay and Hing Wah Estate (Phase 1) at Chai Wan for rehousing the affected tenants. Some of the available units in Model Housing Estate and those available units managed by the Housing Society e.g. in Healthy Village Estate could also be used to rehouse the affected tenants. Presently, about 80% of the affected tenants had been registered. There were also a considerable number of tenants applying for Home Ownership Scheme flats and interest free loans under the Home Purchase Loan Schemes. HD would try its best to assist elderlies affected by redevelopment of NPE to be rehoused to units within North Point District. In response to the Chairman, the Administration agreed to liaise with the Housing Society on the possibility of swapping its units in the North Point District with new reception units in Aldrich Bay so that the elderly tenants of NPE who wished to reside in the North Point District could continue to do so.

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27. Referring to BD/AM's statement that the playground site could not be used to build reception estate as this was close to the dangerous goods pier, Mr CHENG Kai-nam queried why this was not taken into consideration in the past as the pier was also in close proximity to NPE where residents would be similarly affected. BD/AM said that the provision of reception estate at the playground site was not desirable as the site was much too close to the goods pier than the existing blocks in NPE. On Mr CHENG's concern that affected tenants of redevelopment of NPE and Chai Wan Estate would be competing for the large reception flats at Hing Wah Estate, BD/AM assured members that there would be sufficient resources to rehouse affected tenants of both estates.

28. As to Ms HO Sai-lan's concern about the residents' demand for in situ rehousing, the Senior Planning Officer (SPO) reiterated that the five sites identified by the affected tenants as reception estates for in situ rehousing were not suitable for housing development from a planning perspective. There were at present no available sites in North Point which could be utilized as reception estates. As regards the possibility of

phasing development, SPO said that this would restrict the disposition of the blocks and the overall planning of the housing site, thereby reducing the benefits of the redevelopment.

Notice of redevelopment

29. Mr LEUNG Yiu-chung said that he was aware that although most of the affected tenants of NPE had been registered, they were not satisfied with the rehousing arrangements as they would prefer in situ rehousing. He was dissatisfied that the Administration, despite the motion passed by the Panel at its meeting on 3 April 2000 to suspend the redevelopment of NPE until the arrangements for redevelopment were finalized, had proceeded to resume registration on 28 April 2000. He queried about the need to proceed with registration when a decision on the redevelopment option had yet to be made. He considered that the redevelopment of NPE differed from other redevelopment projects which were announced in the form of a rolling programme to allow ample rehousing opportunities for affected tenants.

30. BD/AM explained the need for the redevelopment of NPE. He said that the facilities in the 43-year old estate, although structurally safe, required extensive strengthening and upgrading. In view of the high maintenance cost, it would be more cost-effective to redevelop than to maintain the estate. The redevelopment of NPE would maximize the land use potential of the site and achieve greater community gains. Pursuant to the motion passed by the Panel on 3 April 2000, HA's three standing committees, viz Strategic Planning Committee, Rental Housing Committee and Commercial Properties Committee, held a joint meeting on 20 April 2000 and decided that a longer period of notice should be given to affected tenants as far as practicable, and that -

- (a) tenants affected by non-Comprehensive Redevelopment Projects (non-CRP) would, in future, be given more than 30 months' advance notice for redevelopment;
- (b) a special ex gratia allowance would be granted to domestic and commercial tenants affected by all future non-CRP provided that the notice period of redevelopment was 30 months or less; and
- (c) the target evacuation date of NPE was postponed from February 2002 to August 2002.

31. As regards the urgency of the redevelopment operation, BD/AM explained that since new housing production in the Hong Kong East District would not be available in the coming few years except Hing Wah Estate (Phase 1) which was completed in late 1999 and Oi Tung Estate at Aldrich Bay to be completed at the end of 2000, tenants of NPE would lose the unique opportunity of rehousing to the new estates in the Hong Kong East District in the foreseeable future if the redevelopment operation was to be held up.

Progress of redevelopment of NPE

32. BD/AM made the following points regarding the present progress of the redevelopment of NPE -

- (a) HD would explore the feasibility of redeveloping NPE under the Wider Redevelopment Option with concerned bureaux and departments. This option would cover NPE and the adjacent Government land;
- (b) In the event that the Wider Redevelopment Option was found not feasible, HA would proceed to redevelop its own site, aiming at a 30% increase in the number of housing units; and
- (c) The Administration had not negotiated with any private developers in the redevelopment of NPE.

33. On the authority for the overall planning of the redevelopment of NPE, the Acting Principal Assistant Secretary for Housing (Project Management) said that HD and the Planning Department were jointly assessing the best use that could be made of the land made available by redevelopment. A more comprehensive approach to redevelop the land in a wider context would be preferred.

34. As regards the compensation arrangements for the affected commercial tenants, BD/AM said that Commercial Properties Committee of HA had decided that a special ex gratia allowance of \$73,000 would be granted to commercial tenants affected by redevelopment of NPE if they had not participated in restricted tender exercises for renting HA's commercial properties.

Admin 35. Summing up the discussion, the Chairman requested the Administration to take into account the concerns raised by members on the rehousing arrangements for the affected tenants.

VI Compensation and clearance arrangements for Cottage Area clearance

Meeting with the Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong (LC Paper Nos. CB(1) 1743/99-00(05) and (06))

36. Mr LEE Wai-keung elaborated on the submission from the Coalition on Safeguarding the Rights of Cottage Areas in Hong Kong (the Coalition). He pointed out that in view of the unique historical background of Cottage Areas (CAs), CA residents should be compensated for their self-owned structures, and that they should not be dealt with in the same manner as squatter clearances. He sought members' support to freeze the clearance of CAs until reasonable compensation arrangements were worked out.

Meeting with the Administration
(LC Paper No. CB(1) 1743/99-00(07))

37. The Assistant Secretary for Housing (AS for H) said that the clearance of Tung Tau CA was originally scheduled for end of December 1999. The clearance operation was deferred as a result of the appeals made to the Appeal Panel on Housing lodged by the affected residents. As the hearing of the appeal cases had been completed in May 2000, the Administration proposed to proceed with the clearance in July 2000. As the cleared site would be used for public housing developments, the clearance of Tung Tau CA would be funded by HA. Meanwhile, funding would be sought from the Finance Committee for the clearance of the remaining CAs at Mt Davis, So Kon Po and Lai Chi Kok.

38. Mr CHENG Kai-nam said that since the Administration had agreed to provide relaxed rehousing arrangements for CA residents in recognition of their special status, likewise special consideration for an ex gratia allowance should be granted to CA residents to compensate for the loss of their self-owned structures. BD/AM said in response that legal advice from both the Department of Justice and HD had confirmed that neither the Government nor HA was legally liable to pay any compensation to the CA residents for demolishing their structures. The Judgement of the Court of Appeal delivered on 27 September 1999 in respect of the Tiu Keng Leng Cottage Area judicial review case confirmed this legal point of view. He further referred members to the Emergency (Resettlement) Areas Regulations in force in 1952 and the Resettlement Ordinance enacted in 1958. None of these legislation provided for compensation for demolition of the structures. BD/AM further explained that the clearance of CA was intended to provide a better living environment for the affected households. So far, about 70,000 CA residents had since been resettled to new homes.

39. The Chairman pointed out that it was to his understanding that unlike statutory compensation, which had to be made on a legal basis, ex gratia allowances could be granted at the discretion of the Administration. AS for H said that the issue of an ex gratia allowance had been discussed among various Government departments. It had been confirmed that there was no legal basis to use public funds to compensate CA residents for the loss of their structures. Mr Ronald ARCULLI shared the Chairman's view that an ex gratia allowance could be granted in certain cases which merited exceptional consideration, albeit the absence of a legal basis to do so. He further pointed out that CA structures could be assigned and that such assignments could be registered with the approval of HD.

40. BD/AM said that apart from the structures at Tiu Keng Leng CA which were freely assignable, all the structures in other CAs were assignable only to "authorized persons" of PRH estates, temporary housing, interim housing and CAs. He said that apart from being offered relaxed rehousing arrangements, affected CA residents would also be offered a removal allowance. With the clearance of CAs, the living conditions of resettled households would be significantly improved. Therefore, there was no legal basis to use public funds to compensate CA residents for the loss of their structures. Mr ARCULLI remarked that, be it in the form of public housing or ex gratia allowance, the Government had been using public funds for CA clearance. He considered it a

matter of fairness that CA residents should be adequately compensated for the demolition of their structures.

41. Miss CHAN Yuen-han said that residents were not seeking the same compensation arrangements as in the case of Tiu Keng Leng CA Clearance. They were merely asking for a basic ex gratia allowance. She said that residents had spent large amounts of money back in the 1950s to build their homes in CAs and they should therefore be reasonably compensated for their loss. She urged the Administration to suspend the clearance of Tung Tau CA until reasonable compensation arrangements were worked out. This request was unanimously passed by members at a previous meeting.

42. BD/AM reiterated that there was no legal basis to use public funds to compensate CA residents. The points raised by members and the Coalition had been taken into account by the Department of Justice and HD. Both had re-confirmed that neither the Government nor HA was legally liable to pay any compensation to CA residents. The cleared site of Tung Tau CA was needed for public housing development and the affected residents were well aware of their legal position and their rights to appeal. AS for H supplemented that the ruling of the Court of Appeal on the Tiu Keng Leng CA judicial review that Government was not legally liable to pay compensation for loss of CA structures strengthened the Administration's arguments. In response to members, the Administration agreed to provide the Panel with a copy of the said judgement.

(Post-meeting note: A copy of the Judgement of the Court of Appeal in respect of the matter of compensation payable to residents of Tiu Keng Leng Area was provided by the Administration and circulated to members vide LC Paper No. CB(1) 1812/99-00.)

43. Mr David CHU Yu-lin enquired whether the Administration had taken into account the assurance given by the former Urban Councillor, Mr K.M.A. Barnett in his speech on squatter resettlement in 1952 that CAs were meant for permanent occupation. It was to his understanding that such assurance could not be traced by the Administration. In response, BD/AM said that the CA residents were first permitted to live in the areas in 1952 by the Emergency (Resettlement Areas) Regulations. The Resettlement Ordinance enacted in 1958 sought to consolidate the Emergency (Resettlement Areas) Regulations then in force and clearly defined the residents' contractual right to occupy these CAs subject to payment of prescribed fees. CA residents were in effect licencees permitted to reside on designated land. Under the licence conditions, they enjoyed the right to erect their structures at their own costs and were obligated to vacate their structures upon receipt of the three-month Notice-To-Quit issued by HA. Therefore, the Administration did not consider that the right to erect their structures constituted a ground for "compensation" or "special ex gratia allowance" for the demolition of structures and this view was confirmed by the three Judges of the Court of Appeal in the Tiu Keng Leng CA judicial review. AS for H added that the judges had taken into consideration the historical background, including the letters given to the Tiu Keng Leng CA residents by resettlement officers in 1961 in making their decision. Responding to the Chairman, the Administration was requested to locate previous records relating to Mr Barnett's undertaking.

44. At the Chairman's invitation, Ms Ada WONG, representing the Coalition, briefed members on the speech made by Mr Barnett which was broadcasted in 1952. The speech, which detailed Government's plans for squatter resettlement, had not mentioned about the three-month Notice-To-Quit. It made reference to the rehousing policy during the early part of the 1950s where squatter residents were encouraged to rebuild their homes on designated land and were responsible for their own well being through mutual support and co-operation. It was only in 1958 upon enactment of the Resettlement Ordinance was the three-month Notice-To-Quit introduced.

(Post meeting note : A copy of Mr Barnett's speech on Government's plans for squatter resettlement made in 1952 was provided by Ms Ada WONG and sent to the Administration.)

45. Dr YEUNG Sum reminded the Administration that the motion which was unanimously passed by the Panel at a previous meeting requesting the granting of an ex gratia allowance to CA residents still stood. He pointed out that most of the CA residents did not wish to be rehoused to PRH and would prefer to live in CA structures. His view was shared by the Chairman who indicated support for compensation for loss of self-owned structures. He said that the CA residents had invested a substantial amount of savings to build their structures in the 1950s. If there had been a proper rehousing policy at that time, the CA residents would not need to build their structures nor suffer from their present loss. The present arrangement was grossly unfair to CA residents.

46. The Chairman said that the subject of CA Clearance had been thrice discussed by the Panel within this session. Despite the unanimous support of all the political parties, the Administration refused to accede to members' request. As Tung Tau CA Clearance was funded by HA, the Administration could bypass LegCo and proceed with clearance operation. This would seriously undermine the relationship between the Executive and the Legislature. He suggested that the Administration should give further thoughts to the granting of an ex gratia allowance and report at the next special meeting scheduled for 19 June 2000.

47. Miss CHAN Yuen-han expressed disappointment that the Administration had failed to take into account members' views and had decided to proceed with the clearance of Tung Tau CA in July 2000 despite the fresh evidence given by residents. She considered it unfair that the Administration should treat CA residents in the same manner as squatter clearances. She therefore proposed to move the following motion -

“That the Panel on Housing supports that residents of Cottage Areas should be reasonably compensated and urges the Administration to freeze the clearance of Cottage Areas until reasonable compensation arrangements have been worked out.”

48. Members present expressed unanimous support to the motion. They also supported the Coalition's request that factory operators and the Apostolic Faith Church of Hong Kong, both of whom were affected by the Tung Tau CA Clearance, should have the same compensation arrangements as those of CA residents.

49. Members agreed that the granting of a special ex gratia allowance to CA residents should be further pursued and that the following actions be taken -

- (a) A report be made to the House Committee at its meeting on 9 June 2000 regarding the Panel's deliberations on the CA Clearance;
- (b) If the views of the Panel had the support of the House Committee, the Chairman of the House Committee should be requested to put forward members' request to the Chief Executive;
- (c) The subject would be further discussed by the Panel at its special meeting on 19 June 2000; and
- (d) A further report would be made to the House Committee at its meeting on 23 June 2000.

50. Mr James TO said that an alternative would be to introduce a Members' Bill to prohibit the Administration from proceeding with the clearance of CAs. Mr Ronald ARCULLI said that this would unlikely be approved by the Chief Executive.

51. The Chairman requested members to solicit the support of their respective parties for the granting of an ex gratia allowance to CA residents.

(Post-meeting note: A report of the Panel on Cottage Area Clearance was submitted to the House Committee for discussion on 9 June 2000 vide LC Paper No. CB(1) 1790/99-00.)

VII Any other business

52. There being no other business, the meeting ended at 7:30 pm.