

## Information Paper for Legislative Council Panel on Housing

### Clearance of Cottage Areas

#### PURPOSE

At the LegCo Panel on Housing meeting on 1 November 1999, Members requested the Administration to re-consider the suggestion of granting a special ex-gratia allowance to clearers of Cottage Areas (CA) for loss of self-owned structures. This paper informs Members of the outcome of the review and the position of the Administration.

#### ADMINISTRATION'S POSITION AND ARGUMENTS

2. The Administration has re-examined the arguments put forward by CA residents. We still consider that as a matter of principle, it is not desirable to use public funds for paying a special ex-gratia allowance to CA residents upon clearance. Our arguments were already set out in our submission to this Panel in July 1999. (A copy is attached at Appendix I.) Specifically, we have the following comments:

- (a) We do not agree with the view that CA residents, as permit holders, should expect to live in CAs for as long as they wish. The Housing Department has cleared eleven CAs and terminated the occupation permits of some 14,200 units in the past, based on the terms and conditions of the permits.<sup>(1)</sup>
- (b) In the clearance of other structures erected on Government land by occupation permit holders themselves (such as Licensed Areas), residents were not given any compensation upon clearance. As CAs are basically managed under similar licence conditions, it is not justifiable to treat CA residents differently. (Notwithstanding this, we do recognise that the overall position of CA residents is rather unique and the Housing Authority is therefore prepared to offer relaxed rehousing arrangements as

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<sup>(1)</sup> By the judgment of the Court of Appeal delivered on the 27 September 1999 in respect of the Tiu Keng Leng Cottage Area (Rennie's Mill) judicial review case, the Court of Appeal confirmed that the termination of the permit by the service of the Notices to Quit was not an improper action or an abuse of power. "... In 1964 the residents were required to become the permittees of the occupation permits which were issued by the Government. One of the terms of the permits was that it was terminable on three months notice given by either party. I do not think that it is open to the residents to argue that the occupation permits were subject to any promise which have been made by the Government for them to have further security of tenure. ..." (per Mayo, J.A. at p.17-18). The Hon. Mr. Justice Rogers J.A. further opined that "... there is nothing wrong in the Government seeking to redevelop the land after 34 years so as to provide better living conditions for the whole community."(p.35)

proposed by the residents themselves.)

- (c) Special ex-gratia allowance was given to Tiu Keng Leng clearnees because of the unique historical background of the Tiu Keng Leng CA and not because of the background of CA in general. The Administration had made it clear in its submission to the Finance Committee on 31 March 1995 (ref:FCR(94-95)126) that the payment of the allowance was exceptional and would not apply to other housing and public works related clearances.

3. Members have mentioned the clearance operation at North Tsing Yi shipyard at the meeting on 1 November 1999. In this connection, Members may wish to know that no special ex-gratia allowance has been paid to the occupants of the surveyed domestic structures other than the normal domestic removal allowance upon clearance.

## **WAY FORWARD**

### **(i) The Clearance Programme**

#### *Tung Tau Cottage Area*

4. The clearance of the Tung Tau CA is in progress.<sup>(2)</sup> Since the cleared site will be used for public housing development, the clearance of structures will be funded by the Housing Authority.

#### *Fo Tan Cottage Area*

5. All the structures in Fo Tan CA are Government-owned and hence there should be no dispute about “compensation/special ex-gratia allowance” for the clearnees. The clearance of this CA was announced on 24 May 1999. Director of Lands will seek the Secretary for the Treasury’s approval for a sum of \$8.89 million<sup>(3)</sup> to carry out the clearance operation scheduled for June 2000. The operation will help improve the living conditions of the residents in Fo Tan CA.

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<sup>(2)</sup> The clearance of Tung Tau CA was originally scheduled for end December 1999. Since a number of residents have appealed to the Appeal Panel on Housing against the Notices-to-Quit issued by the Housing Department, clearance action will not be initiated until these appeal cases have been settled.

<sup>(3)</sup> After taking into account the revised price adjustment factors, the demolition cost for the clearance of Fo Tan, Mt. Davis, So Kon Po and Lai Chi Kok CAs is now adjusted downwards from \$41.8 million to \$37.41 million (i.e. \$8.89 million for Fo Tan CA and \$28.52 million for the other three CAs).

Other Cottage Areas with Self-owned Structures

6. The clearance plans for Mt. Davis, So Kon Po and Lai Chi Kok CAs have yet to be finalised. Although there is no firm development programme for these sites for the time being, we hope to complete the clearance of the CAs by 2001 as pledged in the 1997 Policy Address. In this connection, the Finance Committee's approval for a sum of \$28.52 million will be required.<sup>(3)</sup> If the funding proposal is not accepted, the Administration shall be bound to hold back the clearance of the three CAs concerned. However, no matter whether the clearances may proceed as scheduled, the Housing Department will offer rehousing to eligible CA residents in order to provide a more satisfactory living environment to the resettled households.

**(ii) The Rehousing Arrangements**

7. As announced earlier, the following relaxed rehousing arrangements will be offered to CA residents:

- (a) offering public rental housing flats to eligible households without the income-cum-asset test and domestic property ownership restriction;
- (b) according first priority green form status to buy Home Ownership Scheme (HOS)/Private Sector Participation Scheme (PSPS)/Buy-or-Rent Scheme flats with monthly mortgage subsidies;
- (c) according green form status to buy Sandwich Class Housing Scheme flats; and
- (d) according first priority green form status to apply for Home Purchase Loan Scheme.

8. Details of the domestic removal allowance for eligible clearerees, cash allowance for single and two-person households in lieu of rehousing and the housing benefits entitled by clearerees under the Mortgage Subsidy Scheme and Home Purchase Loan Scheme are shown at Appendix II.

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