

## 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 clearerees 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 clearerees. 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.

## **Appendix I**

### **Information Paper for Legislative Council Panel on Housing Funding Allocation for Demolition of Cottage Areas**

#### **Purpose**

We intended to seek the approval of the Finance Committee to allocate funds to the Lands Department for the demolition of four Cottage Areas. Members discussed the subject at LegCo Panel on Housing meetings held on 7 December 1998 and 1 March 1999 respectively. At Members' request, the Administration has withheld the funding proposal and reviewed the question of offering "compensation/special ex-gratia allowance" to Cottage Areas residents affected by the clearance programme. This paper informs Members of the findings of the review and the Administration's position.

#### **The Clearance Programme**

2. The Government has pledged in the 1997 Policy Address to clear the remaining five Cottage Areas by 2001 to provide a more satisfactory living environment to resettled households. Details are given at Annex A.

3. The Director of Lands, with the support of the Secretary for Housing, will propose to create a new commitment of \$41.8 million<sup>(1)</sup> under Subhead 600 Works of Head 91 - Lands Department for demolishing structures in the four Cottage Areas at Fo Tan, Mt Davis, So Kon Po and Lai Chi Kok. The breakdown is given at Annex B. The demolition of Tung Tau Cottage Area will be funded by the Housing Authority because the site has been designated for public housing development by the Housing Authority.

4. Upon request by Members, we have considered the question of offering "compensation/special ex-gratia allowance" to Cottage Area residents with self-owned structures. All the supporting documents provided by Cottage Area residents have been thoroughly examined.

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<sup>(1)</sup> The Administration originally proposed to create a new commitment of \$44.5 million for demolishing the four Cottage Areas. The demolition cost is now adjusted downwards to \$41.8 million, after taking into account the revised price adjustment factor.

## **Administration's Position and Arguments**

5. Legal advice has again confirmed that neither the Government nor the Housing Authority is legally liable to pay any "compensation" to Cottage Area residents by demolishing their structures. As regards the so called "special ex-gratia allowance" as suggested by Cottage Area residents with self-owned structures, the Administration considers it undesirable to use public funds for such purpose as a matter of principle. In response to the arguments of Cottage Area residents, we set out the Administration's response in the following paragraphs.

### **(i) Uniqueness of Tiu Keng Leng Cottage Area**

6. Special ex-gratia allowances were offered to residents affected by the clearance of Tiu Keng Leng Cottage Area in 1996 because the historical background of the Cottage Area was unique and the residents' structures were freely assignable with the approval of Director of Housing. In other Cottage Areas with self-owned structures (Mt Davies, So Kong Po, Lai Chi Kok and Tung Tau), licensees can only assign the structures to "authorized persons" of public rental housing estates, temporary housing, interim housing and Cottage Areas. In short, only those eligible families authorised by the Director of Housing may acquire residence in other Cottage Areas, as opposed to the freely assignable structures in Tiu Keng Leng Cottage Area. Owing to the uniqueness of Tiu Keng Leng Cottage Area, the Administration has made it clear that the special ex-gratia allowances were exceptional and would not apply to other housing and public works related clearances. In this connection, Members may wish to refer to FCR (94-95) 126 for the Administration's submission made to the Finance Committee on clearance of Tiu Keng Leng Cottage Area on 31 March 1995.

### **(ii) Rights and obligations of Cottage Areas residents**

7. Although some of the Cottage Area residents erected their structures according to approved plan, they do not have legal title to the land on which these structures were erected. They were first permitted to live in the areas in 1952 by the Emergency (Resettlement Areas) Regulations under the Emergency Regulations Ordinance. Under these Regulations, the Urban Council was empowered to set aside any area of Government land for resettlement of squatters (which included the remaining four Cottage Areas with self-owned structures). It was stipulated that the Urban Council might by permit authorise the erection of structures in these areas by payment of

prescribed fees. The Resettlement Ordinance enacted in 1958 sought to consolidate, inter alia, the Emergency (Resettlement Areas) Regulations then in force and clearly defined the residents' contractual right to occupy these Cottage Areas subject to, inter alia, the payment of prescribed permit fees and the adherence of the regulations enacted under the Ordinance. The Resettlement Ordinance was subsequently repealed in 1973 by the Housing Ordinance, which empowered the Housing Authority to manage these Cottage Areas and enforce the conditions of the licences. None of the above legislation provided for compensation by way of demolition of the structures. Further, the Government has never undertaken that the residents may stay in their cottages indefinitely (as in the case of Tiu Keng Leng Cottage Area).

8. Given the above, the Cottage Area residents are in effect licensees permitted by the Housing Authority to reside on designated land by paying licence fees. Under the licence conditions, they enjoy the right to erect their structures at their own costs and are obligated to vacate their structures upon receipt of the 3-month advance Notice-To-Quit issued by the Housing Authority. These are contractual obligations clearly stated in the licence conditions which are binding on both the residents and the Housing Authority. Therefore the Administration does not consider that the right to erect their structures constitutes a ground for "compensation" or "special ex-gratia allowance" for the demolition of structures.

### **(iii) Rehousing arrangements**

9. The Administration does recognise that Cottage Area is an early form of public housing and the overall position of Cottage Area residents is rather unique. The Administration is therefore prepared to offer relaxed re-housing arrangements for Cottage Area residents as proposed by the residents themselves. Briefly, these include –

- (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/Private Sector Participation Scheme/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.

## **Conclusion**

10. The Administration is concerned about the living conditions of the Cottage Area residents, and therefore has undertaken to clear all the remaining five Cottage Areas by 2001 to provide a more satisfactory living environment to the resettled households. We hope the clearance programme will proceed as scheduled. We will seek the required funding for the clearance of the four Cottage Areas from the Finance Committee at an appropriate time. If our funding proposal is not accepted, we shall be bound to hold back the clearance of four Cottage Areas. As regards Tung Tau Cottage Area, the Housing Authority will proceed with the clearance as scheduled and provide the necessary funding.

Housing Bureau  
Government Secretariat  
July 1999

**Clearance Programme of Cottage Areas**

<b><u>Name</u></b>	Estimated no. of units	Estimated no. of households	Estimated no. of persons	Date of clearance completion (tentative)
Tung Tau	222	216	872	December 1999
Fo Tan	189	135	513	June 2000
So Kon Po	179	161	612	April 2001
Mount Davis	221	184	699	April 2001
Lai Chi Kok	177	202	768	June 2001
Total	<u>988</u>	<u>898</u>	<u>3464</u>	



**Clearance of Cottage Areas**  
**Financial implications**

At a unit rate of \$45,600 per cottage (at September 1998 prices), the total demolition cost of 766 units (each of approximately 30 m<sup>2</sup>) at the four Cottage Areas is estimated to be \$41.8 million, with the following breakdown-

	<b>Unit (Nos.)</b>	<b>Sub-total (\$ million)</b>	<b>Total (\$ million)</b>
(a) Demolition cost			34.93
• Fo Tan	189	8.62	
• Lai Chi Kok	177	8.07	
• Mt. Davis	221	10.08	
• So Kon Po	179	8.16	
(b) Contingencies (8 % on (a))			2.77
			—
			<b>37.70</b>
		<b>Sub-total</b>	(at September 98 price level)
(c) Inflation allowance			4.10
			—
		<b>Total</b>	<b>41.80</b>
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2. The above costs include the expenses of hiring contractors for the demolition work and 20% on-costs charged by the Housing Authority to cover site management, site security, tendering, contract documentation, project management and supervision services provided by the Housing Authority. The demolition work comprises the following items -

- (a) demolition of superstructures such as vacated Cottage Area units which contain asbestos, public latrines, pump houses, meter rooms, transformer rooms and refuse collection points;

- (b) making good the ground level such as grubbing up of footings, surface channels, drainage and foundations;
- (c) disconnection of public utilities such as fresh water and flush supply, fire services and electricity supply;
- (d) removal of resulting debris; and
- (e) fencing up of the cleared site.

3. Subject to Finance Committee's approval, we will phase the expenditure as follows-

<b>Year</b>	<b>\$ million (September 1998)</b>	<b>Price Adjustment Factor</b>	<b>\$ million (Money-of- the-date)</b>
2000-2001	9.3	1.08028	10.05
2001-2002	28.40	1.11809	31.75
	_____		_____
<b>Total:</b>	<b>37.70</b>		<b>41.80</b>
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## Appendix II

### Cash Allowances /Housing Benefits for Eligible Cottage Area Clearerees

#### Cash Allowance in lieu of Rehousing

- For Single Person \$37,330
- For 2-person household \$48,310

#### Domestic Removal Allowance (DRA)

	DRA Rate		
	Tung Tau CA (Note 1) \$	Fo Tan CA (Note 2) \$	Lai Chi Kok, Mount Davis and So Kon Po CA \$
1 person	3,670	3,860	to be announced (Note 3)
2-3 persons	7,030	7,540	
4-5 persons	8,670	9,340	
6 persons & above	10,900	11,750	

Note 1: Based on DRA rates approved by the Secretary for Treasury on 14.11.97 under the delegated authority by LegCo Finance Committee for clearance announced on or after 1.12.97. Clearance of Tung Tau CA was announced on 16.9.98

Note 2: Based on DRA rates approved by the Secretary for Treasury on 27.11.98 under the delegated authority by LegCo Finance Committee for clearance announced on or after 1.12.98. Clearance of Fo Tan CA was announced on 24.5.99

Note 3: Clearance of the remaining CAs has not been announced. The DRA rates will be the prevailing rate at the time of announcement of the clearance.

#### Mortgage Subsidy Scheme

CA clearerees are permitted to buy HOS flats with a maximum mortgage subsidy of \$162,000 payable to them over a period of 6 years.

#### Home Purchase Loan Scheme (HPLS)

CA clearerees can join the HPLS with first priority green form status to buy a private sector flat or an HOS flat under the Secondary Market Scheme and obtain an interest free loan of \$800,000 and \$600,000 repayable over 13 years and 20 years respectively. They can also opt to obtain a monthly subsidy of \$5,100 for 48 months.