

**Bills Committee on Landlord and Tenant (Consolidation)
(Amendment) Bill 2003**

**List of follow-up actions arising from the discussion at the meeting on
9 January 2004**

(3) To provide a list of suggested information which a landlord may require a potential tenant to provide, on a voluntary basis and without contravening privacy protection, before deciding whether or not to let his property to the tenant.

Reply

As advised by the Department of Justice, there is no restriction on the types of personal information that a landlord may ask a prospective tenant to provide. It will be up to the tenant to decide whether the request for information should be acceded to. However, in accordance with the principle of protection of personal data as prescribed in the Personal Data (Privacy) Ordinance (Cap 486), the landlord should ensure that the personal data of the tenant collected shall not be used for the purpose other than the purpose of negotiation for the grant of tenancy.

2. In the booklet on tenancy agreements, the Consumer Council and the Estate Agents Authority (EAA) suggest that a landlord, in order to ensure the ability of the prospective tenant to fulfill his contractual obligation, may consider asking him to provide information about his occupation, and if need be, proof of his income and credit worthiness, e.g. proof of employment, past rental records, etc.

3. The EAA has also issued a circular advising estate agents to suggest to their client tenants that they provide their prospective landlords with information on or proof of their occupation, income, financial status or past rental records; but in doing so, the estate agents should ensure that they will handle the personal data with caution without contravening the relevant provisions in the Personal Data (Privacy) Ordinance, that they should obtain the “prescribed consent” of the tenants in releasing their information to landlords, and that the information collected should be used only for the purpose for which it is collected.

(6) To advise the prevailing eligibility criteria for public rental housing (PRH) and the assistance available, from both Government and non-government organisations, to those past beneficiaries of subsidized home ownership schemes who could not afford rented accommodation in the private sector. Consideration should also be given to offering PRH to tenants evicted as a result of the enactment of the Bill.

Reply

(a) *Eligibility Criteria for Public Rental Housing (PRH)*

———— All Hong Kong citizens may apply for PRH if they fulfill the prevailing eligibility criteria which comprise, inter alia, (i) an Income Test; (ii) an Assets Test; and (iii) a No-Domestic-Property Test. Details of the eligibility criteria are set out in Annex A.

(b) *Assistance to Past Beneficiaries of Subsidised Home Ownership Scheme (SHOS)*

As we advised Members in our previous reply on the matters arising from the first meeting of the Bills Committee, past beneficiaries of SHOS are not allowed to apply for PRH again even after sale of their flats. This is necessary in order to safeguard the rational allocation of public housing resources. However, the Housing Authority (HA) has been exercising discretion to allocate PRH units to those who are in genuine hardship and have to dispose of their flats acquired under SHOS.

2. In early 2002, in response to the suggestion of the LegCo Panel on Housing, the HA endorsed a set of revised criteria for considering such applications, as follows-

- (i) bankruptcy;
- (ii) financial hardship resulting in the need for Comprehensive Social Security Assistance;
- (iii) adverse changes to family circumstances such as divorce, death of bread-winner, etc;
- (iv) a significant drop in household income resulting in difficulties in financing the home purchases; and

- (v) households beset with medical and social problems but not to the extent to qualify for compassionate rehousing.

3. The HA considers the above measures adequate to allow the households beset with hardship, financial or otherwise, which prevents them from continued home ownership, to have access to PRH, while at the same time safeguarding the rational allocation of public housing resources.

(c) *Automatic Allocation of PRH to Evicted Families*

Evicted families can apply for PRH units if they fulfill the eligibility criteria for PRH. We consider that it will not be fair to other applicants if preferential treatment is given to evicted families by way of waiving their need to fulfill the eligibility criteria.

(d) *Assistance Available to Evicted Families*

Evicted families who are hence rendered homeless can apply to the HA for a temporary shelter in its New Territories Transit Centre, and stay there for a maximum period of three months. During their stay, upon verification of their genuine homelessness and subject to meeting the eligibility criteria for PRH applications through the Waiting List (WL), they can subsequently be housed to an Interim Housing unit to wait for maturity of their WL applications.

2. Evicted families can also seek compassionate rehousing and other types of assistance from the Social Welfare Department (SWD) and Non-government Organisations (NGOs), such as Hong Kong Family Welfare Society, Caritas-Hong Kong, Christian Family Services Centre, and Neighbourhood Advice Action Council, through the 66 Family Services Centres/Integrated Family Services Centre they operate. Examples of the assistance are set out in Annex B.

Eligibility criteria for PRH

1. The applicant must be 18 years of age or over. The applicant and his/her family members must be residing in Hong Kong and have the right to land in Hong Kong without subject to any conditions of stay (except for conditions concerning a limit of stay).
2. A person under 18 years of age must apply together with his/her parents or legal guardian.
3. The relationship between the applicant and the other family members must be either husband and wife, parents, children, grandparents, grandchildren, unmarried brothers and sisters or other dependent relatives who are willing to live with the applicant.
4. All married family members included in the application must apply together with their spouse (except for divorcee, widow/ widower or spouse who is not living and has not landed in Hong Kong).
5. Only one of the married children of the applicant may be included in the application.
6. At the time of allocation, at least half of the family members included in the application must have lived in Hong Kong for seven years and are still living in Hong Kong.
7. The applicant or his/her family members must not (i) own or co-own any domestic property; (ii) have entered into any agreement to purchase a domestic property; or (iii) own more than 50% share in a company which owns domestic properties, at the time of registration up to the time when a tenancy agreement is signed upon allocation of PRH.
8. The total monthly income and current net assets value of the applicant and his/her family members must not exceed the maximum income and total net assets value limits as laid down by the Housing Authority. The applicant and family members must declare their income and produce relevant documents for vetting.

9. The applicant and his/her family members must declare the assets they own, including: land, landed properties, vehicles, transferable vehicle licences, investments, business undertakings, bank deposits and cash in hand. The applicant and his/her family member owning assets must produce documentary proof for inspection.

10. New application from the whole household of existing PRH tenants will not be accepted.

11. Ex-owners/ex-joint owners or former recipients of various subsidised home ownership schemes are not allowed to apply for PRH.

12. Family members of various subsidized home ownership schemes are permitted to apply provided that their names have been deleted from the relevant record and subject to the fulfillment of other PRH eligibility criteria.

Assistance being provided by SWD and NGOs to evicted families

Provision of accommodation

- Those who have genuine need and immediate housing problem, coupled with other justified financial, social and/or medical grounds, can apply for Compassionate Rehousing (CR) at SWD for a PRH unit. In the first 8 months of this financial year (April to November 2003), 99 of approved CR applications involved evicted families, equivalent to 8.3% of the total number of successful applications.
- Residential Placement including (a) Aged Home Placement and (b) Urban Hostel for Single Persons could be arranged for the evicted individuals if they meet the eligibility criteria. Under (a), emergency placement in subvented aged homes can be arranged for singleton or couple aged over 60. Under (b), placement in the two urban hostels operated by NGOs (聖雅各福群會李節街單身人士宿舍和救世軍怡安宿舍) can be arranged for single adults. The two hostels offer 80 placements with a maximum staying period of 6 months.

Finding suitable accommodation

- Information such as advertisement on suitable accommodation and on estate agencies will be passed to the evicted individuals or families if they do not have adequate support network (e.g. New Arrivals).
- If need be, the caseworkers will escort and accompany the individuals or families in searching the right tenement.
- Trust funds could be released by SWD to help the evicted tenants to settle the rent deposits and other expenses arising from the removal. The 4 major charitable/trust funds included Li Po Chun Charitable Trust Fund, Tang Shui Kin and Ho Tim Charitable Fund, Brewin Trust Fund and Kwan Fong Trust Fund for the Needy.

Counselling service

- Counselling service is offered to the evicted tenants to help them cope with the stress and anxiety which may arise from the eviction and removal.