

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 1032/04-05  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/HG/1

**Panel on Housing**

**Minutes of special meeting**  
**held on Monday, 29 November 2004, at 2:30 pm**  
**in the Chamber of the Legislative Council Building**

**Members present** : Hon CHAN Kam-lam, JP (Chairman)  
Hon LEE Wing-tat (Deputy Chairman)  
Hon Fred LI Wah-ming, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHAN Yuen-han, JP  
Hon LEUNG Yiu-chung  
Dr Hon YEUNG Sum  
Hon Abraham SHEK Lai-him, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Hon Frederick FUNG Kin-kee, JP  
Hon WONG Kwok-hing, MH  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon CHEUNG Hok-ming, SBS, JP  
Hon Patrick LAU Sau-shing, SBS, JP  
Hon Albert Jinghan CHENG

**Members attending** : Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC

**Member absent** : Hon James TO Kun-sun

- Public officers attending** : Mr Michael M Y SUEN, GBS, JP  
Secretary for Housing, Planning and Lands
- Mr TAM Wing-pong, JP  
Deputy Director of Housing (Strategy)
- Mr Carlson CHAN  
Assistant Director of Housing (Strategic Planning)
- Mr Anthony WONG  
Assistant Director of Housing (Legal Service)
- Mr WONG Bay  
Acting Deputy Director of Housing (Estate Management)
- Attendance by invitation** : Society for Community Organization
- Ms FOK Tin-man  
Community Organizer
- Mr LO Yiu  
Public Rental Housing Tenant
- Wong Chuk Hang Estate Transfer Concern Group  
(黃竹坑邨關心調遷家庭小組)
- Mr WU Hin-lau  
Group Member
- Mr NG King-hoi  
Group Member
- Hong Kong People's Council on Housing Policy
- Mr LAU Kar-wah  
Vice-Chairman
- Mr LEUNG Bing-wah  
Secretary
- Shek Lei Residents' Rights Concern Group  
(石籬居民權益關注組)
- Ms CHAN Tung-mei  
Member

Mr LEUNG Wing  
Member

Alliance for Defending Grassroots Housing Rights

Ms WONG Ling-hei  
Member

Ms CHEUNG Man-wai  
Member

Wong Chuk Hang Estate Redevelopment Concern Group

Mr AU YEUNG Wu  
Group Member

Ms WON Yuk-ling  
Group Member

Kwai Chung Estate Resident's Right Concern Group

Mr NG Wing-chak  
Chairman

Ms HO Choi-wan  
Member

Sham Shui Po Community Association

Mr HUI Yat-hau  
Group Member

Mr LAU Cheuk-kei  
Group Member

Kwai Fong Residents' Association (葵芳居民協會)

Mr CHUNG Hau-ping  
Member

Neighbourhood and Worker's Service Centre

Mr WONG Yun-tat  
Community Affair Officer

Reasonable Housing Rights Concern Group

Ms LEUNG Sau-yun  
Spokesman

**Clerk in attendance :** Miss Odelia LEUNG  
Chief Council Secretary (1)4

**Staff in attendance :** Mr KAU Kin-wah  
Assistant Legal Adviser 6

Ms Sarah YUEN  
Senior Council Secretary (1)6

Ms Christina SHIU  
Legislative Assistant

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Action

**I Domestic rent policy for public rental housing**

- (LC Paper No. CB(1)328/04-05(04) -- Information paper provided by the Administration on Court of Appeal's Judgment on the Housing Authority's Appeals
- LC Paper No. CB(1)118/04-05(02) -- Information paper provided by the Administration
- LC Paper No. CB(1)118/04-05(03) -- Background brief on "Median rent-to-income ratio of public rental housing" prepared by the Legislative Council Secretariat)

Introduction

The Chairman explained that this special meeting to discuss domestic rent policy for public rental housing (PRH), in particular the issue of median rent-to-income ratio (MRIR), was originally scheduled for 10 November 2004. After consulting members through a circular (LC Paper No. CB(1)156/04-05 issued on 3 November 2004), the meeting was deferred to enable deputations and the Administration to discuss the subject in the light of the judgment delivered by the Court of Appeal on 22 November 2004 regarding the Housing Authority (HA)'s appeals against the Court of First Instance's earlier ruling on the judicial review (JR) in respect of HA's decisions to defer the review of PRH rents in 2001 and 2002.

2. At the Chairman's invitation, the Secretary for Housing, Planning and Lands (SHPL) briefed members on the latest developments of the JR cases as well as HA's stance towards introducing any rent reduction or rent relief measures. In

gist, while the HA had actively considered the possibility of introducing rent relief measures following the judgment of the Court of Appeal, given that the two applicants for the JR (the Applicants) might further appeal to the Court of Final Appeal (CFA), the HA would need to consider carefully whether the implementation of any rent relief measures would jeopardise the HA's position in the legal proceedings that might arise in the future. As such, the HA would only be able to consider the possibility of introducing rent relief measures after the detailed grounds for appeals were made available by the Applicants, which would be sometime after 20 December 2004, the deadline for seeking leave to appeal to CFA. With the aid of power point, the Assistant Director of Housing (Legal Service) (AD of H (LS)) briefed members on the respective judgment made by the Court of First Instance and the Court of Appeal.

*(Post-meeting note: The hard copy of the power-point presentation was circulated to members vide LC Paper No. CB(1)369/04-05(01) on 30 November 2004.)*

#### Meeting with deputations

3. Members noted the submission dated 22 November 2004 from The Hong Kong Federation of Trade Unions which was tabled at the meeting.

*(Post-meeting note: The above submission was circulated to members vide LC Paper No. CB(1)369/04-05(04) on 30 November 2004.)*

*Meeting with Society for Community Organization (SOCO)*  
(LC Paper No. CB(1)357/04-05(01))

4. Ms FOK Tin-man, Community Organizer of SOCO, briefed members on SOCO's submission.

*Meeting with Wong Chuk Hang Estate Transfer Concern Group (the Transfer Concern Group)*  
(LC Paper No. CB(1)328/04-05(01))

5. Mr WU Hin-lau, Group Member of the Transfer Concern Group, briefed members on the Transfer Concern Group's submission. He further pointed out that some of the PRH units reserved by the Urban Renewal Authority (URA) for rehousing residents affected by its redevelopment projects had been left idle up to five years. He called upon the HA to stop wasting public resources to save money. He also urged the Chairman, who was a member of the URA Board, to respond.

6. In response, the Chairman explained that the URA agreed with the HA on an annual quota on the number of PRH units to be allocated for rehousing purposes and would not hold on to certain units. Moreover, the rehousing eligibility was in line with HA's established policies. There was certainly no question of wasting public resources.

*Meeting with Hong Kong People's Council on Housing Policy (the Council)*  
(LC Paper No. CB(1)357/04-05(02))

7. Messrs LAU Kar-wah and LEUNG Bing-wah, Vice-Chairman and Secretary respectively of the Council, briefed members on the Council's submission. Mr LAU added that instead of increasing the rents of double-rent households to discourage them from staying in PRH, the HA should consider lifting the moratorium on the sale of Home Ownership Scheme (HOS) flats (the moratorium) to provide an outlet for such households.

*Meeting with Shek Lei Residents' Rights Concern Group (the SL Concern Group)*

8. Ms CHAN Tung-mei, Member of the SL Concern Group, briefed members on the SL Concern Group's views as follows –

- (a) The HA should refund PRH tenants the rents charged in excess of the statutory MRIR requirement over the past three years;
- (b) It was undesirable that the HA adjusted downwards the income limits for Waiting List (WL) applicants to disqualify people from applying for PRH;
- (c) It was unfair that the HA should sell public assets such as the Hunghom Peninsula Private Sector Participation Scheme flats (the Hunghom flats) to the developer concerned at a pathetic price but refused to reduce PRH rents under the pretext of financial difficulty, especially as HA's financial difficulty was the direct result of the moratorium; and
- (d) The HA should ensure PRH rents were affordable because the unemployment rate among PRH tenants was high and some PRH tenants were forced to live in PRH as a result of Government's clearance operations.

*Meeting with Alliance for Defending Grassroots Housing Rights (the Alliance)*  
(LC Paper No. CB(1)328/04-05(02))

9. Ms WONG Ling-hei, Member of the Alliance, briefed members on the Alliance's further submission dated 29 November 2004 which was tabled at the meeting.

*(Post-meeting note: The Alliance's further submission was circulated to members vide LC Paper No. CB(1)369/04-05(03) on 30 November 2004.)*

*Meeting with Wong Chuk Hang Estate Redevelopment Concern Group (the Redevelopment Concern Group)*  
(LC Paper No. CB(1)328/04-05(03))

10. Mr AU YEUNG Wu, Group Member of the Redevelopment Concern Group, briefed members on the Redevelopment Concern Group's submission.

*Meeting with Kwai Chung Estate Resident's Right Concern Group (the KC Concern Group)*

11. Ms HO Choi-wan, Member of the KC Concern Group, commented that it was insensitive of the HA not to reduce PRH rents. Mr NG Wing-chak, Chairman of the KC Concern Group, said that the Court of Appeal's ruling was unreasonable because, according to him, the Court had focused on the wording of the Housing Ordinance (HO) (Cap. 283) rather than its legislative intent. He also considered it unfair that the HA had increased rents readily in the past but refused to reduce rents to comply with the statutory MRIR requirement, notwithstanding the significant decrease in PRH tenants' income since 1997.

*Meeting with Sham Shui Po Community Association (the Community Association)*

12. Mr HUI Yat-hau, Group Member of the Community Association, briefed members on the Community Association's submission which was tabled at the meeting. He added that the JR had been initiated because of the many grievances among PRH tenants. The HA should not have appealed against the ruling of the Court of First Instance and should address tenants' grievances by reducing PRH rents and reimbursing to them the rents charged in excess of the MRIR ceiling.

*(Post-meeting note: The Community Association's submission was circulated to members vide LC Paper No. CB(1)369/04-05(05) on 30 November 2004.)*

*Meeting with Kwai Fong Residents' Association (the Residents' Association)*

13. Mr CHUNG Hau-ping, Member of the Residents' Association, briefed members on the Residents' Association's views. In gist, the Residents' Association opined that HA's financial constraints were caused by the moratorium. If the Court of Appeal had ruled in favour of the HA out of concern for its financial difficulty, it would be unfair and against the spirit of law. The Residents' Association was also disappointed that the HA should use the excuse of possibility of further appeals for delaying rent review and reduction. The Residents' Association urged the CFA to make an impartial ruling should the Applicants decide to appeal further.

*Meeting with Neighbourhood and Worker's Service Centre (the Service Centre)*  
(LC Paper No. CB(1)357/04-05(03))

14. Mr WONG Yun-tat, Community Affair Officer of the Service Centre, briefed members on the Service Centre's submission. Pointing out that the Chairman had played a role in passing the Housing (Amendment) (No. 3) Bill 1996 to provide, inter alia, that the overall MRIR of all PRH estates should not exceed 10% after any rent variation, he questioned what the Chairman had done to ensure compliance with the MRIR requirement. In response, the Chairman explained that the HA had to work within the legal framework for PRH rents.

*Meeting with Reasonable Housing Rights Concern Group (the Rights Group)*

15. Ms LEUNG Sau-yun, Spokesman of the Rights Group, briefed members on the Rights Group's submission which was tabled at the meeting. She also complained about the downward adjustments to the income limits for WL applicants which had affected her son who was residing with her in PRH and was planning to get married and apply for PRH. According to her, he had to cancel his wedding plan because, after the adjustments, he would become ineligible for PRH. She also considered it unfair that the HA should sell the Hunghom flats to the developer concerned at a pathetic price while refusing to convert surplus HOS flats into PRH flats to better utilize them.

*(Post-meeting note: The Rights Group's submission was circulated to members vide LC Paper No. CB(1)369/04-05(02) on 30 November 2004.)*

16. The Chairman thanked the above deputations for attending the meeting to express their views.

17. Mr WONG Kwok-hing opined that the deputations' views were reasonable and should be given due consideration. The legal basis of the judgment made by the Court of Appeal was, by comparison, weak and flimsy.

Meeting with the Administration

*The need to reduce PRH rents as soon as possible*

18. Many members expressed sympathy for PRH tenants' financial hardships highlighted by the deputations, and urged the HA to reduce PRH rents or introduce rent relief measures as soon as practicable irrespective of whether the Applicants would appeal further. Members put forward the following views—

- (a) According to Messrs WONG Kwok-hing, Fred LI Wah-ming and LEUNG Yiu-chung, the current MRIR was higher than the statutory requirement because rent review had been delayed while tenants' incomes had decreased. With little money left to spend on other necessities after rent payment, tenants' living standard had been compromised, sometimes even to the extent that family problems would arise. The situation might be worse for tenants from



to-be-redeveloped estates because they would be forced to move to newer estates with higher rents;

- (b) According to Mr Ronny TONG Ka-wah, paragraph 2 of the judgment of the Court of Appeal showed that the basic complaint of the Applicants in the JR proceedings was that the HA had failed to review rents for over four years. What the deputations and members had been requesting, however, was that rents be reduced, which was a separate issue and was at present not prohibited by law. As such, he did not see why the HA could not reduce rents until after conclusion of the proceedings;
- (c) According to Miss CHAN Yuen-han and Mr Albert Jinghan CHENG, discontent among PRH tenants about rents was great, in particular about the ruling of the Court to grant leave to HA to appeal. To avoid social discord, certain rent relief measures should be worked out to address the grievances of PRH tenants, especially those living in newer estates where the rents were comparatively high;
- (d) According to Messrs Alan LEONG Kah-kit and LEUNG Yiu-chung, irrespective of the final outcome of the JR proceedings, the HA had the obligation to ensure the present level of PRH rent was reasonable, and, if it was not the case, to introduce rent relief measures. Moreover, even after the Applicants' grounds for appeals were available, they could always be amended in the course of the appeal proceedings, which might take more than one year to conclude. As such, it was not justified to withhold the rent relief measures pending the legal grounds for appeals; and
- (e) According to Dr YEUNG Sum, HA's rent policy should change in the light of changing circumstances. With widening of wealth disparity, the Administration should examine whether PRH rents were still affordable;

19. In response, SHPL made the following points –

- (a) The Administration was not, as the deputations claimed, taking the possible appeals by the Applicants as an excuse to back down on its earlier undertaking to implement rent relief measures. There was a genuine need for caution. According to HA's legal advisers, as the JR proceedings concerned the interpretation of certain provisions of HO, it was important that the legal points be clarified first before the HA contemplated any rent relief measures. He stressed that the HA had actively considered the possibility of introducing rent relief measures and would further consult its legal advisers on the feasibility of doing so ;

- (b) The issue of PRH rents should be considered from the perspective of sustainable development of PRH. Once the rent review mechanism was triggered off, any proposed variation of rents must bring the resulting MRIR down to 10% or below in accordance with section 16(1A) of HO. Having regard to its present financial stringency and the adverse impact on the PRH programme that could be brought about by a drastic rent reduction, the HA should review and reduce PRH rents after clarification of its statutory obligations to review rents through the JR proceedings;
- (c) The Government was not insensitive to the housing needs of the lower income group. More than half of Hong Kong's population was living in subsidized housing. In addition, rent assistance and other services provided an effective safety net to those PRH households with genuine financial difficulties;
- (d) While there was a need to relieve the rental burden of some PRH tenants, there was also a need to meet the rising aspirations of some PRH tenants for better and larger PRH flats, which would inevitably call for higher rents. The HA would seek to strike a balance between the quality and rent level of PRH units, bearing in mind the tenants' affordability and sustainability of the PRH programme in the light of the outcome of the JR cases. One way to achieve this objective was to fix rents according to the types and standards of the units; and
- (e) The JR cases underlined the fact that the current restrictions in the HO had seriously undermined the flexibility of the HA in adjusting rents and the rationality and sustainability of its rent policy. To this end, the HA had set up an ad hoc committee in early 2001 to review its domestic rent policy and the mechanism of rent adjustment with a view to establishing a clear, objective and flexible index-linked rent adjustment mechanism which could better reflect tenants' affordability and help ensure a sustainable development of the public housing programme. The review, however, was intervened by the JR proceedings. The HA was keen to consult the public on its initial proposals as early as possible.

20. Mr LEUNG Kwok-hung questioned the validity of paragraph 19(a) above as the HA had endorsed a rent reduction option in March 2004. In response, SHPL explained that the rent review was conducted in response to the Court Order delivered on 12 August 2003, under which the Court of First Instance directed the HA to "forthwith review and determine the variation of rents of the class (or batch) of public housing units to which the applicant's public housing unit is part, according to the true meaning and effect of section 16(1A) of Cap. 283". The rent reduction option was endorsed on the clear understanding that its implementation

would depend on the outcome of the HA's appeals to the Court of First Instance's Ruling.

21. On the same point, Mr Frederick FUNG Kin-kee enquired whether the rent relief measures to be contemplated after expiry of the deadline for applying for appeal by the Applicants would include rent reduction. In reply, SHPL reiterated that the implementation of any rent relief measures and the forms of these measures would depend on whether the Applicants would appeal to the CFA and, if so, their grounds for appeals. As such, he would refrain from commenting on the rent relief measures before 20 December 2004, the deadline for applying for further appeals.

22. Mr Fred LI pointed out that according to the depositions, the safety net highlighted by SHPL in paragraph 19 (c) above had failed to function properly. He and Mr WONG Kwok-hing considered it necessary to reduce PRH rents before conclusion of the JR proceedings. In response, SHPL stressed that it was inappropriate for the HA to argue on the one hand that it was not legally obliged to reduce rents but reduced PRH rents on the other hand. Moreover, according to section 4(4) of the HO, the policy of HA should be directed to ensuring that the revenue accruing to it from its estates should be sufficient to meet its recurrent expenditure on its estates. Given the potentially far-reaching implications of rent review on HA's financial position and the long-term sustainability of the public housing programme, SHPL considered it irresponsible to make any commitment to reduce rents at this stage.

23. In this regard, Messrs Albert CHENG and LEUNG Kwok-hung questioned the validity of using section 4(4) of the HO as an excuse to suspend rent review. They pointed out that if the argument was valid, the moratorium would have contravened the section because it had led to reduced income for the HA. So were the cases in the sale of the Hunghom flats to the developer and the divestment of HA's retail and car-parking facilities at a pathetic price. Mr LEUNG further stated that there was no conflict between the JR proceedings and the introduction of rent relief measures.

#### *Proposals on rent relief measures*

24. Keen to relieve the rental burden on PRH tenants, members made various proposals on how PRH rents could be reduced without prejudicing HA's position in the JR proceedings. Mr Frederick FUNG proposed that the HA should consider waiving PRH rents for three months. According to him, such a move would be tantamount to rent reduction of about 30%. Mr LEE Wing-tat added that PRH rents could be reduced by waiving the rates of PRH, Dr YEUNG Sum suggested introducing administrative measures to reduce rents. Mr Albert CHENG opined that the HO should be amended if it restricted rent reduction.

25. Commenting on the above proposals, SHPL made the following points –

- (a) Any rent relief measures should be considered having regard to both the interests of PRH tenants and the overall interests of Hong Kong;
- (b) Rent waiver of one month had been introduced before and could be reconsidered. However, it was necessary to be prudent and the legal grounds for appeals by the Applicants must be duly considered before the HA could decide on the next course of action to ensure that its position would not be prejudiced in any legal proceedings that might arise in the future; and
- (c) The Administration also saw a need to amend the HO. A lot of preparatory work had been done in this regard. In determining how the HO should be amended, consideration would be given to members' views as well as the outcome of the JR proceedings.

26. Referring to paragraph 25(b) above, Mr Frederick FUNG pointed out that the ruling of the Court of Appeal in favour of the HA showed clearly that the introduction of the rent waiver had not prejudiced HA's position in the JR proceedings. He therefore remained unconvinced why rent waiver could not be implemented at this stage.

27. In relation to paragraph 25(c) above, Mr LEUNG Yiu-chung did not agree that the HO needed amendment. Mr Albert CHENG disagreed with his view. Mr LEUNG said that the effect of the Housing (Amendment) (No. 3) Bill 1996 was that PRH rents should be maintained at an affordable level.

## **II Any other business**

28. There being no other business, the meeting ended at 4:30 pm.