

立法會
Legislative Council

LC Paper No. CB(1) 616/05-06
(These minutes have been seen
by the Administration)

Ref : CB1/PL/HG/1

Panel on Housing

Minutes of meeting
held on Monday, 5 December 2005, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon LEE Wing-tat (Deputy Chairman)
Hon Albert HO Chun-yan
Hon Fred LI Wah-ming, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Dr Hon YEUNG Sum
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, JP
Hon Alan LEONG Kah-kit, SC
Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG

Members absent : Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP

Public officers attending : **Agenda item IV**

Mr TAM Wing-pong, JP
Acting Permanent Secretary for Housing, Planning and
Lands (Housing)

Mr LAU Kai-hung, JP
Deputy Director (Estate Management)
Housing Department

Mr LAI Ip-cheung
Assistant Director (Estate Management)
Housing Department

Mrs Janet TSANG
Chief Manager/Management (Support Services)
Housing Department

Agenda item V

Mr TAM Wing-pong, JP
Acting Permanent Secretary for Housing, Planning and
Lands (Housing)

Mr FUNG Ho-tong
Acting Deputy Director (Allocation & Commercial)
Housing Department

Mrs Doris MA KONG Zee-wan
Assistant Director (Housing Subsidies)
Housing Department

Mr HO Chung-cheung
Chief Housing Manager (Applications and Operations)
Housing Department

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mr WONG Siu-yee
Senior Council Secretary (1)7

Miss Mandy POON
Legislative Assistant (1)4

I Confirmation of minutes

- (LC Paper No. CB(1) 399/05-06 -- Minutes of special meeting on 21 October 2005
LC Paper No. CB(1) 400/05-06 -- Minutes of meeting on 7 November 2005)

The minutes of the meetings held on 21 October 2005 and 7 November 2005 were confirmed.

II Information papers issued since the last meeting

2. Members noted the following information papers which had been issued since last meeting -

LC Paper No. CB(1) 249/05-06(01) -- Updated information on the Policy on Express Flat Allocation Scheme provided by the Administration; and

LC Paper No. CB(1) 390/05-06(01) -- Judgment handed down by the Court of Final Appeal on the judicial review cases concerning public rental housing rents

3. Members also noted the submissions from 均益大樓租客權益關注組 and 啓源樓租客權益關注組 which were tabled at the meeting.

(Post-meeting note: The submissions were subsequently issued to members vide LC Paper No. CB(1) 469/05-06(02) on 6 December 2005.)

III Items for discussion at the next meeting

- (LC Paper No. CB(1) 402/05-06(01) -- List of outstanding items for discussion
LC Paper No. CB(1) 402/05-06(02) -- List of follow-up actions)

4. Members agreed to discuss the disposal of surplus Home Ownership Scheme flats at the next regular meeting scheduled for Thursday, 5 January 2006, at 2:30 pm.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, an additional item on “Programme for provision of drain pipes for air-conditioners in existing public housing blocks” was included in the agenda.)

Clerk

5. Mr Abraham SHEK was concerned about the low production rate of public rental housing (PRH) flats, which in his view would not only affect the average waiting time for applicants on the Waiting List, but also the construction industry and the economy as a whole. To facilitate future discussion, members agreed that the Administration should provide an information paper on the PRH production programme over the next few years, the impact of delay in PRH production in one particular year on the subsequent years, and the measures which the Administration would take to make up the shortfall.

IV Marking Scheme for tenancy enforcement in public housing estates

(LC Paper No. CB(1) 402/05-06(03) -- Updated background brief on “Marking Scheme for Tenancy Enforcement in Public Housing Estates” prepared by the Legislative Council Secretariat

LC Paper No. CB(1) 402/05-06(04) -- Information paper provided by the Administration)

6. The Acting Permanent Secretary for Housing, Planning and Lands (Housing) (Atg PSH) briefed members on the progress in implementing the Marking Scheme for tenancy enforcement in PRH estates (the Marking Scheme) and improvement measures that would take effect on 1 January 2006. The Deputy Director (Estate Management) (DD(EM)) then gave a power-point presentation on the Marking Scheme.

(Post-meeting note: The presentation materials were subsequently issued to members vide LC Paper No. CB(1) 469/05-06(01) on 6 December 2005.)

7. Referring to the Public Housing Recurrent Survey 2005 which revealed that 95% of PRH tenants were aware of the Marking Scheme, Miss CHAN Yuen-han asked why there were still many cases of non-compliance despite the dire consequences of tenancy termination. DD(EM) advised that the Marking Scheme was one of the cleanliness initiatives recommended by Team Clean set up to establish and promote a sustainable, cross-sectoral approach to improve environmental hygiene in Hong Kong. Large-scale publicity had been launched before implementation of the Scheme in August 2003. The recent appeal case against Notice-to-Quit (NTQ) by a household in Yau Oi Estate under the Marking Scheme had indeed aroused public awareness of the Scheme. Nevertheless, the Administration would keep up with the publicity efforts through estate newsletters, the Housing Authority (HA) Channel, brochures and posters to ensure that tenants fully understood the Scheme.

8. Given that many misdeeds under the Marking Scheme were already prohibited under the tenancy, Miss CHAN Yuen-han opined that the Scheme might not be needed if efforts had been stepped up to enforce tenancy conditions. She asked if the ineffective tenancy enforcement was due to the outsourcing of estate management to the

private sector. DD(EM) advised that the Marking Scheme was a warning system aimed at institutionalizing tenancy enforcement. This also provided a framework for consistent enforcement against hygiene-related misdeeds and other environmental and health-related nuisances. Under the Scheme, any scheduled offences committed by a tenant or household member would be allotted marks against the tenant. Penalty points would be allotted if the offender ignored one verbal warning and one written warning and repeated the same misdeed for the third time and onwards. Points given for offences would be valid for a period of 24 months. An accumulation of 16 points within a 24-month period would trigger action for tenancy termination. According to statistics, of the some 4 000 points-allotted cases, only 80 and four cases involved commitment of misdeeds for the second and third time respectively. This indicated that most households had taken heed of advice of estate management staff. While supporting the Marking Scheme, Miss CHAN stressed the need for the Housing Department (HD) to strengthen monitoring of its contractors to ensure enforcement of the Scheme in PRH.

9. Mrs Selina CHOW queried the need for one verbal warning and one written warning before penalty points were allotted for some misdeeds, particularly those related to public hygiene such as spitting. She considered that more vigorous actions should be taken against repeated offences such that penalty points should be allotted without warning. DD(EM) said that HD had already strengthened the deterrent effects of the Marking Scheme by reducing the number of verbal warnings required from two to one before issuing a written warning. No verbal warning or written warning would be required for repeated offences of same misdeed before penalty points were allotted. This arrangement applied to spitting as well.

10. Mr Patrick LAU expressed concern about the deterrent effect of the Marking Scheme given that two out of four NTQs issued to households which had been allotted 16 points under the Scheme were cancelled by the Appeal Panel (Housing). Atg PSH explained that the Appeal Panel (Housing) was an independent panel appointed by the Chief Executive. Hence, HD should not and could not interfere with its decisions. DD(EM) opined that the Marking Scheme was effective in deterring misdeeds having regard to the limited number of 80 repeated offences out of some 4 000 points-allotted cases. Besides, only four NTQs had been issued so far. The Assistant Director (Estate Management) added that HD would interview the tenant and alert him/her of the dire consequences once the accrued points had reached 10 or more. The purpose was to request the tenant to restrain his/her family members from committing further misdeeds.

Existing misdeeds

11. Referring to the list of misdeeds under the Marking Scheme in Annex A to the Administration's paper, Mr Albert CHAN considered it unfair to hold tenants liable for damaging down/sewage pipes causing leakage to the flat below since leakage might be caused by normal wear and tear which was the responsibility of HD. In response,

DD(EM) clarified that penalty points would only be allotted to tenants if the down/sewage pipes were vandalized. So far, only two verbal warnings had been issued. Mr CHAN said that if this was the case, HD should make the policy intent clear in the list of misdeeds to clear any ambiguity.

12. Given that using leased premises as food factory or storage was already prohibited under the tenancy and contravention would lead to termination of tenancy, Mr Patrick LAU questioned the rationale for including such a misdeed in the Marking Scheme. He also asked why utilizing laundry pole-holders for drying floor mop and putting dripping laundry at balconies were classified as misdeeds which might have happened due to insufficient facilities. The same applied to obstructing corridors or stairs with sundry items, which in his view was part of HD's duty to dispose of these items.

13. DD(EM) reiterated that the objective of the Marking Scheme was to heighten tenants' sense of responsibility over the cleanliness and upkeep of PRH estates. With effect from 1 January 2005, the penalty points allotted for using leased premises as food factory or storage had been increased from 5 to 7 to enhance the deterrent effect. Nevertheless, HD reserved the right to terminate the tenancy if situation so warranted. As regards the misdeeds of utilizing laundry pole-holder for drying floor mop and putting dripping laundry at balconies, DD(EM) said that these were usually committed for the sake of convenience without considering the nuisance caused to the tenants downstairs. Since the inclusion of such misdeeds in the Marking Scheme, the situation had been significantly improved. For misdeed of obstructing corridors or stairs with sundry items, DD(EM) advised that warning/notice had to be served before HD could remove the sundry items.

Additional misdeeds

14. On *smoking or carrying a lighted cigarette in public lift*, Dr YEUNG Sum noted that the misdeed was already subject to a fine of \$5,000 under the Smoking (Public Health) Ordinance (Cap. 371) (the Ordinance), the inclusion would result in double penalty. This might not be fair to tenants given that the Marking Scheme would lead to tenancy termination. He expressed concern that a household with family members who were all smokers might be easily allotted 16 penalty points. He further pointed out the difficulty in enforcement, which was also the concern of Miss CHAN Yuen-han.

15. In reply, DD(EM) said that there was a genuine need to discourage smoking in public places, particularly in enclosed areas such as lifts, because smoking caused serious health hazard and there was no way people could avoid being affected by smoking inside lifts. Besides, lifts were designated as non-smoking areas and signs prohibiting smoking had already been put inside lifts in PRH estates. Given that the power to enforce provisions under the Ordinance rested with the Department of Health and the Hong Kong Police Force (the Police) but not HD, HA took the decision that

smoking or carrying a lighted cigarette in a lift in PRH estates should be made a misdeed under the Marking Scheme to strengthen the deterrent effect. DD(EM) acknowledged that there might be difficulties in enforcement, but held the view that the closed circuit televisions (CCTVs) installed inside the lifts could help monitor the situation. Residents were also encouraged to report smoking inside lifts to the management staff. Furthermore, HD would step up publicity to alert tenants of the misdeed before enforcement took effect on 1 January 2006. It was hoped that the inclusion of the misdeed of smoking or carrying a lighted cigarette in public lift under the Marking Scheme would enhance the deterrent effect as in the case of boiling wax which had been significantly subsided during the last Mid-Autumn Festival.

16. Mr Albert CHAN remarked that HD might also need to review the design of PRH estates as some residents had complained about being affected by residents smoking downstairs. DD(EM) assured members that HD would investigate into the case upon receipt of complaints. Affected residents could also apply for transfer to another flat.

17. On *illegal hawking of cooked food*, Mr Albert CHAN noted that HD could take enforcement actions against illegal hawking within PRH estates. He then asked how HD could deal with illegal hawking just outside the boundary of PRH estates, which according to his understanding fell under the jurisdiction of the Food and Environmental Hygiene Department (FEHD). DD(EM) said that following the outbreak of the Severe Acute Respiratory Syndrome in the spring of 2003, the Government had taken the decision that concerted efforts among relevant government departments, including FEHD, HD and the Police, should be made to boost hygiene and cleanliness in Hong Kong. Since then, HD staff could, under the delegated authority of the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570), take enforcement actions against hygiene-related offences, such as illegal hawking and spitting, outside PRH estates. Similarly, FEHD staff could also take enforcement actions within PRH estates. However, misdeeds committed outside PRH estates were not subject to penalty points under the Marking Scheme. The problem of illegal hawking within PRH estates had since been improved.

18. Mr Albert CHAN expressed reservation on the delegated authority. He said that HD staff seldom took enforcement actions against illegal hawking outside PRH estates in the past except during joint operations with FEHD. He considered that legal advice should be sought on the legality of the delegated authority, and that the issue should be followed up by the relevant panel. To facilitate members' understanding, Mr Albert HO requested and the Administration undertook to provide information on the numbers of enforcement actions/prosecutions against illegal hawking and spitting within and outside PRH estates since 2003.

Admin

19. Mr Patrick LAU asked why dripping air-conditioner was not included as a misdeed under the Marking Scheme. DD(EM) explained that under the existing legislation, HD had to give warning to the tenants concerned before prosecutions could

be made. To tackle the problem of dripping air-conditioners, HD would consider the technical and financial implications of installing condensate drainage pipes, particularly the option to tie in the installation with the periodic external wall redecoration programme of the estates. HD considered it inappropriate to include water dripping from air-conditioners as a misdeed under the Marking Scheme at this stage. As an interim measure, tenants would be encouraged to replace their dripping air-conditioners or put a tray underneath the air-conditioners.

Incentive award scheme

20. While supporting the incentive award scheme, Mrs Selina CHOW noted that this would only apply on an estate basis. To encourage tenants to maintain a high level of cleanliness in their own units as well as the surrounding environment, consideration should be given to extending the scheme on a household basis. DD(EM) explained that the objective of the incentive award scheme was to muster tenants' support. The top three most hygienic PRH estates would be publicized in Estate Newsletters and awards would be given on monthly basis in recognition of their achievements. They would also set examples for other estates to follow suit. Depending on the outcome of the incentive award scheme and subject to the availability of resources, HD would consider extending the scheme on a household basis.

V Review of transfer arrangements for public housing tenants

(LC Paper No. CB(1) 402/05-06(05) -- Background brief on "Overcrowding relief to public housing tenants" prepared by the Legislative Council Secretariat

LC Paper No. CB(1) 402/05-06(06) -- Information paper provided by the Administration)

21. Atg PSH said that HA provided three main channels through which the demand of PRH tenants to improve their living conditions could be met. These included overcrowding relief (OR) transfer, special transfer and external transfer. While the overcrowding conditions in PRH had been significantly alleviated through implementation of OR and other transfer schemes, tenants with average living space marginally above the average space allocation standard of 5.5 square metres (m²) were not able to improve their living conditions through the various transfer schemes. To this end, HA decided to introduce a new Living Space Improvement Transfer Scheme to provide more transfer opportunities for non-overcrowded families. The Acting Deputy Director (Allocation & Commercial) (Atg DD(A&C)) then briefed members on the different transfer arrangements for existing PRH tenants by highlighting the salient points in the Administration's information paper.

22. On *special transfer*, Mrs Selina CHOW noted that transfer to another flat could be arranged if tenants had genuine difficulties in continuing to live in their flats due to

medical or social reasons. She asked if social reasons covered divorced couples who had to live together pending separation. Atg DD(A&C) advised that as there were existing housing arrangements for couples seeking divorce, it would not be necessary for them to apply for special transfer to solve their housing problem.

23. On **OR**, Mr LEE Wing-tat asked whether the length of residence could be taken into account in considering OR for tenants with average living space marginally above the benchmark of 5.5 m². He held the view that a scoring system should be introduced for OR transfer exercises. Atg DD(A&C) explained that the order of priority for OR was determined by the living density of applicants. Density being the same, the household of a larger size would have priority. Both conditions being the same, the length of residence in the existing tenancy would determine. All things being equal, priority for OR would be determined by computer random ballot.

24. Mr LEE Wing-tat further enquired if tenants with chronic illness who had to cross district to seek medical treatment could apply for transfer. Atg DD(A&C) explained that currently, applicants for OR transfer were subject to locality restriction. Tenants of estates in the New Territories (NT) could only choose flats in NT while those in the extended-urban area could choose flats in NT and the extended urban area. Urban tenants could choose flats in all districts. With the introduction of the new Living Space Improvement Transfer Scheme, HA had decided to relax this locality restriction to allow tenants whose public housing tenancy exceeded 10 years to choose available flats in any geographical district. He however pointed out that tenants with special needs, such as chronic illness, should apply for special transfer on individual basis, instead of waiting for opportunities under other transfer schemes.

VI Any other business

25. There being no other business, the meeting ended at 3:45 pm.