

Legislative Council Panel on Housing

Policy on Management Fees of Common Areas Shared Between the Hong Kong Housing Authority and The Link Real Estate Investment Trust, as Well as the Progress of Transfer of the Legal Titles of the Divested Commercial and Car Parking Facilities

Purpose

This paper briefs Members on the arrangement on management fees of common areas shared between the Hong Kong Housing Authority (HA) and The Link Real Estate Investment Trust (The Link REIT), and reports on the progress of the transfer of the legal titles of the divested commercial and car parking facilities.

Apportionment of Management Fees of Common Areas

2. For the 91 public rental housing estates with divested facilities, HA and The Link REIT shall share the management fees of the estate common areas in proportion to their allotted management shares in accordance with the provisions of the Deeds of Mutual Covenant (DMCs). The DMC manager issues demand notes to the owners every month to request the payment of management fees under the DMCs. Although the owners should pay the monthly management fees on the first day of the month, settlement within 30 days after the due date is not normally considered a default in payment to allow time to arrange payment. The management fees collected shall be put into the management fund of the estate common areas, which are jointly owned by all owners (i.e. HA and The Link REIT) and administered by the DMC manager (i.e. HA).

3. The management fees of the estate common areas are used for the payment of salary to all staff engaged in discharging relevant responsibilities, as well as expenses relating to maintenance, cleansing, security, water, electricity and property management services contractors.

4. The Link Management Limited (LML) which managed The Link REIT has failed to effect payment of the management fees of the majority of the housing estates for July and August. Not effecting payment is a serious matter

and as the DMC manager, HA would strictly handle the matter in accordance with the provisions of the DMCs. In order to recover the outstanding amount, HA issued a letter through its legal representative to LML to seek full settlement, and would consider further legal actions as necessary. LML paid off all the management fees in arrears in mid-September. Regarding the management fees for September, since the 30-day settlement period has not expired, it has not been considered as a case of default payment. However, HA wrote to LML on 17 September urging early settlement of the management fees. HA will closely monitor the payment by LML, and will take immediate action to effect full recovery if there is any outstanding payment after the due date.

Progress of Transfer of Legal Titles

5. When The Link REIT was listed in November 2005, HA had transferred to it the beneficial ownership of all the 180 divested properties as well as the legal title documents of 76 such properties.

6. The rest of the divested properties are mostly vested with HA by the Government through a vesting order under Section 5 of the Housing Ordinance. The Government will grant to the HA the land leases and DMCs of the properties concerned and subsequently HA will transfer the legal title documents of these divested properties to The Link REIT for the completion of the necessary formalities. The divestment portfolio involves a large number of properties and a longer lead-time is required to procure the land leases and DMCs for these properties. HA originally planned to complete the remaining tasks by mid-2008.

7. In the course of the exercise, it was found that the work involved was much more complicated and onerous than previously anticipated. This situation could not have been envisaged when the original programme for procurement of the land leases / DMCs for the divested properties was set. One major task encountered was the need to comply with the new requirements¹ which took effect from August 2006 onwards, for addressing public concerns

¹ New requirements include the certification of the gross floor area under a land lease; the need to carve out free standing Government, Institution and Community facilities from lease boundaries; imposition of building height restrictions; and revisions to the Model DMC arising from updated DMC requirements and legislative amendments (such as the Building Management (Amendment) Ordinance which took effect on 1 August 2007).

and safeguarding the mutual interests of all parties concerned. Moreover, the procurement of land leases / DMCs was further complicated by some unforeseen complexities².

8. In view of the unforeseen new requirements and complications, HA re-scheduled the completion date for the whole project to July 2010, striving to complete the exercise in early 2010 at the earliest if possible. The situation was reported to the Panel on Housing of the Legislative Council on 3 March 2008 and to the Establishment Sub-committee under the Finance Committee of the Legislative Council on 28 May 2008. Upon notification by HA, LML issued a public notice on the revised timetable.

9. As at 25 September 2009, the legal titles of 40 properties (in 38 housing estates) are yet to be assigned. The land leases of 16 of these housing estates have been procured while their title assignments will be completed upon the finalization of DMCs.

10. HA will maintain close liaison with LML and the departments concerned on the preparation of the land leases and the transfer of the legal titles, targeting to complete the work according to the revised time frame.

Transport and Housing Bureau
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² Complexities include the presence of structures with historical values within the divested properties, transplantation of vegetation over drainage reserve areas and reservation of land stratum for new railway lines to pass through. These site-specific situations could not be envisaged at the planning stage when the details of relevant leases had yet to be worked out.