

立法會發展事務委員會

「促進公務員建屋合作社計劃下的樓宇重建」

立法會發展事務委員會(下稱「委員會」)於 2015 年 7 月 16 日舉行會議，聽取各界就「促進公務員建屋合作社計劃下的樓宇重建」事宜的意見。委員會其後要求當局提供書面資料及相關文件，以闡釋下列各項：

- (a) 一些團體代表在會上提出意見，指公務員建屋合作社(下稱「合作社」)社員早年獲批土地興建合作社樓宇時曾繳付地價的一半，為何當局聲稱合作社社員只繳付了地價的三分之一；
- (b) 在土地補價方面，合作社樓宇／「政府為公務員興建樓宇計劃」(下稱「興建樓宇計劃」)樓宇批地條款／條件是否不同；
- (c) 當局有否改變批地以來合作社單位出售或合作社樓宇重建時須向政府繳付土地補價的評估原則／方法？如有，請詳述；以及
- (d) 是否所有合作社／興建樓宇計劃下的用地均採用同一原則／方法去評估土地補價？如否，原因為何？

政府當局的回應如下 –

- (a) 我們曾在不同場合解釋，合作社計劃下的土地是以批地時該土地十足市值三分之一的優惠條件批出。這點已清楚記錄在多個內部檔案中，例如 1969 年 6 月 13 日(星期五)政府與當時成功申請並獲分配興建樓宇計劃下的龍翔苑單位的公務員代

表在前行政局會議廳舉行會議的記錄(副本載於**附件 A**)。附件 A 第(h)段清楚說明：「...由於土地是以十足市值三分之一的優惠條件批出，因此買方不得把單位轉租圖利...」(重點為本文所加)。

另一例子可見 1986 年 1 月 14 日政府與高級公務員評議會職方代表舉行第 20 次會議的記錄(副本載於**附件 B**)。該會議記錄載錄了政府與高級公務員評議會就前行政局的決定(即批准把單位和土地業權由合作社轉讓予合作社社員，並批准合作社社員其後在若干條件規限下出售、出租或以其他方式處置有關單位和土地業權的決定)舉行的會議。**附件 B** 第 10 段清楚說明：「...合作社土地以十足市值三分之一批出。」(重點為本文所加)。

- (b) 就土地補價而言，合作社樓宇或興建樓宇計劃下的樓宇均按類似的批地條款及條件批出。

上述安排可由當局於 1985 年 11 月 28 日發出的「公務員合作建屋計劃新聞公報」得以引證(副本載於**附件 C**)，該新聞公報公佈了有關合作社社員可根據修訂條款取得單位的土地業權的安排。公報的第 5 段清楚提到上述安排包括 236 個合作社興建的 5 042 個單位以及政府於龍翔苑及康利苑興建的 727 個「相類單位 similar flats」。

在所有已解散合作社的修訂契約內，有關繳付尚欠政府的土地補價以撤銷單位轉讓限制的要求的標準條款，是根據當局於 1993 年 1 月向所有公務員建屋合作社派發的《**公務員建屋合作社單位的土地業權轉讓予個別社員指引**》(修訂官地租契辦法指引)的契約修訂標準通知書而制訂，有關副本載於**附件 D**。

就興建樓宇計劃的樓宇，亦有一套關於繳付尚欠政府的土地補價以撤銷單位轉讓限制的標準條款的相類指引。當局於

1998 年 1 月向兩個興建樓宇計劃派發，及後於 2007 年 9 月經修訂的《**財政司司長法團將政府為公務員興建樓宇計劃的樓宇及土地業權轉讓于個別分租租契持有人指引**》，相關摘要的副本載於**附件 E**。根據該兩套指引，當局會採用相同的公式計算在處置合作社樓宇 / 興建樓宇計劃單位前須向政府繳付尚欠的土地補價。

- (c) 當局至今沒有改變批地以來合作社單位出售或合作社樓宇重建時須向政府繳付土地補價的評估原則或方法。當局同樣沒有改變興建樓宇計劃單位或該計劃樓宇重建時須向政府繳付土地補價的評估原則或方法。
- (d) 當局沿用相同的評估原則和方法處理所有合作社計劃／興建樓宇計劃用地的土地補價。

發展局
公務員事務局
地政總署

2015 年 8 月

Note of a Meeting held in the Ex. Co. Chamber on Friday, 13th June, 1969.

Present : Mr. D. Akers-Jones, P.A.C.S.(L)

Mr. W.R. Norman, A.S.(LB)

Mr. H.C. Gailey, A.S.(SR)

Mr. Joseph Lee, L.A. 1.

✓ Mr. Thomas A. Hahn, G.I.S.

✓ Mr. S.S. Yeung, R.H.K.

✓ Mr. John Chau, C.A.D.

✓ Mr. Charles Liu, P.W.D.

✓ Mr. K.B. Leung, P.W.D.

✓ Mr. H.H. Lo, N.T.A.

Mr. S.K. Li, G.P.O.

Representatives of
the successful applicants
for flats at Lung Cheung
Court.

The following points were noted :

- (a) It was hoped that the documents would be printed and ready for execution by the end of June. It was agreed that the representatives should be provided with one copy of each of the documents next week.
- (b) Crown Counsel would be able to execute about 10 sets of documents during a normal working day.
- (c) The six months' maintenance period under the contract would be due to expire in October 1969 as the occupation permit had been issued in April 1969. C. for H. would ensure that the purchasers' interests were protected.
- (d) The successful applicants could obtain the keys to their flats by telephoning the Housing Manager (Mr. Baylis) and arranging an appointment.
- (e) The representatives again asked that the payment of the first instalment should be deferred. It was pointed out that the first instalment was not due until the end of the month following that in which the documents were executed. Moreover, H.E.'s remission of the Stamp Duty (which amounted to over \$1,000) was equivalent to 3 months' repayment. It was confirmed that the Hong Kong Building and Loan Agency Ltd. was a public scheme financed from the Development Loan Fund in the same way as the Local Government Officers Housing Scheme.
- (f) Each purchaser would have a separate mortgage.
- (g) The purchaser could not assign his underlease. He could, however, surrender his underlease to Government in certain circumstances and under certain terms.

- (h) The purchaser could not sublet at a profit because of the $\frac{1}{3}$ F.M.V. concessional land grant. He could, however, appoint a caretaker in certain circumstances and under certain terms.
- (i) If an officer withdrew after he had been allocated a flat, the flat was then re-circulated in an Establishment Circular and allocated to the applicant with the highest number of points. If an officer who had already been allocated a flat wished to apply again for another flat, he would have to withdraw from the first flat before his application could be considered. Officers who were members of co-operative societies had similarly to resign before their application for a flat at Lung Cheung Road could be considered. This was the only practicable system.
- (j) The representatives asked whether Government could apply for electricity connections on their behalf so that no deposit was required and time could be saved. This point would be checked with C. for H. It was later confirmed that each individual would have to apply for his own connections, once the downpayment had been paid. The deposits could be waived only if an association came to an agreement with the electric company to guarantee members' bills.

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9th June, 1969.

The Honourable Colonial Secretary,
(Attn: Mr. D. Akers-Jones)
Colonial Secretariat,
Hong Kong.

Sir,

Re: Lung Cheung Court (Govt. Built Housing Scheme - Stage I)

We, the undersigned, successful applicants for the purchase of Government built flats in Lung Cheung Court, Stage I, wish to inform you that we have been nominated by other successful applicants as representatives in a Preparatory Committee with a view to forming a Lung Cheung Court Residents' Association.

As a result of a meeting held to-day, we have been instructed to approach you for an interview to discuss the question of early occupation of our flats.

We remain, Sir,

Your obedient servants,

(Preparatory Committee for Lung Cheung
Court Residents' Association)

.....
..... (R.L. Ozorio) (S.S. YEUNG)

.....
..... (Charles LIU Chang)

.....
..... (Thomas A. Hahn)

.....
..... (John CHAU Sinn-tsun)

.....
..... (LO Hsien-hau)

.....
..... (HO Ka-chung) 61 Shin-ken

.....
..... (CHAN Yui)

.....
..... (LEUNG Kam-biu) Office 9561

Housing Assistance for Civil Servants

Notes of Twentieth Meeting with Staff Side of
the Senior Civil Service Council in Room 149,
Government Secretariat on Monday 14.1.86 at 2.30 p.m.

Co-operative Housing Schemes for Civil Servants

Present :

<u>Official Side</u>	<u>Staff Side</u>	
Mr. Dominic S.W. Wong, JP, DS(CS)PC (Chairman)	Mr. MA Siu-leung	} SNEOA
Mrs. Shelley Lau, PAS(CS)PC3	Mr. PANG Lap-yin	
Mr. Ian B.I. Petersen, AS(PC)7 (Secretary)	Mr. Frank Ng	
Mr. R.D. Pope, Government Land Agent/Valuation, L.D.	Mr. KWOK Yuen-hon	} HKCCSA
Mr. P.F. Grindey, Assistant Registrar General/Land Office, RGD	Mr. LAM Kam-shing	
Mr. B. Fung, Assistant Registrar, Co-operative And Credit Union Section, AFD	Mr. LEUNG Ching	
	Mr. LAU Wai-seng	
	Mr. J. Walton Masters, AECS	
	Mr. Francis Leung, Staff Side Secretary	

The Chairman welcomed members to the meeting. He rehearsed the Executive Council decision made on 19 November 1985, as conveyed to the Staff Side in his letter dated 25 November 1985, to permit the transfer of title to flats and land from co-operative societies to their members, and to permit the sale, letting or other disposal of properties thereafter, subject to certain conditions. He emphasized that in making this decision, the Executive Council had been made fully aware of the Staff Side's views expressed previously. The

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purpose of the meeting was to discuss the implementation aspects so that this new and optional facility to acquire title could be promulgated early. Regarding the need for legislation, the Civil Service Branch had been advised that the only requirement was for an Order by the Governor under section 54 of the Co-operative Societies Ordinance (Cap. 33) to exempt civil servants' co-operative societies from certain provisions of the Ordinance relating to dissolution of societies and distribution of their assets. After promulgation of this Order, implementation could proceed.

2. It was agreed that the meeting should first deal with the questions raised by the Staff Side in their letter of 10.1.86 to the CSB, and then other matters could be raised.

Question (A)(1) from SNEOA

3. The Chairman said that whilst the different types of benefit could be compared, this was not relevant in the light of the Executive Council decision. Mr. Ma said that he felt that the information would nevertheless be useful to the Staff Side. The Chairman undertook to supply it.

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PAS(CS)PC3

Question (A)(2)(i) from SNEOA

4. The Chairman said that the restriction, under condition (f), on the disposal of flats by incoming members who had joined their respective

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co-operative societies, had been added at the request of the ICAC in order to close a loophole which provided a potential avenue for corruption. It should not adversely affect genuine incoming members especially since SCS had the power to waive the condition in special circumstances. In response to a query from Mr. Ng, Mr. Petersen confirmed that condition (f) only applied to incoming members who joined a society prior to its dissolution and the transfer of title. It would not apply to anyone who bought a flat from an ex-member after the title had been transferred and the premium paid.

Question (A)(2)(ii) from SNEOA

5. Mr. Pope tabled a note on the method of calculating the existing use value of the land element and explained the calculation. In response to a question, he clarified that the existing use value would never exceed the full market value of the land. For any given block of co-operative building society flats the market value of the vacant land, the sale price of the flat and the sale price of a similar new flat would be calculated by comparison with actual prices of similar properties in the same area. These prices would vary over time in line with movements in the general property market. For each case,

the relevant prices would be subject to negotiation and agreement between the society and the Lands Department before any transaction could go ahead. Mr. Ma and Mr. Lam said that it was necessary for the definitions of the existing use value and the full market value of the land element to be clearly explained together with the definitions of the sale price of the flat and the sale price of a similar new flat.

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Mr. Pope agreed draw up the required definitions for circulation to the Staff Side. Mr. Lam said that it would not be fair if this system resulted in the requirement for a member, who had looked after his flat well, to pay more premium than a member who had maintained his flat poorly. Mr. Pope confirmed that this should not be the case.

6. In response to a question from Mr. Walton Masters, Mr. Pope explained that if no agreement on prices could be reached between a society and the Government Land Agent/Valuation, then an appeal could be made to the Principal Government Land Agent, in the same way as for any other land transaction in the private sector. Beyond this there would be no channel for further appeal. Mr. Walton Masters felt that this was a different situation to transactions with the private sector, because the Government was dealing with its own

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employees and because the societies were already occupying the land and had no choice but to pay the premium if they wanted to sell flats. He advocated the establishment of an internal appeal tribunal, consisting of a member of the Judiciary, the Director of Lands or his representative and a Staff Side representative, which could arbitrate in the event of disagreement. The format could be similar to the Land Valuation Conference.

7. Mr. Grindey said that probably the Chief Justice would be unwilling to assign a judge to chair such a tribunal on an ad hoc basis, and also pointed out that such a tribunal could not function properly without proper legislation. The Chairman said that whilst some form of appeal system could be considered, such a system should not involve the need for additional staff resources and should operate without the need for new legislation. Mr. Pope said that the existing appeal system worked well and that there was no case for special arbitration. Furthermore, if arbitration was required, the Lands Department would charge a fee for it. Mr. Kwok said that the Staff Side would like some time to consider the issue further, following which they would submit a proposal for an appeal system if they concluded that the current system was not adequate for their

purposes. The Chairman agreed to consider such a proposal, if made, but added that any appeal system should be set up within the Lands Department, should not involve the Judiciary and should be done within the framework of existing legislative and administrative rules covering land transactions at no extra cost.

8. Mr. Lam said that the premium payable should be based on the land price at the time when it was originally granted by the Government. The Chairman replied that this had already been ruled out by the Executive Council. He added that the use of existing use value represented a compromise between the Staff Side's wish to pay no premium and the Official Side's original proposal that they should pay full market value. The Executive Council had decided that no further concessions should be made.

9. Mr. Ma and Mr. Lam pointed out that when the land was originally granted it was unformed and that individual societies had borne the full costs of site formation. Therefore it was unfair to charge a premium based on the existing use value of the formed land. Rather, the premium should be

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assessed on the land as if it were unformed, with the costs of formation discounted.

Mr. Pope replied that it was Government land policy to assess the value of land in its current condition and that this applied to all land in Hong Kong. Mr. Ma asked whether the Executive Council had been properly advised of the Staff Side's views regarding the question of premium payment. The Chairman confirmed that this was done, and reiterated that the use of existing use value was the maximum concession that the Executive Council was prepared to make.

10. Mr. Kwok asked at what concessionary rate land had been granted to Government built housing schemes. Mr. Pope replied that, as for co-operative societies, land had been granted at one third full market value.

11. Mr. Pope then explained that in addition to the existing use value premium, a further modification premium would be payable prior to redevelopment of the site. The Chairman added that by splitting the total premium payable in this way, the sum payable by those simply wishing to sell their flats would be lessened as they only had to pay two thirds of the existing use value.

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12. In response to a question from Mr. Walton Masters, Mr. Pope confirmed that the modification premium would be based on the difference between the existing gross floor area and the proposed new gross floor area, in the same way as for the private sector.

13. Mr. Ma asked whether premium could be paid by instalments. Mr. Pope replied that it could not.

Questions (B)(1) and (2) from HKCCSA

14. The Chairman said that if at least three quarters of the members of a society opted in favour of dissolution of the society and the subsequent transfer of legal title, then the rest of the members who were not in favour of this would have to make a choice. They could opt either to accept the majority decision and accept the title to their flats, in which case they would forfeit all other housing benefits, or to resign from the society and introduce another member before the dissolution came into effect, in which case they would preserve the full rights to other housing benefits.

15. Mr. Kwok asked why civil servants could not preserve their rights to other benefits after the transfer of title until they actually disposed of their flats.

The Chairman replied that if any society or any member did not wish to take up the

option they would not be compelled to do so; but if they did so, then it would be necessary for a clean break to be made, with no continuation of other benefits. In response to a query, Mr. Petersen added that the option would be open-ended, and confirmed that there would be no deadline within which societies would need to decide whether or not to take up the option.

Questions (B)(3) and (4) from HKCCSA

16. It was agreed that these questions had already been fully covered in the discussion of question (A)(2)(ii), (see paras 5 to 13 above).

Question (B)(5) from HKCCSA

17. The Chairman said that "incoming member" covered any new member with the exception of a beneficial successor, and included new members who had previously been members of other societies.

Question (B)(6) from HKCCSA

18. The Chairman said that as mentioned at the beginning of the meeting (see para 1 above), the only legislation required would be an Order from the Governor. Technical points would be dealt with later in the meeting.

Question (B)(7) from HKCCSA

19. The Chairman said that, as mentioned in the letter dated 25 November 1985 to the Staff Side, the possibility of granting loans in hardship cases to enable members to pay back the Government loans in advance of the repayment schedule was being considered. Mr. Petersen added that since the Government would not consider an application for dissolution and transfer of title until after the entire loan granted to the society had been paid, no member could be forced to repay his share of the loan in advance if he did not wish to do so. It was for the majority to consider whether, in order to repay the loan quickly, they were prepared to repay the minority's share of the loan early.

Question (B)(8) from HKCCSA

20. Mr. Grindey advised that the following rates of stamp duty, which were specified under Head 1 of the First Schedule of the Stamp Duty Ordinance (Cap. 117) would be payable on the transfer of title -

<u>Value of property (i.e. flat and land)</u>	<u>Stamp Duty Payable</u>
Up to \$250,000	\$20
\$250,000 to \$500,000	1% of the value of property
Above \$500,000	2.75% of the value of property

21. The Chairman confirmed that stamp duty could not be waived or deferred, and added that no loans would be granted to assist in its payment.

22. In response to a question from Mr. Kwok, the Chairman said that if a member refused to pay the stamp duty he would have to forfeit his flat.

23. Mr. Ma said that the stamp duty should be considered to have been paid when the land was first granted to the society. Mr. Grindey explained that no duty was paid at that time. Duty was only payable on conveyance (i.e. transfer of title) in just the same way as it would be in the private sector in the case of a tenant buying the flat which he was occupying. If having acquired title to his flat, he sold it, then the buyer would be liable to pay further stamp duty.

24. Mr. Grindey went on to explain that there were other charges for legal transactions as follows -

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Surrender of land to Government	:	about \$1,000 per lot (i.e. per society)
Preparation of new lease	:	about \$3,000 per lot (i.e. per society)
Survey of the property, if done by Government	:	about \$5,000 per lot (i.e. per society)
Assignment of flats and Deed of Mutual Covenant	:	about \$450 per flat (similar to the fee charged for HOS flats)
Land Office fee on assignment	:	\$250 for a flat of up to \$750,000 \$500 for a flat of over \$750,000

These charges were much cheaper than the cost of engaging a solicitor to carry out the work since his fee would generally be 1% of the value of the property.

25. Mr. Grindey said that it would be necessary for deeds of mutual covenant to be drawn up for each society to cover building management after dissolution and transfer of title. These deeds would need to be tailored to each society's requirements, and could be drawn up by either the Registrar General's Department or the societies. If done by solicitors employed by the societies, the cost would be approximately \$750 per flat. The RGD could do it at a lesser cost though it might take longer depending on staff resources available. The charge for approval of a deed which had been prepared by the society would be \$2,000.

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26. Mr. Kwok requested that Mr. Grindey draw up a standard deed of mutual covenant which could be used by the societies.

Mr. Grindey explained that no two deeds were the same and that it was not possible to produce a standard one which would cater for the needs of all societies. However, at the request of Staff Side, he agreed to produce a specimen copy deed which could be used by societies as a starting point for preparing deeds tailored to suit individual needs.

27. Mr. Walton Masters felt that all fees should be waived by the Government. He went on to say that stamp duty should also be waived, and that if this was not possible, it should be charged at a lower rate than usual. The Government should take into account the fact that it was dealing with its own employees, and in the light of this it should consider their case sympathetically. Mr. Pope said that he had written to the Commissioner of Rating and Valuation to ascertain whether a reduction of full market value similar to that used for Home Ownership Scheme flats could be applied. The Chairman said that the Staff Side would be advised of the outcome of this enquiry in due course, but stamp duty would not be waived. He

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also stated that there was no case for waiving the various fees for legal transactions that had earlier been described by Mr. Grindey.

28. Mr. Walton Masters and Mr. Ma asked whether the stamp duty could be assessed on the basis that the flats had sitting tenants. Mr. Pope advised that this would not apply since in this case the sitting tenants would become the owners.

Question (B)(9) from HKCCSA

29. The Chairman said that all other housing benefits including House Allowance must be forfeited on the acquisition of legal title. Mrs. Lau added that the same rule applied to recipients of the Home Purchase Allowance. The staff associations were already being consulted on this matter and a circular would soon be issued clarifying the position of officers in receipt of H.P.A.

Question (B)(10) from HKCCSA

30. The Chairman advised that it would be impractical to allow the underlessees of the two Government built schemes to transfer the title to their flats on an individual basis because this would create building management problems, and it would be

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difficult to sub-divide the lots to allow for this. However, it might be possible to allow the transfer of title block by block and this possibility would be further examined. No decision to allow transfer on a block by block basis would be taken without prior consultation with the relevant management committees.

Steps to be taken by a society wishing to seek dissolution and transfer of title

31. Mr. Petersen summarized the steps which would need to be taken by a society whose members wished to gain title to the flats. Once the procedures had been finalized, societies and staff associations would be notified in writing. Separate procedures would be worked out for the Government built schemes since their structure was different to that of co-operative societies, but the underlying principles to be adopted for both would be the same.

32. To enable the dissolution and liquidation of the society to take place, the Registrar of Co-operative Societies was obliged under the Co-operative Societies Ordinance to appoint a liquidator who had certain statutory duties. It was felt that rather than having the Registrar's staff act as liquidator, it would be better for the

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society to nominate a professional accountant or solicitor to act as liquidator, subject to the approval of the Registrar. This professional could liquidate the society, run the building management, maintenance and administration once it had dissolved, and eventually set up an owners' corporation to take over the building management after the dissolution, liquidation and transfer of title was complete. The Registrar would provide guidelines to the appointed liquidator and would monitor his work.

33. An important practical point concerned the timing and method of payment of the necessary stamp duty and fees. It was felt that to show good faith, and for ease of collection, the society should place sufficient funds to cover administrative fees, stamp duty, the premium and nominal rental on deposit receipt, pending approval of the dissolution and the transfer of title. The society's apportionment and method of collection of the total funds due from its members would be its own business. In the event that one member either could not or would not pay, the others might decide to make good the payment on his behalf in order to avoid delays.

34. These two important steps of appointing a liquidator and placing funds on deposit receipt would need to be taken at the time when the society formally applied for dissolution.

Miscellaneous Points

35. Mr. Kwok asked when it was envisaged that the proposal to allow transfer would be implemented. The Chairman replied that he anticipated that, barring unforeseen circumstances, the proposal would be implemented in four to six months' time.

36. In response to a question from the Chairman, the Staff Side Representatives said that they did not anticipate many societies wanting to take up the option.

37. Mr. Walton Masters asked whether, in the event that a society member wished to approach a bank for a loan to assist him in paying for the transfer of title, the Government would be prepared to write to the bank in support of this. The Chairman said that Government could write to the bank confirming that the person concerned was a member of the society. If having gained title the ex-member then wished to seek a loan to enable him to pay the land premium, the Government could issue a letter confirming that that person had legal title to the flat,

and that once the premium had been paid he would be able to sell, let or otherwise dispose of it as he wished.

38. Mr. Kwok asked what would happen in the case of a society where many members wished to take up the option but failed to obtain the support of at least three quarters of total membership. This could be a big problem for the two large Government built schemes. The Chairman said that in the case of a co-operative society, nothing could be done unless or until at least three quarters of membership voted in favour of dissolution since this proportion was stipulated in section 38 of the Co-operative Societies Ordinance. As regards the two Government built schemes, as mentioned earlier, it might be possible for legal title to be transferred on a block by block basis, but further study would be required to ascertain the feasibility of this.

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39. There being no other business, the Chairman thanked the Staff Side for attending the meeting. The meeting was adjourned at 5.30 p.m.

Pay and Conditions of Service Division
Civil Service Branch
4 March 1986

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Press Release (28 November 1985 at 2 p.m.)
Civil Servants' Co-operative Housing Schemes

Members of co-operative housing schemes for civil servants will soon be able to obtain legal title to the flats they now occupy, under revised conditions announced by the Government today.

2. The acquisition of legal title is voluntary, involving the payment of a small premium and nominal rental.

3. Subject to the payment of a further premium and the compliance with other conditions, members of these building societies will have the option to sell, let or otherwise dispose of their properties.

4. A spokesman for the Civil Service Branch of the Government Secretariat said, "The decision has been taken by the Government after an extensive review of these schemes which were first introduced more than 30 years ago."

5. There are 5,042 flats built by 236 civil servants' co-operative building societies between 1952 and 1962, and 727 similar flats at Lung Cheung Court and Hong Lee Court built by the Government between 1969 and 1973.

6. The Police Local Inspectors Association's Shatin Lodge and the Hong Kong Chinese Civil Servants Association's Wah Yuen Chuen are not included in the arrangements announced today because they were set up under different terms and will be dealt with separately.

7. The main conditions governing the transfer of legal title to flats from civil servants' co-operative building societies to individual members are -

- (a) any outstanding loans from the Government must be fully repaid;
- (b) a small premium of \$1,000 per lot and a nominal rental will be charged;
- (c) before the flat can be sold, let or otherwise disposed of, the owner must pay to the Government a land premium equivalent to, generally, two-thirds of the "existing use value" of the land on which the property stands;
- (d) an additional modification premium will be charged at full market value on redevelopment over and above the existing development. The consent of all owners will be required before any redevelopment proposal can proceed;
- (e) once a society member has acquired legal title, he will no longer be eligible for other forms of civil service housing benefit, except for operational departmental quarters.

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8. The spokesman added, "All the affected societies and committees have been informed of the new arrangements which are expected to be implemented in a few months' time. The new arrangements are merely a facility. It would be up to individual societies and committees to determine whether they wish to take advantage of it."

BY RECORDED DELIVERY

To :

Dear Sirs;

(Lot No. and Address)

I have to inform you that in consideration of your payment to the Government of Hong Kong (hereinafter referred to as "the Government") of \$ (the receipt whereof is hereby acknowledged), the Government, acting in accordance with the provisions of the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, has approved a modification of the Lease (hereinafter referred to as "the Lease"), under which the above-mentioned lot is held, in manner hereinafter appearing subject to the following conditions and to your acceptance thereof in the manner stated in Paragraph 2 hereof : -

- (1) With effect from the date of this letter, the terms, conditions and covenants in the Lease and as set forth in the ~~First Schedule~~ hereto shall be deemed to be ~~and~~ shall be void and of no effect and the Lease shall be deemed to include and be read and construed as if there were included therein in lieu of the covenants set forth in the said First Schedule the covenants set forth in the Second Schedule annexed hereto.

(2) Except as hereby modified, all the terms and covenants contained in the Lease shall remain in full force and effect.

(3) You shall, if required by the Director of Lands so to do, execute a formal instrument incorporating all the conditions herein contained in such form as he may require.

(4) The provision for re-entry on the breach, non-observance or non-performance of any of the covenants contained in the Lease shall extend to the breach, non-observance or non-performance of any of the substituted terms, conditions and covenants set forth in the Second Schedule hereto.

If the foregoing conditions are acceptable to you, I shall be glad if you will signify your acceptance by executing, under seal, the docket on both copies of the letter. After execution, please return to me both copies of this letter whereupon the modification will be recorded by an appropriate endorsement on the copy of the Lease retained in Land Registry/District Land Registry, and this letter will be registered by memorial. On completion the original of this letter will be returned to you for retention. You may attach it for record purpose to the other land documents in your possession.

When returning both copies of this ~~letter~~, please also forward to me (a) the original or a certified copy of the order of the Registrar of Co-operative Societies appointing you as liquidator(s) of [insert name of

society}}, (b) the memorial thereof and (c) a crossed cheque in favour of the Hong Kong Government in the sum of \$ _____ being the registration fee of the order. I shall arrange for the order to be registered simultaneously with this letter.

Yours faithfully,

First Schedule

["AND that the said Lessee will not erect or maintain or allow to be erected or maintained on the said piece or parcel of ground or any part thereof any building or buildings other than a building or buildings containing not less than flats with garages and outbuildings pertaining thereto for the purpose of providing residential accommodation for Government servants on local terms of service in accordance with the objects for which the said Lessee has been registered as specified in its by-laws and will not use or allow to be used the building or buildings erected thereon for any other purpose"

"AND will be entitled to grant sub-leases of the individual flats in the said building or buildings to members of the said Lessee on such conditions and subject to such restrictions and in such form as may from time to time be approved by the Government of Hong Kong for the term hereby granted less the last three days thereof AND except as aforesaid the said Lessee its sub-lessees or other its successors in title will not sell assign mortgage charge underlet or part with the possession of the said piece or parcel of ground or any part thereof or any building or buildings erected thereon or any part of such building or buildings or enter into any agreement so to do without the consent in writing of the Governor given in respect of each and every such disposition (it being agreed and declared that where his consent is required under the foregoing covenant the Governor shall have full power as a condition of granting such consent to impose such restrictions terms and conditions whether in respect of the amount of the sale price or the amount to be raised on mortgage or the rent as the case may be or in respect of the form of any assignment mortgage charge sub-lease tenancy agreement or other deed or document by which such transaction is effected or otherwise as he may think fit)"

[Note : this is merely an example of the form of restriction to be deleted; this will vary depending upon the wording of the Lease.]

Second Schedule

AND that the said Lessee doth hereby covenant with the Government of Hong Kong (hereinafter referred to as "the Government") by these presents as follows : -

(1) (a) Subject to the terms and covenants herein contained the said Lessee will not use or permit or suffer to be used the said piece or parcel of ground or any part thereof or any building or buildings erected or to be erected thereon or any part or parts of such building or buildings for any purpose other than private residential purposes

(b) The total gross floor area of any building or buildings erected or to be erected on the said piece or parcel of ground shall not exceed square metres

(c) For the purposes of this Lease the expression "gross floor area" means the area contained within the external faces of the external walls (or in the absence of such walls the external perimeters) of any building or buildings erected or to be erected on the said piece or parcel of ground measured at each floor level (including any floor below the level of the ground), together with the area of each balcony in such building or buildings, which shall be calculated from the overall dimensions of the balcony (including the thickness of the sides thereof)

(d) Notwithstanding sub-clause (c) of this clause the Director of Lands (hereinafter referred to as "the Director") at his sole discretion may in determining the gross floor area of

any building or buildings erected or to be erected on the said piece or parcel of ground exclude, any floor space that he is satisfied is constructed or intended to be used solely for the parking or for the loading or unloading of motor vehicles or occupied solely by machinery or equipment for any lift, air-conditioning or heating system or any similar service, or any floor space which the Building Authority may permit to be excluded through modifications of the provisions of the Buildings Ordinance

- (e) For the purpose of determining the permissible plot ratio of the building or buildings erected or to be erected on the said piece or parcel of ground in accordance with this Lease, and notwithstanding the definition of "gross floor area" contained in Regulation 23(3)(a) of the Building (Planning) Regulations there shall be included in the calculation of gross floor area, in the case of a floor not having external walls, the area contained within the external perimeters of such floor and the Lessee shall make no objection or claim on this account

- (2) the said piece or parcel of ground having been granted on concessionary terms as to premium the said Lessee will not except as hereinafter provided : -

- (a) assign underlet or part with the possession of or otherwise dispose of the said piece or parcel of ground or any interest therein whether by way of direct or indirect reservation including the grant of any right of first refusal option or power of attorney in favour of any person firm company corporation or group or by way of any other method arrangement or document of any description or enter into any agreement so to do or

(b) solicit or accept (whether directly or indirectly or through a solicitor agent contractor or trustee or through a corporation in which the said Lessee is the owner of shares) any money or money's worth or other valuable consideration of any description in respect of the said piece or parcel of ground or any interest therein or in respect of or in connection with or under or pursuant to any transaction present or future conditional or unconditional whereby the said piece or parcel of ground or any interest therein is or may be sold assigned underlet or otherwise affected or enter into agreement to do any of the things before mentioned or

(c) mortgage or charge the said piece or parcel of ground or any interest therein or enter into any agreement so to do

SAVE AND EXCEPT THAT : -

(A) the licences/underleases of premises in the building or buildings erected on the said piece or parcel of ground that were granted by the Former Society to the Former Members prior to [date of the modification letter] shall not be a breach of the restriction in clause 2(a) hereof

(B) the said Lessee may assign unto the Former Members undivided shares in the said piece or parcel of ground together with the right to the exclusive possession of premises in the building or buildings erected thereon subject to and together with the benefit of a deed of mutual covenant on condition that each of the Former Members on taking such assignment shall execute a First Legal Charge in a form approved by the Director on his Relevant Interest (as hereinafter defined) in favour of the Financial Secretary Incorporated for securing the

payment to the Government of the amount (hereinafter more particularly specified in clause (F) below) for the removal of the restriction on alienation contained in clause (2) hereof so far as that restriction is a restriction on alienation of those undivided shares the subject of each such First Legal Charge. The condition contained in this clause shall run with the said piece or parcel of ground and be binding on the said Lessee's successors in title and assigns

- (C) in the event that any of the Former Members do not claim or are not assigned undivided shares assignable to him under the scheme of distribution of the Former Society authorized by the Registrar of Co-operative Societies pursuant to Section 43(f) of the Co-operative Societies Ordinance (and which said scheme is hereinafter referred to as "the Scheme of Distribution") within 12 months from the date of dissolution of the Former Society or within such further period of time that the Registrar of Co-operative Societies may direct (such Former Members and their successors in title being hereinafter referred to as "the Non-consenting Members") the said Lessee may and shall assign such undivided shares to a corporation to be incorporated under the Building Management Ordinance (hereinafter referred to as "the Owners' Corporation") for the management of the common parts and building or buildings erected on the said piece or parcel of ground and in such event the Owners' Corporation shall take an assignment thereof from the said Lessee and contemporaneously with such assignment the Owners' Corporation shall execute an undertaking (in terms to be approved by the Director) in writing and under seal in favour of the Government whereby the Owners' Corporation shall undertake to observe and comply with all the terms, conditions and covenants in clause (2) hereof and shall acknowledge that the ~~Government may re-enter~~ the said piece or parcel of ground or part thereof in the event of any breach by the Owners' Corporation of the said terms, conditions and covenants. The assignment shall be subject inter alia to the following terms, conditions and covenants : -

- (a) except in accordance with clause (C) (f) or (g) below the Owners' Corporation shall not assign or otherwise deal with the undivided shares or any part thereof or enter into any agreement so to do;
- (b) the assignment shall be subject to all the existing licences/underleases of premises in the building or buildings erected on the said piece or parcel of ground and made between the Former Society and each of the Non-consenting Members in so far as the terms and conditions therein contained are subsisting and capable of taking effect;
- (c) each of the Non-consenting Members and their assignees shall be entitled to the exclusive possession of the premises the subject matter of the licences/underleases mentioned in (b) above subject to the observance and compliance with the terms and conditions of their respective licences/underleases;
- (d) each of the Non-consenting Members shall (subject to the terms of his licence/underlease and him having entered into an agreement in the terms of clause (2)(C)(e) hereof) be entitled to nominate a person or persons to take an assignment of his licence/underlease and to enter into such an assignment. In the event of such an assignment the assignee shall enjoy the same rights and benefits and shall suffer the same burden and obligations as did the Non-consenting Member under, and by virtue of, his licence/underlease as varied by the agreement in the terms of clause (2)(C)(e) hereof. Such assignee and his successors in title are hereinafter referred to as "assign";

- (e) if a Non-consenting Member requests the Owners' Corporation so to do the Owners' Corporation and the Non-consenting Member shall enter into an agreement by Deed varying the terms of his licence/underlease to the effect that (i) there shall be no right of re-entry on account of a Non-consenting Member ceasing to be a member of the Former Society; (ii) a beneficial successor may claim a new underlease from the Owners' Corporation; (iii) ambiguities and uncertainties in the wording of his licence/underlease resulting from dissolution of the Former Society shall be avoided; (iv) any assign of a Non-consenting Member under an assignment as provided for in (d) above shall not have the right to nominate and/or assign his licence/underlease as provided in (d) above or otherwise; (v) the Non-consenting Member or his assign or beneficial successor shall be entitled to the refund as referred to in clause 2(D) below in the event of termination of his licence/underlease and (vi) the Owners' Corporation shall extend the term of his licence/underlease by the same period as the period of any renewal or extension of this Lease less the last three days. A Non-consenting Member and the Owners' Corporation shall not be entitled to enter into an agreement as herein provided for unless such agreement contains provisions incorporating (i), (ii), (iii), (iv), (v) and (vi) in this sub-sub clause;
- (f) upon occurrence of any of the events particularly set out in clause (2)(D) below, the Owners' Corporation on executing a First Legal Charge as hereinafter defined in the said clause (2)(D) may at any time thereafter exercise any rights it may have to re-enter the premises and may assign the undivided shares as mentioned in the said clause (2)(D) subject to the conditions and provisos therein contained;

- (g) the Owners' Corporation shall when called upon by any of the Non-consenting Members or his assign or beneficial successor so to do assign the undivided shares assignable to such Non-consenting Member under the Scheme of Distribution to such Non-consenting Member or his assign or beneficial successor (as the case may be) subject to a First Legal Charge as hereinafter defined in clause (2)(E) below being executed by such Non-consenting Member or his assign or beneficial successor and subject also to the provisos and payment of all the expenses more particularly described in clause (2)(E).
- (D) if any Non-consenting Member or his assign or beneficial successor shall fail to observe and comply with any of the terms and conditions contained in his licence/underlease referred to in clause (2)(C)(b) above or if the licence/underlease is otherwise lawfully terminated (save and except lawfully terminated (i) as a result of merger upon the assigning of undivided shares to the Non-consenting Member or his assign or beneficial successor or (ii) by effluxion of time when the licence/underlease expires) and upon the Owners' Corporation executing a First Legal Charge in a form approved by Director on the Relevant Interest (as hereinafter defined) of the said Non-consenting Member or his assign or beneficial successor in favour of the Financial Secretary Incorporated for securing the payment to the Government of the amount (hereinafter more particularly specified in clause (F) below) for the removal of the restriction on alienation contained in clause (2) hereof, the Owners' Corporation may at any time thereafter re-enter the premises and thereupon the licence/underlease the subject of his licence/underlease shall absolutely determine and the Owners' Corporation may assign the undivided shares assignable to him under the Scheme of Distribution to any person or body corporate provided that upon vacant possession of the premises being given to the Owners' Corporation and upon completion of such assignment such Non-consenting Member or his assign or beneficial successor shall be entitled to a refund from the said consideration of the contribution(s) (if any) of the Non-consenting Member or his assign or beneficial successor to the capital sum referred to in his licence/underlease less any sum(s) outstanding to the Former Society and/or the Owners' Corporation

(E) the Owners' Corporation shall when called upon by any of the Non-consenting Members or his assign or beneficial successor so to do assign the undivided shares assignable to such Non-consenting Member under the Scheme of Distribution to the Non-consenting Member or his assign or beneficial successor (as the case may be) subject to : -

(a) the amount equivalent to his share of the expenses incurred in the liquidation of the Former Society (as to which amount the decision of the Registrar of Co-operative Societies shall be final) and in incorporating the Owners' Corporation and of the management, maintenance and other expenses which would have been payable by the Non-consenting Member or assign or beneficial successor as owner of the undivided shares assignable to him under the Scheme of Distribution had he taken an assignment of such shares 12 months from the date of dissolution of the Former Society being paid by such Non-consenting Member or assign or beneficial successor to the Owners' Corporation which shall distribute pro rata such amount to those Former Members who had paid such expenses

(b) a First Legal Charge in a form approved by the Director on his Relevant Interest being executed by such Non-consenting Member or assign in favour of The Financial Secretary Incorporated for securing the payment to the Government of the amount (hereinafter more particularly specified in clause (F) below) for the removal of the restriction on alienation contained in clause (2) hereof and

(c) all legal, conveyancing and other expenses of and incidental to the preparation execution and registration of the assignment and First Legal Charge being paid by such Non-consenting Member or assign or beneficial successor

PROVIDED that a Non-consenting Member or his assign or beneficial successor shall not be entitled to call upon the Owners' Corporation to assign undivided shares assignable to him under the Scheme of Distribution in the event that the Owners' Corporation has lawfully re-entered the premises the subject of the underlease/licence of that Non-consenting Member or his assign or beneficial successor and that re-entry remains in effect or the underlease/licence has otherwise lawfully been terminated but the right to call upon the Owners' Corporation to assign as aforesaid shall not be precluded by termination of the underlease/licence where such termination is in consequence of re-entry by the Owners' Corporation upon the death of a Non-consenting Member or his assign or beneficial successor or (where an agreement has been entered into as provided for in clause (2)(C)(e) hereof) of an application of a beneficial successor to the Owners' Corporation for a new underlease of the premises.

AND FURTHER PROVIDED that if a Non-consenting Member has assigned his licence/underlease as provided for in clause (2)(C)(d) hereof, such Non-consenting Member shall not be entitled to call upon the Owners' Corporation to assign undivided shares assignable to him under the Scheme of Distribution to himself.

(d) The conditions and covenants contained in this clause shall run with the said piece or parcel of ground and be binding on the Owners' Corporation's successors in title and assigns

(F) any owner (including the Owners' Corporation but only in accordance with clauses (2)(C)(f) and clause 2(D) above) of a Relevant Interest in the said piece or parcel of ground may assign mortgage or charge underlet part with the possession or otherwise dispose of or permit or suffer any other person to use or occupy such Relevant Interest if : -

- (a) in the event of there being any Non-consenting Member the Owners' Corporation has been incorporated under the Building Management Ordinance; and
- (b) he/she/it shall have first paid to the Government either an amount equal to two-thirds of the existing use land value of the Relevant Interest or if the said piece or parcel of ground is economically suitable for re-development at the relevant date an amount equal to two-thirds of such sum as the Director shall on a fair and impartial valuation certify to be the full market value of such Relevant Interest at the said date it being agreed and declared that upon payment of either of the amounts as hereinbefore provided in respect of any Relevant Interest the restriction on alienation contained in clause (2) hereof shall be null and void and shall cease to have effect but only in so far as it relates to such Relevant Interest and no further

IT IS FURTHER AGREED AND DECLARED THAT : -

- (1) for the purposes of the terms and conditions and covenants set forth in the Second Schedule-to-this-Modification Letter : -
 - (a) the expression "Relevant Interest" means an undivided share in the said piece or parcel of ground and the building(s) erected thereon the owner of which share as between himself and the owners of other undivided shares in the said piece or parcel of ground is entitled under the terms of an instrument registered in the Land Office to exclusive possession of premises in the building(s) erected thereon

- (b) the existing use land value means an amount equal to such sum as the Director shall on a fair and impartial valuation certify to be the full market value of the said piece or parcel of ground at the relevant date multiplied by such sum as the Director shall on a fair and impartial valuation having regard to the age and general condition of the building on the said piece or parcel of ground certify to be the full market value of the Relevant Interest at the same date divided by such sum as the Director shall on a fair and impartial valuation certify to be the full market value at the same date of a residential unit similar in gross floor area to the Relevant Interest in a building in a newly completed residential or partly residential development in the same locality as the said piece or parcel of ground
- (c) the said piece or parcel of ground shall be deemed to be economically suitable for re-development if in the opinion of the Director (whose decision shall be final and binding on an owner of a Relevant Interest) the land value of the said piece or parcel of ground is greater than the value of the building on the said piece or parcel of ground at the relevant date
- (d) the expression "the relevant date" means the date on which any amount required to be paid under this sub-clause is assessed by the Director
- (e) the expression "the Former Society" means the Lessee (being a society registered under the Co-operative Societies Ordinance) prior to its dissolution under Pt. VII of that Ordinance, and the expression "the Former Members" means the members of the Former Society immediately before its dissolution

**Guidelines to be Followed to Achieve Transfer
of Title to Flats and Land
of Government Built Housing Scheme
from The Financial Secretary Incorporated
to Individual Underlessees**

Chapter 3

Conditions for Subsequent Disposal of Property

Owners [i.e. ex-underlessees of Government Built Housing Scheme (GBHS) who have obtained legal title to their flats (and car parking spaces as the case may be)] will not be permitted to sell, let or otherwise dispose of their property until :

- (a) they have formed an Owners' Corporation (OC);
- (b) the OC had given an undertaking to the Secretary for the Civil Service and The Financial Secretary Incorporated (FSI) to: (i) take care of the interests of the non-consenting underlessees, (ii) enter into a Variation Agreement with the non-consenting underlessees when the non-consenting underlessees indicate willingness or are able to enter into the said agreement; and (iii) take assignment of the undivided shares of all the flats of the non-consenting underlessees from the FSI as and when required by FSI;
- (c) the OC had taken assignment of the undivided shares of all the flats of the non-consenting underlessees from FSI as and when required by FSI; and
- (d) they have paid the relevant land premium to lift the alienation restrictions.

2. Payment of the land premium to Government will be secured by a legal charge on the property in favour of FSI. Upon payment of the land premium to Government, the legal charge will be discharged and the owner will be free to dispose of the property. Prior to the discharge of the legal charge by FSI after payment of the relevant land premium for removal of the alienation restrictions, the only way that the ownership of the property may pass from the owner to another party is by operation of law, e.g. through inheritance by a beneficiary in the event of death, or by vested in a trustee in the event of bankruptcy. In either event, since the legal charge remains valid until discharged, the beneficiary or the trustee would be bound by it to pay the premium prior to sale, letting or other disposal.

✓ 3. After conditions (a), (b) and (c) as stated in paragraph 1 have been satisfied, owners may apply to the Director of Lands for assessment of land premium. The land premium is equivalent to two-thirds of the "existing use value" of the land on which the buildings of the GBHS stand, unless the Lands Department considers that the Lot is economically suitable for redevelopment at the relevant date, whereupon the premium will be assessed at generally two-thirds of the full market value of the land at the relevant date. The relevant date means the date on which any amount required to be paid for removing the restriction on alienation is assessed by the Director.

4. A non-consenting underlessee or his/her beneficial successor or successor in title may at any time call upon FSI or OC as appropriate to claim the undivided shares which should have been assigned to him/her had he/she consented to the transfer of title, subject to his/her payment of stamp duty, his/her share of the expenses involved in the transfer of title exercise and formation of the OC, and any other expenses which the non-consenting underlessees, or his/her beneficial successor or successor in title would have paid had he/she taken an assignment of the relevant undivided shares and the legal fees and disbursements and any other expenses of the assignment and the legal charge which he/she shall be obliged to execute upon taking assignment of his/her legal title. Upon taking the assignment, the assignee (formerly the non-consenting underlessee) shall execute a legal charge in favour of FSI to secure his/her due performance of the covenant not to alienate the property assigned to him/her by FSI prior to the discharge of the legal charge by FSI after payment of the relevant land premium for removal of the alienation restrictions. The assignee can then apply to the Director of Lands to remove the alienation restriction of his/her property by payment of the relevant land premium.

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