

**For discussion
on 7 December 2015**

Legislative Council Panel on Housing

Conversion of Tin Yiu Market by Link Asset Management Limited

PURPOSE

This paper briefs Members on matters relating to the conversion of Tin Yiu Market by Link Asset Management Limited (Link).

CONVERSION OF TIN YIU MARKET BY LINK

2. The Government has replied Hon LEUNG Che-cheung's oral question regarding the conversion of Tin Yiu Market by Link at the Legislative Council (LegCo) meeting on 11 November 2015 and explained the relevant considerations that the Government would take into account in deciding whether to build public markets. The reply is attached at **Annex I** for Members' reference.

3. When the Hong Kong Housing Authority (HA) divested its commercial facilities in 2005, the Government explained at that time that the divestment of commercial facilities would enable HA to focus on its core function as a provider of subsidised public housing. Also, the efficiency of the commercial facilities would be enhanced under the operation of a private entity in accordance with commercial principles, which would in turn lead to a positive impact on the overall economic development of Hong Kong. In face of market competition, private operators will enhance operation efficiency and extend the business potential of its facilities as far as possible through cost-saving initiatives, re-structuring of trade mix, improvement of marketing strategy and so on. As a private entity, Link (previously named The Link Management Limited (The Link)) has complete autonomy in its business operation to respond to market conditions in a flexible manner, but it has to comply with legislative requirements, land lease conditions, and restrictive covenants signed between Link and HA.

4. Link has become a private entity after its listing. It exercises sole discretion on how to respond to market demand, and to balance the needs and interests of customers, commercial tenants and unit holders. Most of the commercial facilities of Link are located in public housing areas and their clientele are mainly public housing residents. From the commercial perspective, operators have to cater for the needs and preference of their customers. As different residents have different shopping habits which will also change over time, operators of commercial facilities have to appropriately respond to market signals, and to adjust their mode of operation to keep pace with the times in order for their business to thrive. For instance, in tandem with changes in socio-economic circumstances, lifestyles, purchasing power and various other factors, customers choose to purchase fresh supplies from various channels. Currently, a variety of channels is available for the public to purchase fresh supplies. They may choose to visit public and private markets, supermarkets and various types of retail outlets. In face of changes in the market, operators will improve the shopping environment, provide more and better shopping options and update the tenant trade mix to bring convenience to customers in order for their business to succeed. On the contrary, overlooking the market conditions and customer needs, and changing the mode of operation in a hasty manner would not bring any advantage to operators. Therefore, operators have to adjust their mode of operation according to the various objective factors and market conditions.

REGULATORY MECHANISM APPLICABLE TO LINK

5. At the LegCo meeting on 11 November, Members raised questions concerning the background of the divestment of HA's facilities and the mechanism in place to regulate Link. The Government provided relevant information to the LegCo regarding the divestment of commercial and carparking facilities by HA in 2005 on various occasions, including the meeting of Panel on Housing in June 2014 when Members were briefed on the mechanism of the restrictive covenants contained in the assignment deeds between HA and Link. At the LegCo meeting held on 12 November 2014, in response to the oral question raised by Hon Alice Mak on the sale of retail and carparking facilities by Link, the Government also explained how the restrictive covenants work. The relevant panel paper and reply are attached at **Annex II** and **Annex III** respectively for information. A brief summary of the relevant information is set out in the ensuing paragraphs.

Background of the divestment of facilities by HA

6. HA divested 180 properties, including retail and carparking facilities, through The Link Real Estate Investment Trust (The Link, now renamed as “Link”) in 2005. In July 2005, the Court of Final Appeal (CFA) affirmed that the divestment by HA of its retail and carparking facilities was consistent with HA’s object as laid down in section 4(1) of the Housing Ordinance (Cap 283), i.e. “to secure the provision of housing and such amenities ancillary thereto as the Authority thinks fit....”. The CFA ruled that to secure the provision of retail and carparking facilities did not mean that HA had to be the direct provider itself, but HA secured the provision of such facilities so long as such facilities were available, even though they were not provided by HA but by a third party over whom HA did not have control.

7. Before reaching its conclusion, the CFA noted that The Link (now renamed as “Link”) would adopt a market-oriented commercial approach in operating the retail and carparking facilities, whereas HA’s approach might not be in line with private sector practice; and that under The Link, there may be changes in relation to the operation of the relevant facilities, including changes in the tenant trade mix, as an example. Meanwhile, the CFA also noted the restrictions on the divested properties under the relevant land leases, including the requirement to apply for a lease modification in case of a change of use in relation to a divested property; and the covenants between HA and The Link that the owner (including The Link and any subsequent owner) should charge concessionary rents for certain welfare facilities provided within the divested properties.

Regulatory mechanism applicable to Link

8. The Government and HA do not hold any units of The Link or Link. The business direction and day-to-day operation of Link is entirely independent of the Government and HA. As a private entity, Link is entitled to rights over its properties and has to comply with the relevant laws, the conditions of land leases and other contractual terms, just like any other private property owners. The commercial decisions of Link such as its renovation and conversion works on its properties are subject to requirements of legislation and land leases as well as the contractual terms it made with other companies, organisations or individuals, including the restrictive covenants contained in the assignment deeds on the divestment of the commercial properties between Link and HA. As with all other private entities, so long as its operations comply with the legislation and land lease conditions, the Government cannot interfere owners’ lawful right to use their

properties. Also, so long as Link does not breach the terms of covenants signed between Link and HA, HA cannot and will not interfere in the day-to-day operation and commercial decisions of Link.

9. Regarding the requirements under law, Link must comply with the legislative provisions including the Town Planning Ordinance (Cap. 131) and the Buildings Ordinance (Cap 123) if it decides to carry out renovation or conversion works in its properties. The use of the properties must comply with the statutory plans prepared and promulgated by the Town Planning Board according to the Town Planning Ordinance. The Buildings Ordinance provides that approval for the building plans concerned and consent of commencement of the building works from the Building Authority are required prior to any conversion works. The relevant alteration and extension works must also comply with the lease conditions, including the requirement not to exceed the total gross floor areas of commercial facilities permitted under the lease.

10. In respect of the land lease, the land use of the relevant lots where Link's facilities are located is stipulated in the respective land leases. If Link wishes to apply for modification of the land use specified in the land leases, it has to obtain the agreement of all other owners of the lots (depending on the type of housing estates in question, such other owners may include HA, flat owners under the Home Ownership Scheme and Tenants Purchase Scheme, etc.) as well as approval of the Lands Department. It will be difficult to apply for modification of use stipulated on the land lease if owners fail to reach a consensus.

11. Irrespective of whether these facilities are owned by Link in future, the land use condition in the leases remains operative and must be observed by any successors in title.

12. Under the restrictive covenants contained in the assignment deeds between HA and Link, under specific circumstances, the commercial and carparking facilities shall not be disposed of except as a whole. The covenants also require the owners concerned (including Link and any successors in title) to continue to let out certain designated commercial units to non-profit-making organisations nominated by the Education Bureau or the Social Welfare Department at concessionary rent for operating educational or social welfare facilities.

CLOSING REMARKS

13. In view of LegCo Members' concerns about the conversion of Tin Yiu Market by Link, we have already referred the views of LegCo Members and the public to Link and we trust that Link will consider those views.

**Transport and Housing Bureau
December 2015**

LCQ1: Provision of public and private market facilities

Following is a question by the Hon Leung Che-cheung and a reply by the Secretary for Food and Health, Dr Ko Wing-man, in the Legislative Council today (November 11):

Question:

When divesting certain retail and carpark facilities of its public housing estates to The Link Real Estate Investment Trust in 2005, the Hong Kong Housing Authority (HKHA) advised that the Government would not interfere with the operation of the Trust's manager, The Link Management Limited (now renamed as "Link Asset Management Limited" (the Link)), on the ground that it was a private enterprise, but undertook to adopt measures to regulate the continued provision of services to residents by the company. However, some residents of Tin Yiu Estate in Tin Shui Wai have complained to me that the Link recently proposed a plan to convert Tin Yiu Market into a shopping mall (the conversion plan), neglecting their needs to purchase fresh food products. In response to media enquiries, the Link has indicated that while it plans to relocate the wet goods stalls in Tin Yiu Market, the dry goods part will be retained. The Link has further advised that it has been adhering to the relevant land leases in proceeding with the matter. The residents have also queried that they are unable to find out whether the number of public market stalls available in the district upon the implementation of the conversion plan will be in compliance with the relevant guidelines under the Hong Kong Planning Standards and Guidelines (HKPSG). In this connection, will the Government inform this Council:

(1) whether it knows the details of the conversion plan; if it does, of the details; whether the authorities have received applications for changes in land use and land lease conditions, as well as other applications that require vetting and approval by government departments, which were submitted by the Link in respect of the conversion plan; if they have, of the details;

(2) whether it has assessed if the conversion plan will result in a reduction of the public market services provided for local residents, i.e. the Link will not continue to provide the residents with the original services; if it has assessed and the outcome is in the affirmative, of the means through which the authorities can

prevent the Link from taking forward the plan; and

(3) given that while the Government amended in 2009 the number of wet market stalls set out in HKPSG to stipulate that in the planning of new public markets, in addition to the original practice of using population size as the planning guideline for public markets, other relevant factors (including community needs) must also be taken into account, but members of the public have been unable to find out whether the supply of public markets is adequate, whether the Government will conduct afresh comprehensive planning for the supply of public markets (including those built and managed by the Food and Environmental Hygiene Department, HKHA, the Hong Kong Housing Society, the Link, and the private sector) in the light of the population size and enhance the transparency of the planning work; if it will, of the details; if not, the reasons for that?

Reply:

President,

According to the Link Asset Management Limited (the Link), the conversion works now being pursued would entail re-consolidation of stalls in Tin Yiu Plaza (the Plaza), which is situated at Tin Yiu Estate in Tin Shui Wai. The wet market stalls within the Plaza will be moved to the adjacent Tin Shing Market currently under renovation (whereas the two markets are seven to 10 minutes away from each other in terms of walking distance and connected by a footbridge and lift). There will be shops selling vegetables, meat and food items in the Plaza after the consolidation. The Plaza will be air-conditioned. Tin Shing Market, on the other hand, will be re-opened by two phases in end 2015 and early 2016. Its total floor area will be the aggregate sum of the existing Tin Yiu Market and Tin Shing Market before renovation. It will also be air-conditioned.

At present, in Tin Shui Wai, apart from Tin Yiu Market, there are other markets managed by the Link and the Hong Kong Housing Authority (HKHA), as well as commercial facilities operated by private entities. In addition to the abovementioned Tin Shing Market in Tin Shing Court (adjacent to Tin Yiu Estate), the Link also operates markets in Tin Shui Estate, Tin Chak Estate and Chung Fu Plaza. Furthermore, the HKHA operates Tin Yan Shopping Centre and Tin Ching Shopping Centre, including a market provided in Tin Yan Shopping Centre.

My answers to the respective parts of the question are as follows:

1) With respect to whether and if so what vetting procedures that the conversion works of Tin Yiu Market, Tin Shui Wai have to go through, the details are given below:

(a) Tin Yiu Market is located on the first floor of Tin Yiu Plaza at Tiu Yiu Estate, Tin Shui Wai. The site currently falls within an area zoned "Residential (Group A)" on the approved Tin Shui Wai Outline Zoning Plan No. S/TSW/12 (the OZP). According to the OZP, "Market" is an always permitted use, whereas on the lowest three floors of a building (including basements, or the purpose-designed non-residential portion of an existing building), "Eating Place" and "Shop and Services" are also an always permitted use. In other words, no planning permission from the Town Planning Board is required for uses that are always permitted.

(b) Same as other private properties, conversion works at Tin Yiu Market are subject to the Buildings Ordinance (Cap 123) (BO). The authorised person is required to make a submission to the Building Authority according to the BO. Since Tin Yiu Market is a divested property of the HKHA, the Director of Buildings, as the Building Authority (BA), has delegated his statutory power to the Independent Checking Unit (ICU) of the Office of the Permanent Secretary for Transport and Housing (Housing) to process the submission in accordance with the BO, and circulate the applicant's submission to relevant departments, such as Planning Department, Lands Department (LandsD) and Fire Services Department as per the established practice of the Buildings Department (BD).

Based on the requirements stipulated in the BO and the prevailing procedures of the BD, the ICU, in exercising the authority delegated to it by the BA, approved in May 2015 the submission concerning Tin Yiu Market.

(c) In addition, the Link must comply with the relevant lease conditions and covenants between the Link and the HKHA.

Under the lease conditions of Tin Yiu Estate (i.e. Tin Shui Wai Town Lot No. 38 (the Lot)), the Lot is restricted to non-industrial (excluding godown, hotel and petrol filling station) purposes. The proposed conversion of the concerned market to other commercial uses, such as a shopping complex, does not breach the user clause stipulated in the lease conditions. According to the building plans

circulated to the LandsD by the ICU with respect to the proposed conversion of Tin Yiu Market into a shopping complex, the conversion will not cause the total gross floor area of commercial facilities as specified in the lease to be exceeded.

The covenants between the HKHA and the Link contain restrictive covenants. Those covenants require the owners of the commercial and carparking facilities to continue to let out certain commercial units to non-profit-making organisations nominated by the Education Bureau or the Social Welfare Department at concessionary rents for operating social welfare and educational facilities.

As with other private owners, the Link must comply with the legislative regulations (including the Town Planning Ordinance (Cap. 131) and the BO), and must comply with the lease conditions and covenants with the HKHA. These ensure that changes in the management or control of the facilities divested by the HKHA will not affect the continuation of uses as commercial, car parking, educational, social welfare and recreational facilities.

2) According to the Housing Department, the Government has explained to the Legislative Council on various previous occasions the background to and objectives of the divestment of retail and car parking facilities by the HKHA in 2005, as well as the mechanism that is in place to regulate the uses of the relevant facilities. The Link is a private enterprise. So long as its operations comply with the legislation, relevant lease conditions, and terms of covenants made between the Link and HKHA, the Government and HKHA cannot and will not interfere into the day-to-day operation and commercial decisions of the Link, including its conversion works on its properties.

3) Our focus is on facilitating convenient access on the part of the public to retail outlets in their neighbourhood for meeting their daily needs on food and other necessities. Currently, there exists a variety of channels for the public to purchase fresh food. Apart from public markets, many members of the public when purchasing fresh food may choose to patronise markets, supermarkets and various types of retail outlets operated by other public and private entities. Customer preference for different shopping venues in purchasing fresh food may evolve in tandem with changes in socio-economic circumstances, lifestyles, purchasing power and various other factors. Therefore, taking the population of an area as the sole yardstick in the planning of new public markets may not be appropriate.

The prevailing Hong Kong Planning Standards and Guidelines with respect of the planning of public markets stipulate the relevant factors to be taken into

consideration, including the population of the area (including the demographic mix), community needs, the provision of public and private market facilities nearby, the number of fresh provision retail outlets in the vicinity and the public sentiment towards the preservation of hawker areas. This approach is based on a more holistic consideration of all relevant factors, rather than just the size of the population, in the planning of public markets. When preparing or reviewing town plans, the Planning Department will consult the relevant policy bureaux and departments, so as to ascertain whether there is a need to reserve land for public markets. We will, in the light of social developments and the actual situation on the ground, assess the need to review the planning guidelines for public markets as and when appropriate.

Providing a new public market requires the use of Government land and entails public financial commitment. Therefore, in considering whether a public market should be built, we have to duly assess the need for the market and cost effectiveness in order to ensure that public resources are put to proper use. In fact, in the face of fierce competition and changing circumstances in individual communities, some public markets are facing relatively high vacancy rates and low customer flows. Also, the Audit Commission had in previous reports pointed out that, given the high cost of constructing a new public market, the relevant principles should be strictly adhered to.

In considering whether new public markets should be provided in individual districts, we would take into account all relevant factors, including the abovementioned planning standards and guidelines, the actual situation of individual districts and the views of stakeholders, to ensure that public resources are put to proper use.

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Legislative Council Panel on Housing

**Divestment of Retail and Carparking Facilities by
the Hong Kong Housing Authority**

Purpose

This paper provides background information on the divestment of the retail and carparking facilities by the Hong Kong Housing Authority (HA) in 2005 and relevant issues.

Divestment of Facilities

2. To enable the HA to focus on fulfilling its mission to providing subsidised public housing, and to improve the HA's financial position in the short-to-medium term with proceeds from the divestment, the HA divested 180 properties, including retail and carparking facilities, through The Link Real Estate Investment Trust (The Link) in 2005. In July 2005, the Court of Final Appeal (CFA) affirmed that the divestment by the HA of its retail and carparking facilities was consistent with the HA's object, as laid down in section 4(1) of the Housing Ordinance (Cap 283), "to secure the provision of housing and such amenities ancillary thereto as the Authority thinks fit". CFA ruled that to secure the provision of retail and carparking facilities did not mean that the HA needed to be the direct provider itself, but the HA secured the provision of such facilities so long as such facilities were available, even though they were not provided by the HA but by a third party. In reaching its conclusions, CFA noted that The Link would adopt a market-oriented commercial approach in operating the retail and carparking facilities, whereas the HA's approach may not always be in line with private sector practice, and that under The Link, there may be changes in relation to the operation of the relevant facilities, including, for example, the tenant trade mix.

3. Since the listing of The Link on 25 November 2005, The Link has been a private entity. The Government and the HA do not hold any shares of The Link. The business direction and day-to-day operation of The Link is entirely independent of the Government and the HA. The HA does not have any plan to further divest its commercial and carparking facilities.

The Link's Management of Its Commercial Facilities

4. As a private entity, The Link is entitled to rights over its properties just like other private property owners, and has to comply with the relevant law and the conditions of government leases (commonly known as "land leases"). The assignment deeds between the HA and The Link also contain certain restrictive covenants.

5. The land use of the relevant lots where The Link's facilities are located is stipulated in the respective government leases. If The Link wishes to change the land use specified in the government lease, it has to obtain prior agreement from other owners of the lots concerned (depending on the type of estates in question, such other owners may be the HA and owners of Home Ownership Scheme or Tenants Purchase Scheme flats) as well as approval of the Lands Department. The lease restrictions facilitate other owners to ensure continued provision of commercial and carparking facilities in public housing estates and courts. Irrespective of whether these facilities are owned by The Link or not in future, the land use condition in the lease remains effective and must be observed by any successors in title.

6. The assignment deeds between the HA and The Link contain restrictive covenants. Generally speaking, the commercial and carparking facilities shall not be disposed except as a whole. However, if the HA no longer holds any proprietary interest in the relevant estate or the court, the restriction that the shopping centre shall not be disposed except as a whole will no longer be effective. If the HA has disposed any residential units in the relevant estate or the court, the restriction that the carparking facilities shall not be disposed except as a whole will no longer be effective.

7. To ensure the continued provision of existing social welfare and educational facilities in shopping centres for the public, the restrictive covenant requires The Link and its successors in title to continue to let out the relevant units, which had been providing such facilities, at concessionary rent to non-profit making organisations for social welfare and educational purposes.

8. In other words, changes in the management and control of the relevant properties would not affect the commercial, carparking, social welfare and educational uses of such facilities. There is already a mechanism in place to ensure the provision of such facilities.

9. Currently, the Housing Department (HD) has been maintaining communication with The Link regarding day-to-day estate management matters. In future, the HD will continue to maintain communication with the operators of relevant facilities to protect the HA's rights under the above-mentioned government leases and restrictive covenants. In addition, the HD will follow up with The Link to reaffirm the responsibility of The Link and future operators of relevant facilities under the relevant covenants. The HD will communicate with the operators, pay attention to the actual use of the properties and gather market information so as to take note of any disposal of the relevant properties and take appropriate follow-up actions.

10. The commercial facilities of The Link are located in public housing estates and their clientele are mainly public housing residents. From the commercial perspective, any operator has to cater for the preference and needs of its major target customers. In fact, independent shops and traditional trades, including grocery stores, stationery shops and Chinese medicine shops etc., are found in the shopping centres of The Link alongside new shops to serve the residents. In addition, Hong Kong is highly urbanised and has good transport network. Residents can choose to shop in other commercial facilities while shop owners can operate in different localities depending on market conditions. Meanwhile, residents' needs will keep changing and different residents have different shopping needs. In face of competition in the market, there is economic incentive for operators of shopping centres and shop owners to cater for residents' shopping needs and respond to market signals appropriately. They also have to adjust their mode of operation to keep pace with the times in order for their business to thrive. No operator can afford to ignore residents' needs and the operation of tenants and raise the rent level or change the tenant mix in a hasty manner.

Buying back The Link or its Commercial Facilities

11. It is the Government's housing policy objective to provide subsidised public housing to eligible families, in particular to provide public rental housing (PRH) to low-income families who cannot afford to rent private accommodation. The main objective of the HA in divesting its retail and carparking facilities was to enable the HA to focus its resources on discharging its function of providing PRH. The proposal to buy back The Link is not in line with the Government's policy objective. We had explained to the Legislative Council on previous occasions that any buyback would be incompatible with public interests and the principle of prudent financial management. The Government and the HA do not have any plan to buy back The Link or its commercial facilities.

12. With limited land and public resources, the Government and the HA have to prioritise and focus the resources in providing PRH to low-income households. Meanwhile, the HA will continue to provide social service facilities, such as kindergartens, community centres, study rooms in PRH estates and courts to cater for the needs of residents. Subject to availability of resources and taking into account actual circumstances, the HA may provide commercial facilities.

**Transport and Housing Bureau
May 2014**

LCQ1: Sale of retail and carpark facilities in public housing estates by The Link

Following is a question by the Hon Alice Mak Mei-kuen and a reply by the Acting Secretary for Transport and Housing, Mr Yau Shing-mu, in the Legislative Council today (November 12):

Question:

In 2005, the Hong Kong Housing Authority (HA) divested certain retail and carpark facilities of its public housing estates to The Link Real Estate Investment Trust. The Link Management Limited (The Link), which manages the Investment Trust, sold the shopping centres and car parks of nine housing estates (the resold facilities) this year. Some shop tenants and residents of these housing estates have relayed to me their concern that the new owners may raise parking fees and shop rentals significantly, leading to increased commodity prices in their estates, and that the quality of managing the resold facilities may deteriorate. Meanwhile, the Housing Ordinance provides that HA shall secure the provision of ancillary facilities fit for public rental housing estates, including amenities and commercial retail facilities. In this connection, will the Government inform this Council:

(1) whether it knows if The Link had informed various stakeholders (including HA and the owners' corporations (OCs) of the housing estates concerned) prior to the sale of the relevant facilities; whether, after learning of The Link's intention to sell such facilities, the authorities have implemented corresponding measures, such as assessing the impact of the resale of the such facilities on HA as well as on the shop tenants and residents of the housing estates concerned, and providing consultation and support services to the OCs and residents concerned; if they have implemented such measures, of the details; if not, the reasons for that;

(2) whether the authorities have approached the new owners of the resold facilities and explained to them the service targets of such facilities and their management responsibilities, and that in managing such facilities, priorities should be given to addressing the needs of residents of housing estates; if they have, of the responses of the new owners; if not, how the authorities ensure that the new owners will continue to shoulder the responsibilities of the former owners; and

(3) as some residents of housing estates have relayed to me their concern that the new owners may transform the shopping arcades in the resold facilities into ones that mainly serve tourists or residents outside the estates, or they may even refuse to shoulder the maintenance responsibilities associated with public areas and facilities, how the authorities will prevent such situations from occurring, with a view to ensuring the continuous provision of suitable facilities to the residents; whether the authorities will set up a task force to monitor and follow up the management issues of the resold facilities?

Reply:

President,

My consolidated reply to the Hon Alice Mak Mei-kuen's question is as follows:

The Government has explained to the Legislative Council (LegCo) on various occasions the background and objectives of the divestment of retail and car parking facilities by the Hong Kong Housing Authority (HA) in 2005, as well as the mechanism to regulate the uses of the relevant facilities, including Secretary for Transport and Housing's comprehensive response to the motion debate relating to The Link Real Estate Investment Trust (The Link) in November 2012 on whether the Government should buy back The Link, and our discussion with the LegCo Panel on Housing on relevant issues in June this year.

In July 2005, the Court of Final Appeal (CFA) affirmed that the divestment of retail and car parking facilities by the HA was consistent with the HA's object, as laid down in section 4(1) of the Housing Ordinance. It was pointed out that to secure the provision of retail and car parking facilities did not mean that the HA needed to be the direct provider itself, but the HA secured the provision of such facilities so long as such facilities were available, even though they were not provided by the HA but by a third party. In reaching its conclusions, CFA noted that The Link would adopt a market-oriented commercial approach in operating the relevant retail and car parking facilities, whereas the HA's approach at that time might not always be in line with private sector practice; and after the listing of The Link, there might be changes in relation to the operation of the relevant facilities, including the tenant trade mix.

The Link is a private enterprise. So long as The Link's operations comply with prevailing legislation, conditions of government leases (commonly known as "land leases"), and terms of covenants made between The Link and the HA, the

Government and the HA cannot and will not interfere the day-to-day operation and commercial decisions of The Link, including its disposal or acquisition of any properties. The Link is not obliged to inform the Government nor the HA before disposing of its properties. However, The Link and the new owners of the relevant facilities are obliged to comply with the relevant legislation and the conditions of land leases, just like other private property owners. The assignment deeds between the HA and The Link also contain certain restrictive covenants. All these ensure that changes in the management or control of the facilities divested by the HA will not affect commercial, car parking, educational, social welfare and recreational uses of such facilities.

Firstly, the land leases have stipulated the land uses of the relevant lots. If an owner wishes to change the relevant land uses, prior agreement from other owners of the lots (including the HA and flat owners) and approval of the Lands Department have to be obtained. The conditions of land leases vary case by case. Generally speaking, there are lease conditions clearly stipulating car parking spaces are restricted to the parking of vehicles by the residents and visitors of the lot concerned, and some land leases may require spaces be provided for the parking of vehicles by the residents and visitors of other specified lots, unlike public car parks.

The assignment deeds between the HA and The Link also contain certain restrictive covenants, which stipulate that if The Link and any future owners dispose of the retail and carparking facilities, the subsequent owners shall also comply with the relevant restrictive covenants. These restrictive covenants stipulated that the commercial and carparking facilities shall not be disposed except as a whole. If the HA still holds any proprietary interest in the relevant estate or court, the restriction that the shopping centre shall not be disposed except as a whole will still be effective. If the HA holds all residential units in the relevant estate or court, the restriction that the carparking facilities shall not be disposed except as a whole will still be effective. The covenants also require The Link and the new owners to continue to let out certain commercial units to non-profit-making organisations nominated by the Education Bureau or the Social Welfare Department at concessionary rents for operating social welfare and educational facilities.

As regards the management and maintenance of common area and recreational facilities in the concerned estates or courts, the Deeds of Mutual Covenant (DMCs) set out provisions to ensure relevant owners to discharge their obligations. For instance, regarding the recreational facilities ancillary to the

divested facilities, the owners shall open such recreational facilities for use by residents of the relevant estates and courts, and properly manage and maintain such facilities and the access thereto in accordance with the provisions of the DMCs. By virtue of the provisions of the DMCs, DMC managers, which in certain estates and courts are performed by the HA, may require The Link or the new owners to comply with the provisions of the DMCs.

The HA divested 180 properties in 2005. The actual circumstances of individual properties varies, and the HA has been communicating with The Link as appropriate, depending on the circumstances of individual properties. For example, if the HA holds any interest in land for a concerned lot, as a co-owner, the HA will consider the suggestions to amend the land leases by other owners, including The Link. When the HA acts as the DMC manager, the HA will require other owners, including The Link, to observe the provisions of the DMCs. For those properties which are subject to welfare letting covenants, the Housing Department (HD) will coordinate with the Education Bureau or the Social Welfare Department to handle the matters relating to the letting of educational or social welfare facilities. Should other owners be found to violate any of the requirements as set out in the covenants, the HD will definitely follow up the case and take actions as appropriate.

With reference to the relevant legal documents and the established mechanism as mentioned above, and depending on actual circumstances, the HD will take actions to ensure the proper execution of the legal documents, and take appropriate monitoring actions.

Objectively speaking, the commercial facilities of The Link are located in public housing estates. Their clientele and target customers are mainly public housing residents. When deciding on the market positioning of their commercial facilities, the owners will have to consider the preference and needs of their major target customers. At the same time, shopping habits vary from person to person and will change over time. Owners and commercial tenants have to respond to market signals appropriately, and adjust their modes of operation to keep pace with the times in order to succeed in their businesses.

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