

立法會
Legislative Council

LC Paper No. CB(4)250/18-19

(These minutes have been
seen by the Administration)

Ref : CB4/HS/4/16

**Subcommittee on Issues Relating to Shopping Centres, Markets and
Carparks in Public Rental Housing Estates and
Home Ownership Scheme Estates**

**Minutes of the forth meeting
held on Friday, 25 May 2018 at 8:30 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Jerry LAM Kin-fung, GBS, JP (Chairman)
Hon HO Kai-ming (Deputy Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Frankie YICK Chi-ming, SBS, JP
Hon YIU Si-wing, BBS
Hon CHAN Chi-chuen
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon Dennis KWOK Wing-hang
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH
Dr Hon CHENG Chung-tai
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon Tony TSE Wai-chuen, BBS

- Members absent** : Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon KWOK Wai-keung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, BBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon KWONG Chun-yu
Hon AU Nok-hin
- Public Officers attending** : Miss Rosaline WONG
Deputy Director (Estate Management)
Housing Department
- Mr Jerry CHEUNG
Assistant Director (Policy Support)
Housing Department
- Mr Ricky YEUNG
Assistant Director (Estate Management)2
Housing Department
- Ms Josephine SHU
Chief Estate Surveyor/Commercial Properties
Housing Department
- Clerk in attendance** : Ms Angel WONG
Chief Council Secretary (4)4
- Staff in attendance** : Miss Mandy NG
Council Secretary (4)4
- Ms Sandy HAU
Legislative Assistant (4)4

Action

I. Application for late membership

(LC Paper No. CB(4)1128/17-18(01) -- Letter dated 18 May 2018 from
Hon Gary FAN Kwok-wai)

Members accepted Mr Gary FAN's application for late membership.

Action

II. The way forward of the Subcommittee

(LC Paper No. CB(4)1128/17-18(02) -- List of outstanding items for discussion)

2. The Chairman reminded the Administration's to submit discussion papers as early as practicable to facilitate members' deliberation.
3. To enable the Administration's timely provision of and a more focused discussion on the information requested by members, members agreed to provide reasons for their requests, such as requesting land leases of the public housing developments because of suspected breaches of land lease.
4. The Subcommittee agreed that public views on the operation of shopping centres, markets and car parks in public housing developments would be received at the next meeting. Moreover, Link Real Estate Investment Trust ("Link") and the subsequent buyers of the divested properties ("subsequent buyers") should be invited to attend the meeting. Members who considered it necessary to further discuss the concerns raised by the public in the next meeting were invited to contact the Secretariat.

III. The Hong Kong Housing Authority's regulation of divested properties under the Housing Ordinance (Cap. 283)

(LC Paper No. CB(4)1128/17-18(03) -- Paper provided by the Administration)

5. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Declaration of interest

6. Mr Wilson OR declared interests as a non-official member of the Hong Kong Housing Authority ("HA").

Major views and concerns

Regulation of divested properties

7. The Deputy Chairman said that the subsequent buyers had left certain shopping centres vacant for prolonged periods of time, causing inconvenience to the residents. He doubted whether HA had fulfilled its duty under 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" for the persons concerned.

Action

8. Mr Andrew WAN expressed concern that in divesting facilities to Link, HA had, through conditions in land leases, deeds of mutual covenant ("DMCs") and restrictive covenants, ensured that the divested properties would continue to be used for commercial and carparking purposes. However, many complaints had been received from the public. He called on the Administration to review the current regulatory mechanism and put in place effective measures to monitor Link and the subsequent buyers.

9. Deputy Director(Estate Management), Housing Department ("DD(EM)") responded that the Administration had in various occasions reminded Link to clearly explain to the subsequent buyers the statutory requirements, land lease conditions and other restrictions during the transaction process and to ensure that the restrictive covenants were incorporated in the relevant assignment deeds and legal documents.

10. Mr CHU Hoi-dick enquired whether different Bureaux/Departments ("B/Ds") would be consulted when processing applications for change of land use in public rental housing ("PRH") estates, with a view to ensuring sufficient provision of diversified commercial facilities to cater for residents' needs.

11. DD(EM) advised that all divested properties were subject to the Buildings Ordinance (Cap.123). For building works involving major alterations or material change of use, approval had to be obtained from the Independent Checking Unit ("ICU") under the office of the Permanent Secretary for Transport and Housing (Housing) before the project could be carried out. ICU would consult the relevant B/Ds which would make an assessment on the areas under their purview to ensure that the land lease conditions and statutory planning requirements were complied with.

Carparking facilities

12. The Deputy Chairman noted with concern that although the Carpark Covenant stipulated that carparking facilities could only be sold as a whole, Link and the subsequent buyers had sold the parking spaces in some public housing developments separately to individual owners. DD(EM) explained that under the Carpark Covenant, as long as HA held all residential units in a housing estate or court, the restriction that the carparking facilities should not be disposed except as a whole would remain effective. However, if the residential units in such housing estates had been sold, the Carpark Covenant would cease to have effect.

13. Noting that the assignment deeds of some divested properties did not include the Carpark Covenant and the parking spaces in these properties could be sold to non-residents, Mr Gary FAN enquired whether HA had maintained relevant statistics of parking space transactions and how HA could ensure sufficient provision of parking spaces to meet the demand of the relevant

Action

residents. Dr CHENG Chung-tai enquired whether HA had initiated inspections on divested carparking facilities to ensure that the owners complied with land lease conditions.

14. DD(EM) advised that HA did not keep statistics on the number of parking spaces in the divested properties which had been sold to individual buyers. Whether individual carparks were subject to the Carpark Covenant or not, the owners were required to comply with relevant lease conditions. The transfer of ownership of the car parks/parking spaces would not change the owners' responsibilities under the land leases. In case of suspected breach of the lease conditions, HA would refer the case to the Lands Department for appropriate lease enforcement actions. However, HA had not found any breaches of lease conditions in relation to carparks so far.

15. Dr Junius HO was worried that if the sale of parking spaces was not restricted to local residents, the shortage problem of parking spaces in public housing developments would be further aggravated and carpark charges would be substantially increased. He considered that land leases should contain provisions stipulating that residents of the public housing developments concerned should have priority on buying the parking spaces.

16. DD(EM) took note of Dr Junius HO's concerns and explained that land leases of the divested properties generally did not have restrictions on the mode of operation and ownership of the carpark, but required that the parking spaces should be used by the residents of the residential flats and their bona fide guests and visitors. So long as individual owners of carparks/parking spaces did not breach the land lease conditions and restrictive covenants, the Administration and HA could not and would not interfere with their commercial decisions, including leasing arrangements. Given the fact that the carparks were located in public housing developments and the major clientele were public housing residents, owners would take into account such relevant factors when setting the level of carpark charges.

Social welfare facilities

17. Mr SHIU Ka-chun drew the Administration's attention that the subsequent buyers had charged sitting social service organizations renovation fee in addition to the concessionary rent. He sought clarification on the fees that could be charged under the welfare-letting covenant and urged HA to communicate with sitting social service organizations the transitional rental arrangement as soon as Link had confirmed the disposal of properties.

18. DD(EM) advised that in accordance with the established procedures, upon Link's disposal of the divested properties, HA would issue letters to the subsequent buyers to remind them of the requirement to comply with the welfare-letting covenant. Copies of such letters would be sent to the sitting

Action

social welfare organizations and their nominating authorities. Notwithstanding the change in ownership, the welfare-letting covenant would continue to be in force, under which these organizations would only be required to pay concessionary rents as assessed by HA, which had covered the cost of management and maintenance so they should not be required to pay any other fees in addition to the rent. To address Mr SHIU Ka-chun's concerns, DD(EM) undertook to follow up with the cases specified.

Facilities in common areas

19. Expressing deep dissatisfaction over the non-attendance of public officer(s) of the Transport and Housing Bureau at the meeting, Mr Wilson OR pointed out that the conduct of maintenance and improvement works in the common areas in the divested properties were subject to the consent of Link. However, a number of works projects, such as installation of barrier free access facilities, could not commence as consent had not been obtained from Link, causing great inconvenience to the residents. He enquired about the Administration's measures to address the problem. Mr LEUNG Yiu-chung expressed a similar concern.

20. DD(EM) advised that HA had a well-established mechanism to discuss and resolve matters relating to the management and maintenance work of the common areas and facilities in public housing developments at the annual meeting with Link. This mechanism had been operating smoothly and effectively. Regarding the provision of barrier free access facilities in some PRH estates, HA was discussing the matter with Link.

21. Mr LEUNG Yiu-chung pointed out that Link did not make available the recreational facilities for use by public housing residents as stipulated under DMCs. For example, Link cut short the opening hours of some recreational facilities and closed ball courts for a prolonged period of time for the reason of maintenance. Sharing similar concerns, Mr Andrew WAN drew the Administration's attention that Link had removed some of the playground facilities before disposal of the divested properties and enquired about the Administration's anti-circumvention measures.

22. DD(EM) reiterated that in light of the provisions in the DMCs, HA had been monitoring the maintenance of recreational facilities in public housing. HA would liaise with Link and the subsequent buyers on matters relating to the management and maintenance of recreational facilities and follow up with them to ensure that the facilities were opened for use by public housing residents in accordance with the provisions under the DMCs. In case of any non-compliance with the DMCs, the DMC managers would issue warning letters to the owners concerned or take legal actions to enforce the provisions of DMCs having regard to the circumstances.

Action

23. Concluding the discussion, the Chairman remarked that members might refer suspected non-compliance cases to the Administration for follow-up actions.

IV. Any other business

24. There being no other business, the meeting ended at 10:27 am.

Council Business Division 4
Legislative Council Secretariat
26 November 2018

**Proceedings of the forth meeting of the
Subcommittee on Issues Relating to Shopping Centres, Markets and Carpark
in Public Rental Housing Estates and Home Ownership Scheme Estates
on Friday, 25 May 2018 at 8:30 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
<i>Agenda item I – Application for late membership</i>			
001536- 001640	Chairman	Opening remarks Mr Gary FAN's application for late membership	
<i>Agenda item II – The way forward of the Subcommittee</i>			
001641- 001939	Chairman Mrs Regina IP	Mrs IP's suggestion of inviting the subsequent buyers of the divested properties disposed by Link Real Estate Investment Trust ("Link") to attend the meeting to receive public views	
001940- 002759	Chairman Mr CHU Hoi-dick The Administration	Mr CHU's enquiry about his request for documents from the Administration	
002800- 005055	Chairman Mr SHIU Ka-fai Mr YIU Si-wing Dr KWOK Ka-ki Mr CHU Hoi-dick Mrs Regina IP Dr Junius HO Mr Gary FAN Mr SHIU Ka-chun Dr CHENG Chung-tai Mr LEUNG Yiu-chung Mr Frankie YICK	Members' views on the Administration's provision of relevant documents, such as land leases, deeds of mutual covenant, etc., to facilitate their deliberation	
005056- 011456	Chairman Deputy Chairman Dr KWOK Ka-ki Mr CHU Hoi-dick Mrs Regina IP Dr CHENG Chung-tai Mr Wilson OR Mr SHIU Ka-fai Mr LEUNG Yiu-chung Mr Paul TSE Mr SHIU Ka-chun	Members' views on the arrangement for the meeting to be held to receive public views	
<i>Agenda item III – The Hong Kong Housing Authority's regulation of divested properties under the Housing Ordinance (Cap. 283)</i>			
011457- 012110	Chairman The Administration	Briefing by the Administration	

Time marker	Speaker(s)	Subject(s)/Discussion	Action required
012111-012559	Chairman Deputy Chairman The Administration	The Deputy Chairman's concerns about the sale of carparking facilities and operation of commercial facilities after Link's disposal of divested properties	
012600-013039	Chairman Mr SHIU Ka-chun The Administration	Mr SHIU's concern about the collection of renovation fees from sitting social service organizations in divested properties	
013040-013426	Chairman Mr Gary FAN The Administration	Mr FAN's concern about the disposal of carparking facilities to non-public housing residents	
013427-013833	Chairman Mr Wilson OR The Administration	Mr OR's concern about the difficulties in obtaining consent from Link for carrying out maintenance and improvement works in the common areas of public housing developments	
013834-014155	Chairman Dr CHENG Chung-tai The Administration	Dr CHENG's enquiry about the measures taken to ensure compliance of land lease conditions relating to carparking facilities	
014156-014727	Chairman Mr LEUNG Yiu-chung The Administration	Mr LEUNG's concern about Link's failure to provide recreational facilities	
014728-015154	Chairman Mr CHU Hoi-dick The Administration	Mr CHU's concern about the coordination among Bureaux/Departments in examining the applications for altering building structure and land uses in public housing developments	
015155-015516	Chairman Dr Junius HO The Administration	Dr HO's concern about the disposal of carparking facilities to non-public housing residents	
015517-020017	Chairman Mr Andrew WAN The Administration	Mr WAN's concerns about Link's removal of recreational facilities in public housing developments, and the effectiveness of existing measures to regulate Link and the subsequent buyers of divested properties	
<i>Agenda item IV – Any other business</i>			
020018-020116	Chairman Mr CHU Hoi-dick	Mr CHU's enquiry about the progress of the research study conducted by the Research Office of the Secretariat Closing remarks	