

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

**Minutes of the fifth meeting
held on Monday, 9 July 2018 from 10:00 am to 7:15 pm
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Jeffrey 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-ye, 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 KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, BBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
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
Dr Hon CHENG Chung-tai

Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Tony TSE Wai-chuen, BBS

**Members
absent** : Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu

Public Officers : Agenda item I
attending

Dr Raymond SO, BBS, JP
Under Secretary for Transport and Housing

Miss Rosaline WONG
Deputy Director (Estate Management)
Housing Department

Ms Josephine SHU
Chief Estate Surveyor /Commercial Properties
Housing Department

Agenda item II

Dr Raymond SO, BBS, JP
Under Secretary for Transport and Housing

Ms Josephine SHU
Chief Estate Surveyor/Commercial Properties
Housing Department

Mr Stephen WONG
Chief Manager/Management (Tuen Mun & Yuen Long)
Housing Department

Agenda item III

Dr Raymond SO, BBS, JP
Under Secretary for Transport and Housing

Mr Ricky YEUNG
Assistant Director (Estate Management)2
Housing Department

Mrs Lotta CHAU
Senior Housing Manager/Commercial Properties
Housing Department

**Attendance by : Agenda item I (Session One)
invitation**

Mr Victor CHAN

New People's Party

Mr HA Kim-kwan
代表

Democratic Alliance for the Betterment and Progress of
Hong Kong

Mr CHAN Chun-chung
Deputy Spokesperson on Housing

天水圍民生關注平台

Mr TONG Kin-fung
社區幹事

Mr Victor KWONG Man-tik

The Civic Party

Mr MAK Tsz-kin
District Developer of New Territories East

Ms CHAN Man-kuen

Sha Tin District Council Member

Ms Judy CHAN

Southern District Council Member

Miss CHAN Po-ying

NGO 關注領展租約小組

Mr Jason TSANG

Ms Joan LEE Tsui-king

Centre for Social Policy Studies,
The Hong Kong Polytechnic University

Mr CHUNG Kim-wah
Centre Director

The Link Watch

Mr FUNG Siu-pun
Member

Ms LO Siu-lan

關注基滙資本陣線

Ms Florence CHEUNG Man-wai
Member

照顧者關注組

Miss CHU Moon-chun
Member

追究領滙企業社會責任關注組

Miss TAI Yuet-ching
Member

Miss Carman NG Ka-yan

黎嘉駿先生

Mr TAM Wing-yin

Chinese Grey Power

Mr CHEUNG Kai-bing
Chairman

公共服務產業化關注組

Mr TSUI Yat-keung
Member

Agenda item I (Session Two)

香港民主民生協進會

江貴生先生
中委

Mr WONG Ho-ming

回購領展研究社

Mr NG Kin-wing
Member

Miss HUI Wun-wun

Miss WONG Nga-man

Liberal Party

曾卓兒女士
黨員

Mr LAI Wai-tong

Miss Tiffany YUEN Ka-wai

穗禾苑業主立案法團

Ms Lorna HO
主席

Miss Bidy KWOK

Mr LUI Man-kwon

Sai Kung District Council Member

Ms Susanna CHUI

Miss Pauline LEUNG

Mr CHENG Kam-mun

Civic Passion

Mr WONG Siu-kin
Community Officer of Wan Tau Tong

Hong Kong Normal Teenagers

Miss Casey WONG Wing-kei
Spokesperson

Centre for Social Policy Studies,
The Hong Kong Polytechnic University

Mr WONG Kin-pong
Professor Assistant

Mr LEUNG Yat-long

Agenda item II (Session One)

Mr CHEUNG Pak-yuen

Mr LEUNG Ho-kai

Democracy Groundwork

Dr LAU Siu-lai
Founder

Mr LAW Kin-kan

Tsz Lok Estate Resident Association

Mr CHEUNG Mau-ching
Community Service Officer

監察公營街市發展聯盟

林凱翹小姐
發言人

社區發展陣線

Miss CHAN Shuk-ki
組織幹事

天水圍民生關注平台

陳詩雅
社區幹事

Professional Power

Miss Christine FONG Kwok-shan

Mr WONG Heung-yin

Mr YAM Kai-bong

Tai Po District Council Member

Mr Arthur CHEUNG

Democratic Alliance for the Betterment and Progress of
Hong Kong

Mr CHAN Chun-chung
Deputy Spokesperson on Housing

The Civic Party

Mr MAK Tsz-kin
District Developer of New Territories East

竹園街市關注組

蔡秋英小姐
成員

Tsz Wan Shan Market Residents Concern Group

王植林先生
代表

慈雲山建設力量

岑宇軒先生
社區主任

Mr YEUNG Yuk

Sham Shui Po District Council Member

Mr LEUNG Kwok-hung

Miss CHAN Po-ying

Mr TAM Wing-yin

Chinese Grey Power

Mr CHEUNG Kai-bing
Chairman

回購領展研究社

Mr NG Kin-wing
Member

Agenda item II (Session Two)

關注基滙資本陣線

Ms Florence CHEUNG Man-wai
Member

香港民主民生協進會

何啟明先生
副主席

石硤尾街市商戶權益關注組

林美倩女士
主席

Mr WONG Ho-ming

工黨

Mr KWOK Wing-kin
主席

何少聰

陳穎欣

趙志輝先生

黎錦秀女士

Ching Ho Planning Group

Miss HO Ka-yau
代表

北區基層權益聯盟

Mr WONG Chi-fai
代表

自由黨

阮建中先生
黨員

Civic Passion

Ms WONG Wing-sze
Member

Miss Lorna HO

Miss Bidy KWOK

Ms Susanna CHUI

Miss Pauline LEUNG

Mr CHENG Kam-mun

Mr TANG Man-kit

長沙灣街市規劃關注組

徐溢軒先生
成員

Ms LO Siu-lan

啟晴邨居民協會

Mr Jay LI Ting-fung
Chairman

Agenda Item III

Hong Kong Pro-Democrats Carpark Concern Alliance

Miss Edith LEUNG Yik-ting
Convener

Miss Dana LAU

The Civic Party

Mr Steve CHEUNG Kwan-kiu
District Developer of the New Territories West

Public Transportation Think Tank of Hong Kong

Mr CHAN Tik-yiu

The Young Civic

Mr MAK Tsz-kin
District Developer of New Territories East

Democratic Alliance for the Betterment and Progress
of Hong Kong

Mr SZE TO Chun-hin
Representative

新民黨青年委員會

Dr Issac IP
執行副主席

Mr LEUNG Kwok-hung

Chinese Grey Power

Mr CHEUNG Kai-bing
Chairman

回購領展研究社

Mr NG Kin-wing
Member

Mr CHOW Yuen-wai

Tai Po District Council Member

穗禾苑業主立案法團

Ms Lorna HO

Mr LUI Man-kwong

Sai Kung District Council Member

Ms Susanna CHUI

Miss Pauline LEUNG

Mr Kenny LAI

Miss Biddy KWOK

Civic Passion

Mr CHENG Kam-mun
Vice-chairman

Mr WU Chi-kin

Ms LO Siu-lan

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)

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I. Operation of shopping centres in public housing

Written submissions from deputation/individual not attending the meeting

(LC Paper No. CB(4)1212/17-18(01) -- Submission from Gaw Capital (*Chinese version only*)

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LC Paper No. CB(4)1350/17-18(01) -- Submission from Kwai Tsing District Council Member, Mr WONG Bing-kuen(*Chinese version only*)

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

3. The Subcommittee received views from 40 deputations/individuals attending the meeting and two written submissions from deputation/individual not attending the meeting. The major views and concerns of deputations/individuals were summarized as follows:

Divested shopping centres

- (a) the market-oriented commercial approach adopted by Link Real Estate Investment Trust ("Link") in operating the divested shopping centres had adversely affected the livelihood of public housing residents and caused great dissatisfaction in the community;
- (b) in recent years, Link had sold some of the divested properties to large corporations to reap huge profits at the expense of public housing residents' interests;
- (c) Link and the subsequent buyers of the divested properties ("subsequent buyers") had ignored the views of the shop tenants in the divested shopping centres and the needs of the public housing residents;
- (d) after renovating the divested shopping centres, Link and the subsequent buyers had substantially increased shop rentals. The rental increase led to increased price of customer goods and services, thereby further adding to the burden on residents' livelihood;
- (e) the substantial rental increase had forced small shops, social service organizations and even government departments to move out of the relevant shopping centres and brought in medium-level-to-high-end retail and catering chains, forcing residents to buy expensive products which they could not afford;
- (f) Link and the subsequent buyers forced shop tenants to move out by imposing unfair terms in tenancy agreements upon tenancy renewal;

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- (g) some subsequent buyers left the shopping centres vacant or converted the commercial premises into international schools, private residential care homes for the elderly, etc. which had more promising prospects for high returns, thereby depriving residents of affordable living necessities and services;
- (h) the outsourcing of the management of the divested shopping centres by Link and the subsequent buyers had created a lot of management problems such as poor hygienic conditions;
- (i) Link and the subsequent buyers were suspected of violating land lease conditions, such as not providing certain trade types in shopping centres, restricting the opening hours of the connecting footbridges between shopping centres and the residential portion of the housing developments, etc.;
- (j) Link and the subsequent buyers had not discharged their responsibilities for managing and maintaining the facilities in the common areas of the divested properties. For example, they did not give consent to carry out improvement works in the common areas, such as installation of lifts;
- (k) HA had not monitored the compliance by Link and the subsequent buyers of the split ratios as stipulated in the split-ratio covenant in the respective assignment deeds when contributing to the cost and expense of the management, repair and maintenance of estate common areas and facilities;

Remedial measures

- (l) it was incumbent upon HA to discharge its monitoring role to ensure that Link and the subsequent buyers had properly managed the divested properties and secured the provision of ancillary facilities to public housing residents as stipulated under section 4(1) of the Housing Ordinance (Cap. 283) ("the Ordinance");
- (m) HA should put in place measures to enhance the competitiveness of its shopping centres to counteract Link's hegemony and monopoly. For example, renovating the old shopping centres to improve shoppers' patronage, taking into account the affordability of small shop tenants when determining the rent levels of shops etc.;
- (n) concessionary rent arrangement for social service organizations should be continued in the divested properties. HA should render assistance to social service organizations victimized by Link's sale of the divested facilities;

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- (o) consideration should be given to relocating social welfare facilities which were currently renting shop units on the ground floor to the first floor, thereby increasing the provision of retail outlets or shops selling daily necessities;
- (p) the Administration should set up an inter-departmental taskforce to conduct inspections on divested shopping centres to ensure that Link and the subsequent buyers had complied with land lease conditions;
- (q) HA should ensure that Link and the subsequent buyers had duly observed the terms of the split-ratio covenants when contributing to the costs and expenses of the management, repair and maintenance of estate common areas and facilities;
- (r) Link and the relevant subsequent buyers should contribute their share of the costs and expenses for the previous maintenance works in estate common areas and facilities, for instance, the case of Sui Wo Court;
- (s) the Administration should consider recovering the titles of common areas in public housing developments under HA by invoking the Land Resumption Ordinance (Cap. 124) so as to manage the relevant common areas and facilities effectively;
- (t) the Administration should respond to the strong calls in the community to buy back the fund units of Link or the divested shopping centres put up for sale by Link. The Administration should be given the priority to buy back the divested properties in the event that Link intended to sell them in future; and
- (u) after the Code on Real Estate Investment Trusts ("REIT Code") had been amended by the Securities and Futures Commission, Link could adjust the investment portfolios through selling its assets and thus gave rise to its disposal of divested properties. The Administration should critically review the potential impact of the amendments on the community and public housing residents.

4. Members noted with grave concern that HA had not monitored Link and the subsequent buyers to ensure proper management of the divested properties. Also, Link and the subsequent buyers had not discharged their responsibilities for managing and maintaining estate common areas, and were suspected of violating land lease conditions and split-ratio covenants with HA. Members urged HA to recover the maintenance and repair costs from Link and the subsequent buyers if such costs had not been shared according to the covenant. In addition, the

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Administration and HA should step up efforts in ensuring Link and the subsequent buyers would provide local residents with appropriate services.

5. On the views and concerns raised by members and deputations at the meeting, the Administration made the following responses:

Regulation of divested shopping centres

- (a) the Court of Final Appeal had ruled in 2005 that HA's divestment exercise was consistent with HA's objective as stipulated in section 4(1) of the Ordinance which required HA "to secure the provision of housing and such amenities ancillary thereto as the Authority thinks fit" for persons concerned. HA had fulfilled its obligation as set out in section 4(1) of the Ordinance so long as such facilities were available, even though they were not provided by HA but by a third party over whom HA had no control;
- (b) just like other private entities, Link and the subsequent buyers could determine the tenant mix and facility layout for their shopping centres according to circumstances. As long as they complied with the relevant statutory requirements, land lease conditions and covenants with HA, the Administration and HA could not and would not interfere in the business strategies, operation modes and tenant mix of Link and the subsequent buyers. On the contrary, if they were in breach of any laws, land lease conditions or covenants with HA, the Administration would take appropriate actions;
- (c) the assignment deeds of divested properties signed between Link and HA contained certain restrictive covenants, including the welfare-letting covenant, which required Link and the subsequent buyers to let designated units to non-profit making organizations nominated by the nominating authorities (including the Social Welfare Department, the Education Bureau, etc.) at concessionary rent as stipulated by HA for the provision of education or social welfare services. However, if these organizations rented premises in public housing developments through commercial leasing arrangements, they were not subject to the welfare-letting covenant;
- (d) the Administration took note of the concerns of deputations and members. Members of the public might file a complaint to HA in case they found that owners were suspected of breaching the land lease conditions and restrictive covenants;

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- (e) given the tight housing supply and depending on local circumstances, the Administration and HA would, on a case by case basis, consider the proposals from social welfare organizations for relocating their premises on the ground floor to the first floor as long as such proposals would not affect the number of flats provided in a public housing development;
- (f) HA was handling the cases of suspected breaches of split-ratio covenants and would take appropriate follow-up actions if the cases were confirmed;
- (g) REITs, such as Link, had the rights to adjust their investment portfolios through selling their assets both before and after the amendments to REIT Code. Under the amended REIT Code, investment in property development was capped at 10% of a REIT's gross asset value, and at least 75% of a REIT's gross asset value had to remain invested in real estate that generated recurrent rental income;

"Buy back" proposal

- (h) the Administration and HA had no plan to buy back Link or individual divested properties. Given that Link had a market value of over \$150 billion, a buy back would be incompatible with public interest and the principle of prudent financial management. If the market learnt of the Administration's intention to buy back Link, it was possible that the prices of the assets would go up drastically, where institutional investors would readily pocket the profit, reaping benefits at the expense of public coffers;
- (i) as Link was governed by its Trust Deed, the REIT Code, and relevant legislation which contained provisions protecting the interest of shareholders, it would not be able to alter the mode of operation of Link even if the Administration or HA acquired a substantial amount of fund units of Link; and
- (j) at present, HA had no plan to divest its commercial facilities in public housing developments. It would focus its efforts in providing suitable commercial facilities in new housing developments to cater for the daily needs of residents. If necessary, HA would commission consultants to carry out retail studies at the planning stage to determine appropriate retail facilities in new public housing developments.

II. Operation of markets in public housing

Written submissions from deputations/individuals not attending the meeting

(LC Paper No. CB(4)1212/17-18(01) -- Submission from Gaw Capital
(*Chinese version only*)

LC Paper No. CB(4)1350/17-18(04) -- Submission from 香港街市
關注組 (*Chinese version only*)(*Restricted to members only*)

LC Paper No. CB(4)1378/17-18(05) -- Submission from Mr MA
Wai-piu (*Chinese version only*)

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

7. The Subcommittee received views from 45 deputations/individuals attending the meeting and three written submissions from deputations/individuals not attending the meeting. The major views and concerns of deputations/individuals were summarized as follows:

Divested markets

- (a) Link and the subsequent buyers only oriented towards commercial decision and neglected its corporate social responsibility;
- (b) after renovating the divested markets, Link and the subsequent buyers significantly raised the stall rentals. Sitting stall operators had no choice but to raise the prices of their goods sharply or terminate their operations. Residents had to travel to other districts to buy food and daily necessities as a result. The Administration should consider providing residents with shuttle bus services to and from nearby public markets;
- (c) Link and the subsequent buyers outsourced the management of the divested markets to contractors who changed the business model of these markets by eliminating small stalls which used to provide low-priced food and daily commodities for public housing residents;
- (d) many outsourced contractors did not manage the divested markets properly. Many markets were in poor hygienic conditions and lacked of maintenance;

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- (e) Lands Department ("LandsD") and the relevant Government departments should put in place more effective measures to regulate the divested markets, for instance, conducting regular inspections to ensure their compliance with the relevant land leases, extending the Marking Scheme for commercial premises to cover divested markets, establishing an independent commission to monitor all public markets;
- (f) as market was classified as a kind of retail facilities in the Hong Kong Planning Standards and Guidelines ("HKPSG"), some subsequent buyers converted part of the divested markets into other retail uses (such as mini-storages and indoor amusement parks, etc.), depriving residents of fresh provisions and groceries in their neighbourhood. To address the problem, a separate category should be created for markets in HKPSG which required the provision of such facilities in a public housing development, thereby protecting the interests of the residents;
- (g) HA should ensure that Link and the subsequent buyers to bear the costs of maintenance and repair works in estate common areas as set out in the relevant split-ratio covenants;
- (h) the Administration should buy back the fund units of Link and individual markets put on sale by Link. Link should offer to HA a right of first refusal in the event that Link intended to sell the divested retail and carparking facilities;

Markets under HA

- (i) HA adopted the single-operator letting arrangement for some of its markets. These single-operator markets ("SOMs") were operated in accordance with commercial principles. A single tenancy would be awarded to an operator who would enter into leases with individual stall operators and operate the whole market. Such model would lead to an increase in operation costs, which would ultimately shift to public housing residents;
- (j) under the prevailing single-operator letting arrangement, the leasing policy was not transparent and the interests of stall operators were not duly protected. Single operators might select stall operators according to their own interests, which might be unknown to others. Given the chaotic arrangement, certain stall operators had rental disputes with the relevant single operators;

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- (k) some single operators had on one hand directly operated some of the stalls in the markets, and on the other charged excessive rent on the operators of other stalls, thereby making the latter difficult to sustain their business. As a result, the direct operation of stalls by the single operators might lead to a monopolistic situation in the supply of foodstuff in the markets, thereby pushing up the foodstuff prices;
- (l) certain single operators of HA's markets were outsourced contractors of Link's markets at the same time. The same operator could attain monopoly if it took control of markets under both Link and HA in the same district;
- (m) consideration should be given to setting a ceiling to cap the stall rentals under the single-operator letting arrangement;
- (n) to protect the rights and interests of members of the public, there should be a mechanism to assess and monitor the performance of single operators. Single operators whose tenancies were once terminated due to non-compliance with tenancy conditions should not be allowed to submit bids for other SOMs;
- (o) SOMs had not been operating effectively. HA should directly manage all its markets to ensure management quality and take into account the affordability of stall operators when determining the stall rentals;
- (p) many existing markets directly managed by HA were located in aged public rental housing ("PRH") estates with smaller scale and limited market potential. HA should revitalize these markets to attract more stall operators to move in, and introduce professional management to improve and enhance the service standards;
- (q) to provide more shopping choices for public housing residents, the Administration should facilitate the organization of bazaars and formulate a proper hawker policy;
- (r) the Administration should revise the existing planning standards so that the provision of public market would be considered for all new development areas;
- (s) the Administration should expeditiously take forward the planning and construction of public markets to counteract Link's monopolistic situation; and

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- (t) new market facilities located close to the existing Shek Kip Mei market was scheduled to open next year. HA had changed its original plan. The existing market would not be replaced by the new market facilities. The new market facilities, which were equipped with better facilities and service environment, would out-compete the existing market. In addition, stall operators in the existing market would not be given priority to relocate to the new market facilities. This arrangement was unfair to them.

8. Having regard to the views expressed by deputations, members were concerned about the ineffective operation and management of SOMs. They considered it necessary for HA to set an occupancy rate that single operators needed to meet with and respond to the strong calls of the community to directly manage all of its own markets. Furthermore, more new public markets should be built to counteract Links' hegemony.

9. On the views and concerns raised by members and deputations at the meeting, the Administration made the following responses:

Single-operator letting arrangement

- (a) all HA's new markets in public housing developments had adopted the single-operator letting arrangement since 1997. Its purpose was to leverage on the expertise and flexible management and operation mode of the private sector, with a view to providing better shopping choices and service environment for residents. As SOMs had proved to be effective and had balanced the practical circumstances of commercial operations and shopping needs of residents, all newly completed markets in public housing developments would adopt such arrangement;
- (b) it was necessary for HA to allow single operators sufficient flexibility in the management of SOMs so as to achieve the purpose of leveraging on the expertise and efficiency of the private sector's mode of operation. Based on this principle, single operators should be allowed to select individual stall operators and negotiate with them on the rents and terms of letting on a commercial basis;
- (c) HA had adopted regulatory measures to protect the interests of the stall operators and monitor the performance of the single operators. Regarding the safeguards for individual stall operators, HA would restrict the single operators from charging stall operators any fees other than rents, air-conditioning charges, rates and management fees. HA also restricted the amount of deposits and management fees that the single operator could charge on individual stall tenants. The management fees could only be adjusted once a year

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and the annual adjustment should accord with the movement in the Nominal Wage Index published by the Census and Statistics Department;

- (d) as for monitoring of the single operators, HA would conduct regular inspections in SOMs and assess the performance of the single operators once every two months. The single operator's capability to manage the daily operation of the market in an effective and smooth manner was HA's most important consideration when making decision on tenancy renewal. For operators who failed to fulfill the tenancy requirements despite warnings, for instance, non-payment of rentals to HA, HA had the right to terminate the tenancies concerned and not to allow them to submit bids for other HA's SOMs within a specified period of time;
- (e) it might be necessary to allow the single operators to directly operate some of the market stalls in order to reduce vacancy rate and ensure effective operation of the market in light of the actual circumstances. This could also help meet the tenancy requirement of providing certain proportion of foodstuff and miscellaneous trades. In order to strike a balance between maintaining flexibility for SOM operation and addressing public concerns, the scale of direct operation by a single operator was restricted to an area of no more than 20% of the total internal floor area of individual stalls;

Provision of public markets

- (f) if the situation allowed, the Administration would allocate more resources to providing new public market facilities and enhancing existing facilities;
- (g) as announced in the 2017 Policy Address, the Administration would build public markets in districts where relevant facilities were alleged to be insufficient, such as Tung Chung, Tin Shui Wai and Hung Shui Kiu. The Administration would seek views from District Councils when identifying suitable sites for building public markets;
- (h) HA had been working proactively to complement the Government's policy on bazaars. On receipt of a specific proposal to set up bazaars in HA's PRH estate, HA would study the feasibility and impact of the proposal on the estates concerned, in light of the needs and actual circumstances of the estates. The proposal should also be supported by the local communities and respective District Councils in accordance with the Government's policy on bazaars. PRH estates were generally densely populated and open spaces on

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the ground level were often used for public passageways, sitting-out areas or common spaces for residents' use. For common areas jointly-owned by HA and other owners, consent from other owners would be required for the bazaar proposals. If the land was subject to Government leases, approval from LandsD might be required. Regardless of whether or not the estates involved other owners, HA had to take account of the views of residents and other stakeholders, and consider the impact of the proposals, including whether it would cause any environmental hygiene problem, obstruction of public passageways, nuisances to residents, etc. According to the established mechanism, bazaars had been held in Tin Yiu Estate, Ching Ho Estate and Hoi Lai Estate respectively in recent years;

- (i) the new market facilities in Shek Kip Mei Estate Phase 6 were relatively small in scale, comprising one market shop and 11 small shop-stalls, having a total area of about 400 square metres. While the new market facilities would provide more shopping choices to residents nearby, the existing Shek Kip Mei Market would remain as the focal market for the supply of fresh foods and other daily necessities to residents. If the existing stall operators of the Shek Kip Mei Market were interested to operate in the new market facilities in Shek Kip Mei Estate Phase 6, they could participate in the open tender for the facilities. In the meantime, the Administration would carry out various improvement works in the existing Shek Kip Mei Market to improve its shopping environment;

Regulation of divested markets

- (j) on the premise of upholding the rule of law and respecting property rights, the Administration and HA could not intervene in the daily operation and business decisions of Link and the subsequent buyers, including rent determination, trade mix and business strategy, so long as they complied with the statutory requirements, land lease conditions and other restrictions. However, if an owner concerned violated any laws, land lease conditions and covenants with HA, the relevant Government departments and HA would certainly handle the matters seriously. Recently, LandsD had taken enforcement actions in response to complaints about Kwai Hing Estate and Tin Ma Court;
- (k) under the Deed of Right of First Refusal, HA was obliged to offer Link a right of first refusal in the event that it wished to sell its facilities for a period of ten years commencing from the listing day in 2005, i.e. expired in 2015. However, the right of first refusal was not a reciprocal arrangement;

Action

- (l) the proposal of buying back Link's fund units or individual divested commercial or carparking facilities was not in line with the Government's policy objective, and was incompatible with public interests and the principle of prudent financial management; and
- (m) the Administration took note of issues raised by deputations regarding markets in individual divested property. For example, the Administration had been following up the Sui Wo Court's case of alleged non-compliance with the split-ratio covenant.

III. Operation of carparks in public housing

Written submission from deputation not attending the meeting

(LC Paper No. CB(4)1212/17-18(01) -- Submission from Gaw Capital
(*Chinese version only*))

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

11. The Subcommittee received views from 20 deputations/individuals attending the meeting and a written submission from a deputation not attending the meeting. The major views and concerns of deputations/individuals were summarized as follows:

Divested carparking facilities

- (a) the subsequent buyers of the divested carparking facilities further sold individual parking spaces to various owners, making it difficult for the Administration to monitor the divested properties;
- (b) many individual owners bought parking spaces for speculative reasons, leading to a rapid price surge;
- (c) every year, Link and the subsequent buyers substantially increased the charges of the divested carparks including the charges for the parking spaces for persons with disabilities, aggravating the burden on the livelihood of the public housing residents renting those parking spaces;
- (d) while the level of the carpark charges was high, the management of divested carparks was deteriorating, for instance, poor hygienic conditions, water ponding and mosquito infestation, etc.;

Action

- (e) Link and the subsequent buyers were suspected of violating land lease conditions by letting parking spaces in divested car parks to non-residents, or replacing the reserved parking system in monthly parking spaces with floating parking system;
- (f) Link and the subsequent buyers of the carparking facilities had not shared the maintenance costs of the estate common areas and facilities as set out in the split-ratio covenants;

Remedial measures

- (g) the Administration should explore measures to curb speculation of carparking facilities;
- (h) there should be a control mechanism in place to regulate the increase in carpark charges imposed by Link and the subsequent buyers so that the level of carpark charges could cater for carpark users' affordability;
- (i) consideration should be given to offering concessionary carpark charges for public housing residents;
- (j) the Administration should proactively take measures to monitor the operations of the carparking facilities, including setting up of an inter-departmental taskforce to conduct regular inspections in the divested car parks, to ensure the compliance with land lease conditions by Link and the subsequent buyers and the management quality of the car parks;
- (k) the Administration should take initiatives to improve the competitiveness of public car parks to counteract the monopolistic situation of Link, such as upgrading the security system;
- (l) the Administration should increase the supply of parking spaces by building more public car parks, especially underground ones, revising the standards for parking spaces in HKPSG, and applying new technologies to improve the utilization efficiency of existing car parks;
- (m) short-term tenancy car parks could not tackle the shortage problem of parking spaces at root. The Administration should conduct an in-depth study on parking needs in individual districts and formulate appropriate measures to increase the provision of parking spaces;

Action

- (n) to facilitate carpark users in finding vacant parking spaces, the Administration should step up efforts in disseminating real-time parking information and parking vacancy data to the public through the use of advanced technology; and
- (o) the Administration should buy back the fund units of Link or the divested carparking facilities to be sold by Link.

12. Members shared with deputations' concerns about the negative impact of HA's divestment of carparking facilities on the community. In their view, the Administration should set up an inter-departmental taskforce to proactively investigate suspected breaches of land lease conditions and restrictive covenants.

13. On the views and concerns raised by members and deputations at the meeting, the Administration made the following responses:

- (a) HA had divested 180 non-residential properties, including retail and carparking facilities, to Link in 2005. Link had sold 45 divested properties in recent years. In other words, Link was still managing 135 divested properties, 104 of which were properties with retail and carparking facilities, 29 were carparking facilities and two were retail facilities;
- (b) the property agreement between HA and Link contained restrictive covenants applicable to certain divested properties. Such restrictive covenants would continue to be applicable even if the ownership of these facilities had been transferred to other owners. If breaches of the lease conditions were confirmed, HA would refer the cases concerned to LandsD for taking appropriate enforcement actions;
- (c) the Administration would continue to implement various measures to increase the number of parking spaces in individual districts, such as building more public carparks and applying the initiatives under Smart Mobility to enhance carparking facilities' utilization efficiency. In fact, a consultancy study on commercial vehicle parking had been commenced in December 2017 with a view to formulating appropriate measures to ease the shortage of parking spaces;
- (d) the Administration took note of the views and concerns of deputations regarding individual carparks in public housing and would take necessary follow-up actions, including relaying their views on HKPSG to the Planning Department to see if there was a need to update the planning standards under HKPSG;

Action

- (e) the Administration and HA would examine the feasibility to build underground car parks. Given the complexity of the issues involved in the construction of underground car parks, the Administration and HA would continue to seek views from the relevant District Councils and stakeholders in local communities; and
- (f) "buy back" proposal was incompatible with the Government's policy, the principle of prudent financial management and public interest. The Administration and HA had no plan to buy back the fund units of Link or individual divested property.

Motions

14. The Chairman referred members to the motion moved by Mr AU Nok-hin and amended by Ms YUNG Hoi-yan (wording of the motion at **Annex II**). The Chairman put to vote the amendment motion. All members present voted for the motion. The Chairman declared that the motion was passed.

15. The Chairman referred members to the motion moved by the Deputy Chairman (wording of the motions at **Annex II**) and put it to vote. All members present voted for the motion. The Chairman declared that the motion was passed.

16. The Administration was requested to provide a written response to the motions passed.

(Post-meeting note: The Administration's written response to the motions passed was issued to members vide LC Paper No. CB(4) 126/18-19(01) on 29 October 2018.)

IV. Any other business

17. There being no other business, the meeting ended at 7:10 pm.

**Proceedings of the fifth meeting of the
Subcommittee on Issues Relating to Shopping Centres, Markets and Carpark
in Public Rental Housing Estates and Home Ownership Scheme Estates
on Monday, 9 July 2018, at 10:00 am to 7:15 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda Item I - Operation of shopping centres in public housing</i>			
<u>Session One</u>			
001633-002132	Chairman Administration	Opening remarks	
002133-002427	Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB")	Presentation of views	
002428-002746	天水圍民生關注平台	Presentation of views	
002747-003014	Mr Victor KWONG Man-tik	Presentation of views	
003015-003335	The Civic Party	Presentation of views	
003336-003643	Ms CHAN Man-kuen	Presentation of views	
003644-003954	Mr Victor CHAN	Presentation of views	
003955-004312	Ms Judy CHAN	Presentation of views [LC Paper No. CB(4)11423/17-18(01)]	
004313-004625	Miss CHAN Po-yin	Presentation of views	
004626-004945	NGO 關注領展租約小組	Presentation of views [LC Paper No. CB(4)1378/17-18(01)]	
004946-005253	Ms Joan LEE Tsui-king	Presentation of views [LC Paper No. CB(4)1378/17-18(02)]	
005254-005605	Centre for Social Policy Studies, The Hong Kong Polytechnic University	Presentation of views	
005606-005918	The Link Watch	Presentation of views [LC Paper No. CB(4)1378/17-18(03)]	
005919-010316	Ms LO Siu-lan	Presentation of views	
010317-010625	關注基滙資本陣線	Presentation of views [LC Paper No. CB(4)1378/17-18(04)]	

Time marker	Speaker(s)	Subject(s)	Action required
010626-010942	照顧者關注組	Presentation of views	
010943-011303	追究領滙企業社會責任關注組	Presentation of views	
011304-011617	Miss Carman NG Ka-yan	Presentation of views	
011618-011946	New People's Party	Presentation of views	
011947-012249	黎嘉駿先生	Presentation of views	
012250-012611	Mr TAM Wing-yin	Presentation of views	
012612-012919	Chinese Grey Power	Presentation of views	
012920-013258	公共服務產業化關注組	Presentation of views	
013259-013602	Mr AU Lok-hin Administration	Mr AU's enquiries about the enforcement of split-ratio covenants by the Hong Kong Housing Authority ("HA")	
013603-013847	Mr CHU Hoi-dick Administration	Mr CHU's concerns about the compliance with the split-ratio covenant by Link Real Estate Investment Trust ("Link")	
013848-014129	Mrs Regina IP Administration	Mrs IP's views on the impact of the amended Code on Real Estate Investment Trusts	
014130-014409	Mr LEUNG Yiu-chung Administration	Mr LEUNG's concerns about Link's responsibilities for managing and maintaining estate common areas and facilities	
014410-014650	Ms YUNG Hoi-yan Administration	Ms YUNG's enquiries about the Administration's regulatory measures for divested properties and lease enforcement actions	
014651-015056	Administration	The Administration's response to the views of the deputations	
015057-015642	Break		
<i>Session Two</i>			
015643-015845	Chairman	Opening remarks	
015846-020153	香港民主民生協進會	Presentation of views	
020154-020518	回購領展研究社	Presentation of views	

Time marker	Speaker(s)	Subject(s)	Action required
020519-020806	Miss HUI Wun-wun	Presentation of views	
020807-021110	Miss WONG Nga-man	Presentation of views	
021111-021421	Liberal Party	Presentation of views	
021422-021729	Mr LAI Wai-tong	Presentation of views	
021730-022032	Miss Tiffany YUEN Ka-wai	Presentation of views	
022033-022352	穗禾苑業主立案法團	Presentation of views	
022353-022648	Miss Biddy KWOK	Presentation of views	
022649-023009	Mr LUI Man-kwon	Presentation of views	
023010-023328	Ms Susanna CHUI	Presentation of views	
023329-023644	Miss Pauline LEUNG	Presentation of views	
023645-023957	Mr CHENG Kam-mun	Presentation of views	
023958-024216	Civic Passion	Presentation of views	
024217-024542	Hong Kong Normal Teenagers	Presentation of views	
024543-024837	Centre for Social Policy Studies, The Hong Kong Polytechnic University	Presentation of views	
024838-025136	Mr LEUNG Yat-long	Presentation of views	
025137-025453	Mr WONG Ho-ming	Presentation of views	
025454-025902	Dr CHENG Chung-tai Administration	Dr CHENG's enquiries about split-ratio covenants	
025903-030125	Dr Fernando CHEUNG Administration	Dr CHEUNG's urge for buying back Link	

Time marker	Speaker(s)	Subject(s)	Action required
030126-030327	Ms Claudia MO Administration	Ms MO's concerns about the Administration's follow-up actions to non-compliance with split-ratio covenants	
030328-030556	Mrs Regina IP Administration	Mrs IP's views on HA's obligation stipulated in the Housing Ordinance (Cap. 283)	
030557-030800	Mr AU Lok-hin Administration	Mr AU's calling on the Administration to recover the maintenance and repair costs from the owners of divested properties according to the relevant split-ratio covenants	
030801-031050	Mr CHU Hoi-dick Administration	Mr CHU's concerns about owners' compliance with the split-ratio covenants	
031051-031323	Mr Gary FAN Administration	Mr FAN's calling on the Administration to clearly define owners' responsibilities for maintenance and repairs	
031324-031721	Administration	The Administration's response to the views of the deputations	
031722-040833	Break		
<i>Agenda item II - Operation of markets in public housing</i>			
<u>Session One</u>			
040834-041120	Deputy Chairman Administration	Opening remarks	
041121-041345	Mr CHEUNG Pak-yuen	Presentation of views	
041346-041533	Mr LEUNG Ho-kai	Presentation of views	
041534-041853	Democracy Groundwork	Presentation of views	
041854-042146	Mr LAW Kin-kan	Presentation of views	
042147-042451	Tsz Lok Estate Resident Association	Presentation of views	
042452-042804	監察公營街市發展聯盟	Presentation of views [LC Paper No. CB(4)1350/17-18(02)]	
042805-043128	社區發展陣線	Presentation of views	
043129-043414	天水圍民生關注平台	Presentation of views	
043415-043714	Professional Power	Presentation of views	

Time marker	Speaker(s)	Subject(s)	Action required
043715-043945	Mr WONG Heung-yin	Presentation of views	
043946-044253	Mr YAM Kai-bong	Presentation of views	
044254-044508	Mr Arthur CHEUNG	Presentation of views	
044509-044701	DAB	Presentation of views	
044702-045015	The Civic Party	Presentation of views	
045016-045310	竹園街市關注組	Presentation of views	
045311-045625	Tsz Wan Shan Market Residents Concern Group	Presentation of views [LC Paper No. CB(4)1350/17-18(03)]	
045626-045932	慈雲山建設力量	Presentation of views	
045933-050225	Mr YEUNG Yuk	Presentation of views	
050226-050541	Mr LEUNG Kwok-hung	Presentation of views	
050542-050907	Miss CHAN Po-ying	Presentation of views	
050908-051235	Mr TAM Wing-yin	Presentation of views	
051236-051602	Chinese Grey Power	Presentation of views	
051603-051919	回購領展研究社	Presentation of views	
051920-052433	Administration	The Administration's response to the views of the deputations	
052434-052832	Ms Claudia MO Administration	Ms MO's request for information about the new market in Shek Kip Mei	
052833-053202	Mr SHIU Ka-chun Administration	Mr SHIU's concerns about the implementation of single-operator letting arrangement in markets under HA	
053203-053553	Mrs Regina IP Administration	Mrs IP's enquiries about the Deed of Right of First Refusal between Link and HA and the single-operator letting arrangement	

Time marker	Speaker(s)	Subject(s)	Action required
053556-053906	Dr CHENG Chung-tai Administration	Dr CHENG's enquiries about the Deed of Right of First Refusal and the Administration's stance on the "buy back" proposal	
053907-054127	Ms Claudia MO Administration	Ms MO's enquiries about the operation of the public markets in Shek Kip Mei Estate and Kai Ching Estate	
054128-054335	Mr SHIU Ka-chun Administration	Mr SHIU's calling on the Administration to directly manage all of its markets	
054336-054740	Deputy Chairman Administration	Deputy Chairman's concerns about the regulation of single operators and the conversion of divested markets into other uses by Link and the subsequent buyers	
054741-055350	Break		
Session Two			
055351-055515	Deputy Chairman	Opening remarks	
055516-055832	關注基滙資本陣線	Presentation of views [LC Paper No. CB(4)1378/17-18(04)]	
055833-060135	香港民主民生協進會	Presentation of views	
060136-060507	石硤尾街市商戶權益 關注組	Presentation of views	
060508-060814	工黨	Presentation of views	
060815-061122	Mr WONG Ho-ming	Presentation of views	
061123-061235	何少聰	Presentation of views	
061236-061343	陳穎欣	Presentation of views	
061344-061652	趙志輝先生	Presentation of views	
061653-061831	黎錦秀女士	Presentation of views	
061832-062141	Ching Ho Planning Group	Presentation of views	
062142-062508	北區基層權益聯盟	Presentation of views	

Time marker	Speaker(s)	Subject(s)	Action required
062509-062819	自由黨	Presentation of views	
062820-063135	Civic Passion	Presentation of views	
063136-063456	Miss Lorna HO	Presentation of views	
063457-063720	Miss Bidy KWOK	Presentation of views	
063721-064042	Ms Susanna CHUI	Presentation of views	
064043-064346	Miss Pauline LEUNG	Presentation of views	
064347-064707	Mr CHENG Kam-mun	Presentation of views	
064708-065011	Mr TANG Man-kit	Presentation of views	
065012-065326	長沙灣街市規劃關注組	Presentation of views	
065327-065529	Ms LO Siu-lan	Presentation of views	
065530-065918	啟晴邨居民協會	Presentation of views	
065919-071410	Administration	The Administration's response to the views of the deputations	
071411-071804	Mr Gary FAN Administration	Mr FAN's concerns about the Administration's follow-up measures to non-compliance with split-ratio covenant, and the progress of public market construction in new public housing developments	
071805-072440	Deputy Chairman 關注基滙資本陣線 Administration	Enquiries of 關注基滙資本陣線	
072441-075119	Break		
<i>Agenda Item III - Operation of carparks in public housing</i>			
075120-075420	Chairman Administration	Opening remarks	
075421-075642	Miss Dana LAU	Presentation of views	
075643-075929	The Civic Party	Presentation of views	

Time marker	Speaker(s)	Subject(s)	Action required
075930-080245	Hong Kong Pro-Democrats Carpark Concern Alliance	Presentation of views [LC Paper No. CB(4)1361/17-18(01)]	
080246-080553	Public Transportation Think Tank of Hong Kong	Presentation of views [LC Paper No. CB(4)1350/17-18(05)]	
080554-080859	The Young Civic	Presentation of views	
080900-081158	DAB	Presentation of views	
081159-081505	新民黨青年委員會	Presentation of views	
081506-081819	Mr LEUNG Kwok-hung	Presentation of views	
081820-082131	Chinese Grey Power	Presentation of views	
082132-082456	回購領展研究社	Presentation of views	
082457-082800	Mr CHOW Yuen-wai	Presentation of views	
082801-083130	穗禾苑業主立案法團	Presentation of views	
083131-083437	Mr LUI Man-kwong	Presentation of views	
083438-083708	Ms Susanna CHUI	Presentation of views	
083709-084026	Miss Pauline LEUNG	Presentation of views	
084027-084349	Mr Kenny LAI	Presentation of views	
084350-084654	Miss Biddy KWOK	Presentation of views	
084655-085004	Civic Passion	Presentation of views	
085005-085321	Mr WU Chi-kin	Presentation of views	
085322-085550	Ms LO Siu-lan	Presentation of views	
085551-090120	Mr Wilson OR Administration	Mr OR's calling on the Administration to timely address the livelihood problems arising from the divestment of carparking facilities	

Time marker	Speaker(s)	Subject(s)	Action required
090121-090533	Administration	The Administration's response to the views of the deputations	
090534-090859	Chairman Deputy Chairman Mr AU Lok-hin Ms YUNG Hoi-yan	Motions	
<i>Agenda Item IV – Any other business</i>			
090900-090932	Chairman	Closing remarks	

Council Business Division 4
Legislative Council Secretariat
3 December 2018

公屋及居屋商場、街市及停車場事宜小組委員會
Subcommittee on Issues Relating to Shopping Centres, Markets and Carparks
in Public Rental Housing Estates and Home Ownership Scheme Estates

在2018年7月9日的會議上通過的議案
Motion passed at the meeting on 9 July 2018

議案措辭

本會要求政府交代如何確保已售房委會資產業主(即領展、基滙資本等)確切執行有關公用地方的維修攤分契諾(Split Ratio Covenant)包括：

1. 制定指引確保契諾切實執行；
2. 若有居屋、出售公屋維修公用地方未有按契諾攤分維修費，房委會代為追討；
3. 當發現已售房委會資產業主違反契諾，循行政及法律途徑執行罰則。

動議人：區諾軒議員

修訂人：容海恩議員

Wording of the Motion

(Translation)

This subcommittee requests the Government to ensure that the split ratio covenant ("covenant") on the maintenance and repair costs for common areas has been duly fulfilled by owners of divested properties of the Hong Kong Housing Authority ("HA") (i.e. Link, Gaw Capital etc.), including:

1. formulating guidelines to ensure that the covenant has been duly fulfilled;
2. recovering the maintenance and repair costs of common areas in Home Ownership Scheme Estates and sold Public Rental Housing Estates by HA, if such costs have not been shared according to the covenant; and
3. imposing penalties through administrative and legal means, if owners of divested HA properties were found to have breached the covenant.

(Moved by Hon AU Nok-hin)

(Amended by Hon YUNG Hoi-yan)

公屋及居屋商場、街市及停車場事宜小組委員會
Subcommittee on Issues Relating to Shopping Centres, Markets and Carparks
in Public Rental Housing Estates and Home Ownership Scheme Estates

在2018年7月9日的會議上通過的議案
Motion passed at the meeting on 9 July 2018

議案措辭

本會促請政府考慮實施以下措施，以保障公屋及居屋居民繼續獲得適切的社區設施，包括：

1. 停止將商場、街市及停車場外判，收回設施由房委會直接管理
2. 成立專責小組，以監察及跟進已拆售設施的管理問題
3. 興建更多公眾街市及設立墟市，引入競爭，制衡領展及外判商
4. 回復2009年前《香港規劃標準與準則》「每55至65戶家庭設有一個公眾街市檔位，或10 000人設有約40至45個檔位」的準則，以及將「街市」應納入「社區設施」項目，以非現時的「零售設施」項目

動議人：何啟明議員

Wording of the Motion

(Translation)

This subcommittee urges the Government to consider implementing the following measures to ensure the continued provision of suitable community facilities to the residents of Public Rental Housing Estates and Home Ownership Scheme Estates, including:

1. ceasing the contract-out arrangements for shopping centres, markets and car parks, repossessing such facilities and placing them under the direct management of the Hong Kong Housing Authority;
2. setting up a task force to monitor and follow up the management problems of divested facilities;
3. building more public markets and setting up bazaars to introduce competition to counteract the dominance of Link and contractors; and
4. reinstating the criteria laid down in the pre-2009 version of the Hong Kong Planning Standards and Guidelines (i.e. one public market stall should be provided for every 55 to 65 households or approximately 40 to 45 stalls per 10 000 persons), and categorizing "markets" into "community facilities" instead of the current category of "retail facilities".

Moved by : Hon HO Kai-ming