

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

Supplementary Information

The Legislative Council Subcommittee on Issues Relating to Shopping Centres, Markets and Carparks in Public Rental Housing Estates and Home Ownership Scheme Estates (the Subcommittee) requested, in its letter dated 2 November 2018, the Government to provide a response to a motion passed by the Subcommittee at its meeting on 30 October 2018. The Government's response is set out below.

2. As mentioned in the previous documents submitted by the Government to the Subcommittee¹, the assignment deeds of the Hong Kong Housing Authority (HA)'s divested properties contain, on a case-by-case basis, certain restrictive covenants, including Retail Covenant, Carparking Covenant, Welfare-letting Covenant, Split-ratio Covenant, etc. These assignment deeds have been registered at the Land Registry (LR). As in any property transactions, buyers and vendors of divested properties are obliged to clarify the rights and obligations associated with the properties, including any restrictive covenants. Legal advice could be sought as and when necessary. Any person may conduct a search of the assignment deeds at LR in order to have a clear understanding of the restrictive covenants that ought to be included in the purchase and resale of commercial facilities.

3. The above restrictive covenants remain valid even if the ownership of the divested properties has changed. All along, HA has an established mechanism to ensure the continued application of the covenants over the divested properties, despite any change in the ownership. For example, HA will issue letters to remind owners about the restrictive covenants that are applicable to their properties, and that the terms of the various covenants must be incorporated in the assignment deeds when further disposing of such properties. HA will also require the new owners to execute the deeds of undertaking with HA, and upon

¹ Paper No.: CB(4)1128/17-18(03) & CB(4)126/18-19(01).

the completion of transaction of the properties, issue letters to remind such buyers about the restrictive covenants and related issues regarding their properties.

4. HA takes it seriously as to whether divested property owners strictly comply with the terms of the restrictive covenants. Immediate actions will be taken against any suspected non-compliance of the terms of the covenants, as and when necessary. In case of any confirmed breach, HA will consider taking mandatory enforcement actions through legal proceedings in light of the actual circumstances. To this end, HA has reminded divested property owners that, upon sale of the concerned properties, if relevant terms of the covenants have not been incorporated in the assignment deeds with the new buyers; or if the executed deeds of undertaking with HA have not been procured from such buyers, the vendors will remain liable for matters relating to breaches of the covenants despite the change in ownership of the properties.

5. HA will maintain communication with stakeholders and provide necessary assistance and answer their enquiries to facilitate the smooth implementation of various restrictive covenants. For example, regarding the Split-ratio Covenant, in response to concerns and enquiries raised by the public and some Incorporated Owners (IOs) earlier, HA has contacted the management companies of the 23 Home Ownership Scheme courts again to reiterate HA's position on the subject matter. Background information has also been provided to the management companies and IOs for their reference.

6. The above measures of HA to ensure the continued application of the restrictive covenants are carried out by relevant sections of the Housing Department. HA will continue to monitor the implementation of various measures, and currently has no plans to set up a dedicated team to handle such measures.

**Transport and Housing Bureau
December 2018**