

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 Subcommittee on Issues Relating to Shopping Centres, Markets and Carparks in Public Rental Housing Estates and Home Ownership Scheme Estates (The Subcommittee) requested the Government in its letters dated 28 May and 8 June 2018 to respond to Hon AU Nok-hin's letter of 25 May 2018 and Hon Regina IP's letter of 6 June 2018 to the Subcommittee Chairman. The relevant information is now provided as follows.

Provision of documents

2. In response to member's request, we now provide the land leases, deeds of mutual covenants and the assignment deeds signed by the Hong Kong Housing Authority (HA) and the Link (now named Link) of 27 divested properties. These documents are only available in English. Electronic copies of these documents will be provided to the Secretariat in a CD-ROM.

Carparking facilities

3. As stated in a number of documents¹ submitted by the Government to the Subcommittee, as with all other private property owners, owners of divested properties need to comply with relevant legislations, land leases and relevant contracts. The Government cannot interfere with the owners' lawful right to use their land so long as the relevant legislations and conditions in the Government leases are complied with. Also, so long as the owners do not breach the restrictive covenants under the assignment deeds with HA, HA cannot interfere with their day-to-day operation and commercial decisions.

4. According to information provided by the Lands Department (LandsD), the land leases of the carparking facilities in the divested properties do not contain conditions restricting the divestment of the parking spaces. The owners concerned are not required to apply to LandsD should they wish to divest the parking spaces. However, land leases generally contain restrictions on the number of parking spaces to be provided in the lot, the types of vehicles that can be parked, etc.

¹ Including Legislative Council papers No. CB(4)801/17-18(01), CB(4)1128/17-18(03) and CB(4)1133/17-18(01).

5. In addition, the carparking facilities of some divested properties are subject to the restrictive covenants in the assignment deeds, stipulating that if HA owns all residential units in the relevant housing estates, the carparking facilities can only be sold as a whole and individual parking spaces cannot be sold separately. Even if the title of the relevant properties has been transferred, the relevant owners of the divested properties are still required to comply with the relevant restrictive covenants.

Enquiry about Tin Wan Estate

6. According to information provided by the LandsD, Condition No. 3.15(b) of the land lease governing Tin Wan Shopping Centre stipulates that the owner shall permit members of the public to gain access to the connecting footbridge via the lot covering the Shopping Centre during its opening hours. However, there is no other provision in the lease stipulating the opening hours of the Shopping Centre. Therefore, the earlier closure of the Shopping Centre as a result of works implementation, along with the closures of its internal accesses and the entrance to the connecting footbridge, is not in breach of the lease conditions.

7. In addition, according to Condition No. 3.15(f) of the land lease, the owner of Tin Wan Shopping Centre shall allow the Housing Manager (not specifically the Housing Department), or owners of Tin Wan Estate Phase 1 and their contract workers or persons authorised by them (not referring to the general public) to pass through the lot and the relevant footbridge for carrying out repair and maintenance works of the footbridge. Hence, the Condition neither provides the Housing Department with an overriding authority, nor requires the owner to provide a general right of way to the public.

Enquiry about Tin Ma Court

8. According to information provided by the LandsD, the land lease of New Kowloon Inland Lot No. 5994 stipulates that the Lessee shall “landscape and plant with trees and shrubs all un-developed portion or portions of the said piece or parcel of ground and will keep such portion or portions in a clean neat and tidy condition all to be done to the satisfaction of the Director (i.e. the Director of Lands)...”.

9. In mid-April this year, the District Lands Office/Kowloon East (DLO/KE) received a complaint about the poor tree condition at Tin Ma Court Commercial Centre. DLO/KE subsequently conducted a site inspection in late April and found withered branches in some trees on the rooftop of the Commercial Centre. On 4 May, DLO/KE wrote to the owner requesting for follow-up actions. DLO/KE will continue to monitor the situation and ensure

the implementation of improvement works by the owner.

Welfare-letting covenant

10. As stated in the documents² submitted by the Government to the Subcommittee earlier, the assignment deeds of some divested properties contain the welfare-letting covenant, requiring the owners to let certain designated commercial units at concessionary rent to the non-profit-making organisations nominated by the nominating authorities (including the Social Welfare Department (SWD), Education Bureau (EDB), etc.) for the operation of welfare, education and community facilities.

11. At present, there are about 170 premises subject to the relevant covenant. The number and locations of the premises subject to the welfare-letting covenant are set out in the assignment deeds of the relevant divested properties. HA cannot alter the content of assignment deeds unilaterally. The welfare-letting covenant does not contain a list of non-profit-making organisations that can operate in these units. The operating organisation of individual unit is nominated by the relevant nominating authorities.

12. HA will continue to liaise with the nominating authorities (including SWD, EDB, etc.) and provide assistance to the relevant authorities if necessary. HA will also issue letters to the owners of the divested properties concerned to remind them of the requirements under the welfare-letting covenant. If any breach of the various restrictive covenants is identified, the Housing Department will follow up and take appropriate actions, with a view to protecting HA's legal rights.

Transport and Housing Bureau July 2018

² Including Legislative Council papers No. CB(4)801/17-18(01) and CB(4)1128/17-18(03).