

(Translation)

香港特別行政區政府
The Government of the Hong Kong Special Administrative Region

運輸及房屋局

香港九龍何文田佛光街 33 號



Transport and Housing Bureau

33 Fat Kwong Street, Ho Man Tin,
Kowloon, Hong Kong

本局檔號 Our Ref. HD 4-2/PS1/1-55/1/4 (2017) XII

電話 Tel No. 2761 5049

來函檔號 Your Ref.

圖文傳真 Fax No. 2761 7445

10 October 2017

Mr Derek Lo
Clerk to Legislative Council Panel on Housing
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong

Dear Mr Lo,

**Legislative Council Panel on Housing
Supplementary Information**

Regarding the information requested by Members at the meetings on 5 June and 3 July 2017, and the special meeting on 11 July 2017; and the motions passed at the meetings on 5 June and 3 July 2017, I enclose the relevant information at **Annex** for Members' reference.

Yours sincerely,

(Original Signed)

(Jerry Cheung)

for Secretary for Transport and Housing

Legislative Council Panel on Housing
Supplementary Information

Purpose

Regarding the supplementary information requested by Members at the Panel on Housing (Panel) meetings on 5 June and 3 July 2017 and the special meeting on 11 July 2017; as well as the five and three motions¹ passed at the meetings on 5 June and 3 July respectively, after consulting relevant bureaux and departments, this paper provides the relevant response and information.

Letting of markets

2. The Hong Kong Housing Authority (HA) has adopted the single-operator letting arrangement for its markets since 1988, with a view to leveraging on the expertise and experience of the private sector, so as to provide better shopping options and service environment for residents. Meanwhile, HA has also implemented a series of measures to safeguard the interest of stall operators and monitor the performance of single-operators, in order to ensure the effective operation of the markets.

Letting criteria of Single Operator Markets (SOM)

3. Operators who are interested in leasing SOM shall register on the Client List for SOM (the Client List) and meet the relevant eligibility criteria. Such operators must be properly incorporated companies with limited liability under the laws of Hong Kong. Either the operators or their holdings, subsidiaries or associate companies must have engaged in the management of Chinese wet

¹ LC Paper Nos. CB(1)1086/16-17(01)-(05) and CB(1)1257/16-17(03)-(05).

markets/local supermarkets/groceries of specific parameters in the year before registration. The eligibility criteria for registration on the Client List have been uploaded onto the website of HA/the Housing Department (HD) for public access.

4. To ensure that the operators on the Client List continue to meet the eligibility criteria when tender for SOM is invited, HD will request such operators to provide the necessary documentary proof and information before arranging tender for SOM. If the operators fail to provide relevant documents or are found ineligible, they will not be invited to join the tender.

5. At the time of tender invitation, HD will invite operators on the Client List to tender for the leasing of SOM through restricted tender. HD adopts a system of combined scores when evaluating leasing proposals, which based on both the bidders' past performance in the management of markets, and the rent proposed; both factors carry equal weight. The operator with the highest combined score will be awarded the tenancy. In other words, selection is not merely based on the highest rent tendered.

Monitoring mechanism of SOM

6. HA has been reviewing the letting arrangement and monitoring measures for SOM from time to time. Prevailing measures serve to safeguard stall operators and monitor the single-operators, and in turn facilitate the effective implementation of SOM letting.

7. Regarding the safeguards for stall operators, HA restricts single-operators from charging stall operators any fees apart from rent, management fee, air-conditioning charge and rates. Besides, single-operators are required to grant licence-fee-free periods to stall operators, and submit to HA return that sets out all fees collected from stall operators. HA also restricts the amount of deposits and management fees etc. that single-operators can charge on stall operators. As for monitoring single-operators, relevant measures include regular inspections of markets, as well as assessing the performance of single-operators, regulating the

proportion among different trades, restricting the scale of direct operation by single-operators, requiring single-operators to carry out promotional activities and to publicise the letting of vacant stalls, etc. Details are set out at **Appendix**.

8. As mentioned above, HA already has measures in place to assess the performance of single-operators. According to the established mechanism, the estate management staff of HD inspect the markets from time to time to ensure that single-operators comply with the tenancy terms and maintain good quality management services; and assess the performance of single-operators every two months, taking into account the views of the relevant Estate Management Advisory Committees (EMACs), District Council (DC) members and local residents.

9. HD's estate management staff maintain close communication with EMACs, DC members and other stakeholders regarding the management of estates and the commercial and other facilities; and gather their views on SOM through day-to-day communication, and regular meetings with EMACs.

10. Having considered the views of stakeholders such as EMACs, HD's estate management staff will score the performance of single-operators in respect of compliance with tenancy terms, hygiene, security, repair and maintenance, management of passageway and relationship with stakeholders, etc. At present, the performances of single-operators of HA's six SOMs are generally satisfactory.

11. If single-operators fall short of the performance standards, HD's staff will provide them with feedbacks and requests for improvement. HD had issued 48 advisory/warning letters to single-operators in the past three years, which were mainly on issues relating to daily management such as environmental hygiene, obstructions, unauthorised alterations, rent default, etc.

12. If single-operators fail to improve and comply with the tenancy terms, HA has the authority to terminate the tenancies before expiry, as well as not to invite relevant single-operators to tender for the letting of HA's markets for a specified period of time.

Way forward

13. The Commercial Properties Committee (CPC) of HA deliberated on the policy of SOM letting at its meeting in March 2017. CPC considered that the current monitoring measures for SOM had struck a balance between the practical circumstances of commercial operations and shopping needs of residents. CPC understands public concern on the operation of HA's markets under single-operators, and has approved a series of improvement measures to strengthen the protection of stall operators and the monitoring of single-operators, in order to facilitate the more effective implementation of SOM letting. HA will carefully review Members' views and recommendations conveyed at the Panel meeting on 5 June 2017. HA's Committee will continue to deliberate and consider views on the subject matter. The SOM letting arrangement will be under review by HA from time to time.

Tenancy control

14. As the Government has explained on different occasions, tenancy control is highly controversial and consensus has not yet been reached in the community over this issue. The Government has conducted a detailed study in Hong Kong's past experience and overseas experience in implementing tenancy control, as well as briefed the Panel and listened to public views in July 2014². After extensive public consultation, the Government elaborated its views on tenancy control in the Long Term Housing Strategy (LTHS) (paragraphs 6.15-6.18) promulgated in end-2014.

15. Empirical findings, both local and overseas, suggest that tenancy control measures often lead to an array of unintended consequences, including those detrimental to the tenants whom the measures seek to assist. These unintended consequences include reducing supply of rented accommodation; encouraging landlords to be more selective about their tenants, thereby limiting access to

² LC Paper No. CB(1)1709/13-14(01).

adequate housing by those with unstable financial means, ethnic minorities, persons with disabilities, and other socially disadvantaged groups; encouraging certain behaviour from landlords to offset the impact of the tenancy control measures (including increasing initial rent and requiring tenants to pay excessive miscellaneous charges); and discouraging proper maintenance of rented accommodation by landlords.

16. There are views suggesting the Government to implement tenancy control only on units with an annual rateable value of less than \$60,000. As stated in the Government's paper submitted to the Panel in July 2014², as seen from the tenancy control experience of some overseas economies, if tenancy control is imposed only on a particular market sector (often on lower-end residential properties), there may be inadvertent spillover effects on the uncontrolled sector. For example, as some tenants will not be able to rent flats in the controlled sector, they may be forced to seek accommodation in the uncontrolled sector, hence pushing up the rent level of the latter. Besides, some overseas experience suggests that tenancy control has failed to address the housing needs of the grassroots with precision, since control measures often target at specific classes of premises instead of particular groups of households. For instance, with the implementation of tenancy control, a prospective tenant may only secure a tenancy if he has acquired insider information, which will not be easily accessible by the socially disadvantaged.

17. Weighing the pros and cons, the Government is of the view that introducing tenancy control in haste amid the current tight housing supply will not be in the interest of the grassroots and the general public, considering the potential adverse consequences associated with tenancy control which render such control counterproductive. Thus, the Government does not have any current plan to review the Landlord and Tenant (Consolidation) Ordinance (the LTO) (Cap. 7).

18. Regarding tenancy arrangements, the LTO deals with matters relating to the rights and obligations of landlords and tenants. LTO does not regulate the level of charges agreed between landlords and tenants. Before entering into a tenancy agreement, landlords and tenants should agree on the terms and conditions,

including the level and basis for calculating rents and other charges (e.g. water and electricity charges). Once the tenancy agreement is entered into, both parties are required to abide by the relevant terms and conditions. As for charges outside the scope of the written tenancy agreement, landlords and tenants should discuss and negotiate for an arrangement based on any previous agreement, including oral agreement. Tenants in need may use the free tenancy advisory services provided by the Rating and Valuation Department (RVD). RVD also provides free mediatory service subject to the agreement of both the landlord and the tenant.

19. To help landlords and tenants better understand the various matters that they should pay attention to when entering into tenancy agreements, the Estate Agents Authority (EAA) has published two pamphlets named “Notes on Signing a Tenancy Agreement” and “A Guide To Tenancy”. The content of the pamphlets includes the importance of a tenancy agreement; the terms that should be included in it (e.g. information about the rental property, restrictions on use, lease term, rent, deposit, general obligations, subletting and alterations, etc.); the rights and obligations of landlords and tenants before and after signing the tenancy agreement; and the items that estate agency practitioners should note during the processing of rental matters. The aforementioned pamphlets can be obtained from the EAA office, or downloaded from EAA’s website. The Government will continue to work with EAA and other relevant organisations to enhance public education efforts and promote good tenancy practices.

Handling the overcharging of water and electricity charges in subdivided units (SDUs)

20. The arrangement for landlords collecting water and electricity charges from SDU tenants involves an array of issues (such as electricity, building structures, tenancy arrangements between landlords and tenants, etc.) Regarding this, relevant Government departments and the two power companies have implemented measures to assist the households in need.

Electricity tariffs

21. Regarding electricity tariffs, the two power companies implement a progressive tariff structure that applies to all residential customers. Concerning SDUs, as multiple tenants are sharing a single residential flat with a single electricity account and meter, the total electricity consumption of such flat may be higher than that of an ordinary residential flat, thus the net tariff will be higher than average.

22. To assist SDU households in need, the CLP Power Hong Kong Limited (CLP) has been working with social welfare organisations, green groups and electrical and mechanical trade unions since 2014 to explore ways to install individual meters at no cost for SDU households who have obtained landlords' consent and met relevant standards. The Hongkong Electric Company, Limited has also explored ways to install individual meters for households living in SDUs.

23. If a SDU household wishes to apply for electricity supply and install an individual meter, they have to obtain prior consent from the landlord and the building management. Besides, the unit concerned must also comply with relevant prerequisites and safety standards. For example, the unit should have an individual door, and the electrical installations as well as other facilities should comply with the safety requirements in the Electricity Ordinance (Cap. 406) and the Supply Rules of the power companies. In addition, the meter must be connected to the riser which supplies electricity in the building, and installed in the building's common areas, to facilitate meter reading by the staff of the power companies. As the situation of individual SDUs differs in terms of their condition, physical constraint and safety concern, there is no predefined yardstick on whether the installation of individual meter for a particular SDU complies with the relevant requirements.

24. Meanwhile, the two power companies have run various concessionary schemes, such as the offering of concessionary tariffs to persons in need (such as

elderly and persons with disabilities), with a view to reducing their electricity expenses. CLP has been carrying out the “Power Your Love Programme” annually since 2015 to encourage customers to save energy and donate electricity saved to the needy, including SDU households in need, to reduce their electricity expenses.

Water charges

25. Regarding water charges, if the relevant SDUs have a proper postal address to ensure that letters from Water Supplies Department (WSD), such as notices and water bills, can be posted to the occupier, the relevant household may apply to WSD for an individual water meter. WSD will follow its established procedures to handle water meter applications, and will take into account the following factors –

- (a) whether the premises have independent passage for the Water Authority to access without passing through any area occupied by others, to ensure that the Water Authority can enter the premises directly for inspection or to carry out other duties in case the inside service has problems;
- (b) whether the premises have a proper drainage system to ensure that no flooding will occur in case of inside service fault; and
- (c) whether the application complies with the requirements under the Waterworks Ordinance. For example, the applicant is required to accept responsibility for the custody of water meter and the maintenance of the inside service, and submit a plumbing proposal. The design and construction of the inside service should also meet the requirements of the Water Authority.

26. The relevant Government departments and the two power companies will continue to maintain close communication, with a view to exploring ways to provide appropriate assistance for households living in SDUs. The Government

has no current plan to set up an inter-departmental task force to handle matters in this regard.

Providing rent subsidies to public rental housing (PRH) applicants waited for more than three years

27. As explained various times in the past, in the midst of tight housing supply, if the Government provides tenants of private accommodations (including PRH applicants) with any form of rent subsidy, landlords may increase the rent accordingly, thereby turning the rent subsidy into additional rent, leaving the tenants with no effective assistance. Increasing housing supply continuously remains to be the fundamental solution to the problem of surging rent caused by the housing supply-demand imbalance.

28. Regarding PRH allocation, PRH applicants may apply for the Express Flat Allocation Scheme for a greater chance of early allocation of PRH units. Besides, for those who have imminent long-term housing needs on medical and social grounds but no other feasible means to solve their housing problems, they can approach the Social Welfare Department (SWD) for relevant welfare services or assistance. SWD will assess each case and recommend eligible cases to HD for the application for Compassionate Rehousing for early allocation of PRH units.

Introduction of vacancy tax

29. There are views suggesting the introduction of a vacancy tax. However, the current vacancy rate of private residential flats in Hong Kong is low, and the idling of private residential flats is not significant. According to RVD's statistics, the vacancy rate of private residential flats has dropped from 4.3% as at end-2012 to 3.8% as at end-2016, which is substantially lower than the long term average vacancy rate of 5% from 1996 to 2015.

30. In fact, it is inevitable to leave properties vacant for a period of time when landlords search for buyers or tenants, negotiate for price, or refurbish the properties. This is an inevitable market phenomenon. The length of such vacancy period depends on various factors such as overall market conditions or the attractiveness of individual properties. The Government will continue to closely monitor the property market.

Former PRH sites

31. Regarding the enquiry about the sites of the former North Point Estate, Wong Chuk Hang Estate and Valley Road Estate, in general, when the Government decides to use sites returned from HA for other uses, the Government would take into account various factors, including the local environment, planning parameters, technical feasibility, housing mix, provision of government, institution or community facilities and open space, other social needs, as well as the prevailing policy when the relevant site was returned, etc. The three sites were allocated for commercial, hotel, private residential development, and other uses (such as railway stations and university dormitories, etc.) HA has rehoused some 5 900, 15 200 and 6 300 persons³ during the redevelopment of these former PRH sites. We do not have statistics on the number of residents living in these sites after redevelopment. In fact, given that the redeveloped sites were not solely allocated for residential developments, it would be impracticable to evaluate the benefits derived from the concerned redevelopment programmes to the society as a whole by solely evaluating the change in number of residents before and after the redevelopment.

32. In view of the keen demand for public housing, HA does not have any current plan to return former PRH sites to the Government for private development. HA and relevant Government departments will continue to work closely with one another, endeavour to identify suitable sites for public housing development, and

³ Wong Chuk Hang Estate and Valley Road Estate were phased redevelopment. The above-mentioned numbers of persons rehoused are the sum of persons rehoused of all phases.

examine ways to better utilise sites identified, in order to achieve the rolling ten-year housing supply target under the LTHS.

Constructing public housing on the urban sites of the Urban Renewal Authority

33. Regarding the suggestion of inviting the Urban Renewal Authority to construct public housing on their urban sites, the redevelopment projects commenced by the Urban Renewal Authority in the past involved residential units in the private property market, but not public housing. Hence, the units provided after the completion of the redevelopment projects should remain private residential units, in order to replenish the number of residential units in the private property market and thereby maintaining the balance between public and private housing supply.

Interim Housing (IH)

34. According to the Government's prevailing policy, all SDU households affected by the Government's enforcement actions are required to find their own accommodation. If households are relocated due to enforcement actions of the Buildings Department (BD), BD will closely liaise with SWD, Home Affairs Department and HD to provide appropriate assistance for those affected.

35. To ensure that no one will be rendered homeless as a result of the Government's enforcement actions, households affected by the enforcement actions (such as demolition of unauthorised structures, and eviction action for recovering private premises by Bailiff under court order) and have temporary accommodation need may, through referral of relevant Government departments, be accommodated temporarily in the Po Tin Transit Centre (TC) in Tuen Mun. The households should look for alternative accommodation or wait for the eligibility vetting for further rehousing during such period.

36. PRH and IH are both scarce housing resources. The Government must be cautious to ensure that such valuable resources are used on persons in need. Households should stay in TC for three months and pass the “homeless test” to prove that they do not have other accommodation to reside; and fulfill the eligibility criteria for PRH, including income limit, asset limit and the “no domestic property” requirement. HD will then arrange for their admission to the Po Tin IH⁴, while awaiting PRH allocation through PRH application.

37. Admitting affected illegal SDU households to IH directly without passing HD’s eligibility vetting would be unfair to the many eligible PRH applicants who have been waiting for a long time, and those who are currently staying in TC and undergoing the “homeless test”. It will also convey a wrong message to the society that living in illegal SDUs is a shortcut for admission to IH and even PRH, which might induce more households to live in illegal SDUs, thus worsening the problem and resulting in safety risk to both the public and the households. It will also encourage property owners to convert their properties into illegal SDUs for rental purpose and raise the rent of such units, in order to earn higher monetary gain.

Po Tin TC

38. Po Tin TC is equipped with bunk beds, individual lockers, as well as shared kitchens, toilets, and shower areas, etc., and can be used by male and female singletons and families as temporary accommodation. HA attaches importance to the management and maintenance of the TC, and the Property Services Contractor will conduct daily inspection of the facilities and provide regular cleansing to the TC. HD will also inspect the TC every month to ensure that the Property

⁴ Shek Lei IH has limited units. It also has to retain sufficient units for temporary stay by persons rendered homeless due to emergencies. Therefore, except those who are under very exceptional circumstances (such as on medical or social grounds) and are recommended by the SWD, households eligible to stay in IH will only be admitted to the Po Tin IH.

Services Contractor has performed their duty. HA will repair or replace facilities inside the TC based on the actual circumstances and the consideration of using public resources properly.

Public Works Programme No. B446RO – District open space (DOS) adjoining San Po Kong public housing development

Revised proposal

39. In response to Members' views, we propose the following revisions and will submit relevant information to the Public Works Subcommittee (PWSC) of the Legislative Council -

- (a) relocating the pet corner to a location near the major pedestrian access to improve its accessibility; also, the area of the pet corner will be increased from about 80 m² in the original proposal to about 130m²;
- (b) revising the layout of the car park near the Kai Tak East Sports Centre to provide five additional car parking spaces as compared with the original proposal; the DOS will provide 20 car parking spaces; and
- (c) allowing one of the basketball courts to also be used for cricket activities.

Completion date of the project

40. To ensure timely completion of the project, we will expedite the relevant administrative procedures of the procurement process, and endeavour to complete necessary preparation works in good time, including detailed design and tender documents, to ensure a smooth and efficient procurement process. Also, the Civil Engineering and Development Department is carrying out extensive infrastructure works in the surrounding area of the DOS. We will continue to maintain close communication with the Civil Engineering and Development Department, and

follow up on the works and programme coordination, so as to minimise the risk of delay.

Traffic impact

41. The proposed works are not expected to cause any significant traffic impact. Throughout the construction, the contractors, Government departments and other stakeholders will maintain necessary communication through the Traffic Management Liaison Group, to minimise traffic impact on nearby community.

42. Besides, relevant Government departments are carrying out road improvement works in the San Po Kong district according to recommendations of the traffic reviews for Kai Tak Development and King Tai Court. It is expected that such works will improve the traffic condition of San Po Kong upon completion.

Transport and Housing Bureau
October 2017

Monitoring Measures of SOM

For the Safeguards for Stall Operators –

1. Standard licence-fee-free period

Single-operators are required to grant licence-fee-free period to stall operators. For licence term from 3 months to less than 12 months, a licence-fee-free period of not less than 14 days should be granted. If the licence term is 12 months or more, a licence-fee-free period of not less than one month should be granted.

2. Amount of deposits to be collected from stall operators

Single-operators are allowed to collect a deposit amount of not more than two months' licence fees from their stall operators. This is in line with the arrangement for stall operators of market stalls managed by the Hong Kong Housing Authority (HA).

3. Amount of management fees

The amount of management fees to be charged (on a per square metre internal floor area (IFA) basis) upon initial letting and commencement of operation will be capped by the prevailing average management fees charged by the existing single-operators of HA's markets. The current average management fee is \$267 per square metre per month. Single-operators are only allowed to adjust the management fee once a year and the annual adjustments should accord with the Nominal Wage Index published by the Census and Statistics Department.

4. Amount of air-conditioning charges and rates

The air-conditioning charges and rates collected by single-operators should not exceed those payable to HA and the Rating and Valuation Department. Should the Government give any rates concession, single-operators are required to refund the full amount of concession to stall operators.

5. Standard terms under the licence between single-operators and stall operators

Apart from licence fees, air-conditioning charges, rates and management fees, single-operators are not allowed to collect other fees from stall operators. For clarity, single-operators are required to separately list out each of the four permitted items of charges and must not include any other item of charges in the licences signed with the stall operators to avoid any disputes. Single-operators are also required to specify the licence fee free period and the amount of deposit to be collected from stall operators in the licence agreement.

For the Monitoring of Single-operator –

1. Single-operators must ensure that the premises are operated as a traditional market. Operating as supermarkets is explicitly prohibited.
2. Single-operators must provide a certain proportion of food to miscellaneous trades. The prevailing proportion of food to miscellaneous trades is about 70% to 30%.
3. Single-operators are required to submit a monthly return to the Housing Department (HD) setting out all fees collected from stall operators. HD will carry out regular checking and monitoring.
4. Tender invitation and assessment with reference to past performance evaluation

HD will assess the performance of single-operators once every two months. For renewal of tenancies, the single-operators must have achieved an average performance score of at least 60% over the last twelve months. For new lettings, those single-operators managing HA's markets with average performance scores less than 60% over the past six months will not be invited to participate in the tender exercise.

5. Direct operation of stalls by single-operators

The scale of direct operation by single-operators is restricted to an area of not more than 20% of the total IFA of the relevant market stall.

6. Promotion fee

Single-operators must provide documentary proof certified by qualified accountants to substantiate that the annual expenditure on promotion is not less than 2% of their annual rent payable to HA.

7. Enhancing the transparency on letting of market stalls

Single-operators are required to publicise the availability of vacant market stalls to be let by, for example, placing newspaper advertisements, issue of public notices, etc.

8. Maintaining communication with single-operators and stakeholders

Estate management staff arranges regular meetings with single-operators regarding the daily management of the markets and their performance to enhance communication. Single-operators are also required to liaise closely with other stakeholders such as stall operators and local personalities with regard to the management issues and promotional programme, etc. of the market. Single-operators may also be invited to attend meetings convened by EMACs or local DC members as necessary, to gather their views on issues such as market operation and service improvement.

- End -