

**立法會**  
**Legislative Council**

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**Panel on Housing**

**Meeting on 1 April 2019**

**Background brief prepared by the Legislative Council Secretariat on  
Link Real Estate Investment Trust's disposal of properties divested by  
the Hong Kong Housing Authority**

**Purpose**

This paper provides background information on Link Real Estate Investment Trust's disposal of properties divested by the Hong Kong Housing Authority ("HA").

**Background**

Divestment of retail and carparking facilities by Hong Kong Housing Authority

2. In 2005, HA divested 180 non-domestic properties, including retail and carparking facilities, through The Link Real Estate Investment Trust (now known as Link Real Estate Investment Trust ("Link")).
3. According to the Administration, the objective of the divestment in 2005 was to enable HA to focus on its core function of providing subsidized public housing and improve HA's financial position in the short-to-medium term with proceeds from divestment. Also, the efficiency of the commercial facilities would be enhanced under the operation of a private entity in accordance with commercial principles.

#### Land leases conditions for divested properties

4. According to the Administration, the land lease conditions for the divested properties vary. In general, they do not restrict the disposal of individual shopping unit or carparking space, but, in most cases, would specify the land uses of the lots, including requirements that certain floor areas shall be used for the provision of designated facilities. Current and subsequent owners, who purchase these properties later, are all obliged to comply with these lease conditions. Owners who wish to change the land uses must submit applications to the Lands Department ("LandsD"). LandsD will conduct inspections and take follow-up actions for complaints. Appropriate actions will be taken if breaches of the lease conditions are confirmed.

#### Assignment deeds of divested properties

5. Depending on individual circumstances, the assignment deeds of divested properties between HA and Link contain certain restrictive covenants which require that commercial and carparking facilities shall not be disposed of individually by the owners under specific circumstances. Some properties are also subject to the welfare-letting covenant, which requires the owners to lease certain specific units to non-profit making organizations nominated by the Social Welfare Department, the Education Bureau, etc. at concessionary rent as stipulated by HA for the provision of services. Owners shall also ensure that the restrictive covenants are incorporated in the relevant legal documents, such as assignment deeds, etc., in the event of further disposal of these divested properties. As in any property transactions, both the purchaser and vendor are obliged to clarify the rights and obligations associated with the property.

#### Link's disposal of divested properties

6. Link has since 2014 sold 45<sup>1</sup> of the 180 HA's divested properties to other owners. On 12 December 2018, Link announced the disposal of another 12 properties<sup>2</sup>. According to the Administration, as long as the relevant statutory requirements and land lease conditions are complied with, the Government cannot interfere with the owners' lawful right to use their properties. Likewise, as long as owners concerned do not breach the

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<sup>1</sup> See LC Paper No. [CB\(4\)811/17-18\(02\)](#) issued on 23 March 2018 for names of the 45 properties, two of which, i.e. On Ting Commercial Complex and Yau Oi Commercial Complex in Tuen Mun, have been regarded by Link as one property named as H.A.N.D.S.

<sup>2</sup> Press release by Link (<https://www.linkreit.com/en/media/news/42?year=2018>)

aforementioned covenants with HA, HA cannot and will not interfere with their day-to-day operation and commercial decisions, including disposal of properties, leasing arrangements, etc. However, if an owner concerned is in breach of any laws, land lease conditions or covenants with HA, the relevant Government departments and HA will take appropriate actions and hold the owners accountable.

### **Deliberations of the Panel on Housing and the relevant policy subcommittee**

7. The Panel on Housing ("the Panel") has been closely following up Link's management of the facilities divested by HA, particularly regarding matters relating to people's livelihood and services that residents could use in the communities concerned.

8. Members discussed Link's announcement to put up five divested retail facilities for private tender at the Panel meeting on 3 June 2014. Members were gravely concerned that this marked the beginning of Link's work to get rid of unprofitable business. The new owners might also increase the rents of the retail facilities and the burden would be passed on to the public housing residents. There was also a concern that the properties might be converted to other uses, hence depriving the residents of access to convenient retail facilities. Members criticized the Administration for not preventing Link from disposing of the divested facilities, and urged the Administration to conduct a comprehensive assessment on the divested retail and car-parking facilities, such as the changes in their rental level, and take remedial actions.

9. The Panel discussed Link's plan to convert Tin Yiu Market into a shopping complex at its meeting on 7 December 2015. Members criticized Link for failing to consult the Government on its conversion plan which would seriously affect the market service currently available to the residents of Tin Yiu Estate. Members also expressed dissatisfaction over HA's failure to honour its undertaking made during the divestment exercise to take measures to regulate the continued provision of services to residents.

10. The Administration advised that in July 2005, the Court of Final Appeal affirmed that the divestment by HA of its retail and car-parking facilities was consistent with HA's object "to secure the provision of housing and such amenities ancillary thereto as the Authority thinks fit" as laid down in section 4(1) of the Housing Ordinance (Cap. 283). Even though the provision of retail and car-parking facilities might be considered by HA as necessary, the facilities could be provided by a third party over whom HA did not have control. As a private entity, Link had sole discretion on how it should respond to market demand.

11. The Panel passed two motions at the meeting on 7 December 2015 opposing Link's closure of Tin Yiu Market without consulting the residents, and requesting HD to increase the number of commercial units in Tin Yiu Estate and consider the use of temporary stalls to provide services to residents.

12. On 10 May 2016, the Panel discussed the incident regarding non-profit-making organizations operating at premises subject to Welfare Letting Covenant ("the Covenant") in Kwong Tin Estate and Choi Ha Estate being asked to pay management fee. Members expressed concern that with Link kept disposing of its retail facilities divested by HA, similar incidents concerning non-profit-making organizations being imposed additional charges might happen again. They sought clarification on whether new owners of facilities sold by Link could charge fees other than the Concessionary Rent from non-profit-making organizations nominated by the Nominating Authorities.

13. The Administration pointed out that the assignment deeds signed between HA and The Link Properties Limited for the divested commercial facilities contained certain restrictive covenants, including the Covenant. The Covenant required that the owners of the facilities concerned, including The Link Properties Limited and any successors in title, should let out certain designated commercial units at certain rent levels to non-profit-making organizations nominated by the Nominating Authorities. Following the disposal of the commercial facilities concerned by Link, HD issued letters to the new owners of the welfare premises in Choi Ha Estate and Kwong Tin Estate to set out the requirements of the Covenant and requested their compliance. HD would continue to monitor compliance with the requirements of the Covenant, and would take appropriate action in the event of non-compliance.

14. The Subcommittee on Issues Relating to Shopping Centres, Markets and Carparks in Public Rental Housing Estates and Home Ownership Scheme Estates formed under the House Committee commenced its work in January 2018. In its deliberations, the Subcommittee has expressed views and concerns about the impacts of Link's disposal of divested properties on public housing residents and tenants of divested retail facilities, and made a number of recommendations on measures to regulate these divested facilities to ensure the continued provision of suitable and adequate facilities to residents. Members may refer to the Subcommittee's report submitted to the House Committee in January 2019 (LC Paper No. [CB\(4\)377/18-19](#)) for details.

### **Council questions**

15. At the Council meetings on 6 December 2017, 17 January 2018 and 16 May 2018, Hon Jeremy TAM Man-ho, Hon Alice MAK Mei-kuen and Hon Mrs Regina IP LAU Suk-ye raised questions on the provision of amenities ancillary to housing in public rental housing estates where the commercial facilities had been divested by Link. The Members' questions and the Administration's replies are hyperlinked in the **Appendix**.

### **Latest development**

16. Hon Andrew WAN Siu-kin wrote to the Panel Chairman on 3 December 2018 requesting that a special meeting cum public hearing be held to discuss Link's disposal of its properties in public housing. At the Panel's meeting on 5 March 2019, members agreed to the suggestion of Hon Mrs Regina IP LAU Suk-ye that the Panel should discuss with the Administration and receive public views on the subject matter at a meeting. The meeting will be held on 1 April 2019.

### **Relevant papers**

17. A list of relevant papers is set out in the **Appendix**.

Council Business Division 1  
Legislative Council Secretariat  
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## Appendix

### Link Real Estate Investment Trust's disposal of properties divested by the Hong Kong Housing Authority

#### List of relevant papers

<b>Council/ Committee</b>	<b>Date of meeting</b>	<b>Papers</b>
Council	6 December 2017	<a href="#">Council question</a> on the duty of the Hong Kong Housing Authority to secure the provision of amenities ancillary to housing
Council	17 January 2018	<a href="#">Council question</a> on commercial facilities divested by the Hong Kong Housing Authority
Council	16 May 2018	<a href="#">Council question</a> on securing the provision of amenities ancillary to housing
Panel on Housing	3 June 2014	Minutes of meeting (LC Paper No. <a href="#">CB(1)192/14-15</a> )
Panel on Housing	7 December 2015	Minutes of meeting (LC Paper No. <a href="#">CB(1)492/15-16</a> )
Panel on Housing	10 May 2016	Minutes of meeting (LC Paper No. <a href="#">CB(1)1060/15-16</a> )
Subcommittee on Issues Relating to Shopping Centres, Markets and Carparks in Public Rental Housing Estates and Home Ownership Scheme Estates	-	The Subcommittee's Report (LC Paper No. <a href="#">CB(4)377/18-19</a> )