

(Translation)

香港特別行政區政府
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3 September 2019

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

Dear Mr LO,

**Legislative Council Panel on Housing
Meeting on 3 June 2019
Supplementary Information**

Thank you for your email dated 5 June 2019. I write in response to the request for supplementary information raised in a letter dated 31 May 2019 from the Hon SHIU Ka-chun to the Chairman of the Legislative Council Panel on Housing, arising from the agenda item V, Regulation of Commercial Facilities in Public and Subsidized Housing (Legislative Provisions) Bill, of the meeting of the Legislative Council Panel on Housing (the Panel) on 3 June 2019. A consolidated reply to the questions raised in the letter is as follows.

2. As provided by the Government in the paper entitled “Preliminary Views of the Government on Legislating for the Regulation of Facilities Divested by the Hong Kong Housing Authority”¹ to the Panel before the captioned meeting and in the paper

¹ LC Paper No. CB(1)1104/18-19(04)

entitled “Policies on and Regulation of Divested Properties”² to the Panel in March 2019, the Hong Kong Housing Authority (HA) divested 180 properties in 2005, including retail and carparking facilities, in order to focus on its core function of providing subsidised public housing and improve its financial position in the short-to-medium term with proceeds from divestment. It was considered that the efficiency of the commercial facilities would also be enhanced under the operation of a private entity in accordance with commercial principles.

3. Like other private property owners, owners of divested properties are governed by laws, land lease conditions and Deeds of Mutual Covenant (DMC). The Government cannot interfere with the lawful right of the divested property owners to use their properties, including their commercial decision to let or not to let their properties to chain retailers, so long as the legal requirements and land lease conditions are complied with. However, if the owner concerned is in breach of any laws or any land lease conditions, the relevant government departments will certainly pursue the matter seriously and take appropriate actions. As for HA, provided that the owner concerned does not contravene the relevant restrictive covenants with HA in the assignment deeds, HA has no legal basis and will not interfere with the day-to-day operations and commercial decisions of the owner. If the owner is in breach of the restrictive covenants, HA will pursue the matter seriously and take actions.

4. The assignment deeds of some divested properties contain Welfare-letting Covenant which requires the owners to let certain designated commercial units at concessionary rents to non-profit-making organisations nominated by nominating authorities (including the Social Welfare Department, Education Bureau and other government departments, entities and organisations as notified by HA to the owners from time to time) for the operation of welfare, education and community facilities. As mentioned in paragraph 11 of the Supplementary Information submitted to the Panel by the Government in May 2019, there are a total of about 170 premises in the divested properties that are subject to the Welfare-letting Covenant. The number and locations of these premises are stipulated in the assignment deeds of the relevant properties. HA cannot unilaterally change the content in the deeds.

5. Given that the ownership of the divested properties does not rest with the Government and HA, and the owners of the divested properties have no legal obligation to disclose details of their operations (including the tenant trade mix and letting arrangements of their shopping centres) to the Government and HA, the

² LC Paper No.CB(1)771/18-19(05)

Government and HA do not have relevant information on the number of chain retailers and non-chain retailers in the divested properties. Regarding the fourth enquiry in the letter, as mentioned above, provided that the owner concerned does not contravene the relevant restrictive covenants with HA in the assignment deeds, HA has no legal basis and will not interfere with the day-to-day operations and commercial decisions of the owner.

6. As regards the management and maintenance of common areas in housing estates/courts containing divested properties, HA, as one of the owners of these housing estates, has been maintaining communication with other owners on the day-to-day management of these estates in order to provide residents with suitable facilities and services, including the management and maintenance of recreational facilities. In addition, HA serves as the DMC manager in about half of the housing developments containing divested properties. As the DMC manager, HA will continue to manage the common areas of the concerned projects in accordance with the authority and responsibility vested in the manager by the DMC. The DMC manager will also enforce the provisions of the DMC and urge all owners to comply with the DMC, including the requirements to comply with the relevant land leases.

Yours sincerely,

(Original Signed)

(Ms Jenny Y H CHAN)

for Secretary for Transport and Housing