

Doc Type	CPPO
Paper No	6/94
Title	Existing Restrictions on Property Ownership by Public Housing Applicants and Tenants
CONTENTS	<p>CPPO 6/94</p> <p>THE HONG KONG HOUSING AUTHORITY</p> <p>Memorandum for the Ad Hoc Committee on Private Domestic Property Ownership by Public Rental Housing Tenants</p> <p>Existing Restrictions on Property Ownership by Public Housing Applicants and Tenants</p> <p>PURPOSE</p> <p>This paper gives information on the existing restrictions on private property ownership by housing applicants and sitting tenants of the Authority's rental estates and Home Ownership Scheme (HOS) flats.</p> <p>RESTRICTIONS FOR HOUSING APPLICANTS</p> <p>2. Under existing policies, a person applying for the Authority's rental or HOS flats must not own any domestic properties 24 months prior to the date of his application [Note]. At the time when an applicant registers his application with the Department, he will be required to declare, by using the form at Annex A, whether he or any of his family members included in the application owns the following types of property in the 24-month restriction period -</p> <p>(a) post-war domestic property(including Home Ownership flats); and</p> <p>(b) uncontrolled or self-occupied pre-war domestic property.</p> <p>[Note : According to Section 2 of the Housing Ordinance, "owner" means : (a) a person who for the time being appears from the record of the Land Registry to be the owner of an undivided share in land; and (b) a registered mortgagee in possession of such undivided share in land.]</p> <p>The applicant is also required to declare whether, in the 24 months prior to the application, he has entered into any agreement to purchase, or to dispose of any of the properties as mentioned above.</p> <p>3. Apart from the above, the Authority also seeks to restrict owners of structures on agricultural or private land where the use of the land has been changed to residential use. Applicants possessing Small House Grants are also regarded as possessing domestic properties and are therefore debarred from application for public housing. Apart from these, owners of permanent structures on rooftops, who have registered their titles with the Land Registry are also regarded as owning private properties, although they can apply to reinstate their eligibility in cases where the Buildings Department orders to demolish their structures. A person will be disqualified from application for public housing if he owns a share in a domestic properties as mentioned above. The relevant guidelines for use by the Housing Applications Section are given at Annex B.</p> <p>4. During vetting interviews, housing staff will also request the applicant to declare again whether he owns any property 24 months prior to the registration date up to the date of the interview. The relevant declaration form is at Annex C. The applicant is subject to the same non-property ownership restriction until the time he is successfully rehoused to public housing.</p> <p>5. Details with regard to the dates from which the 24- month property restriction will apply to different categories of housing applicants are set out below -</p> <p>-----</p> <p>24-month restriction period Category of Applicants to be applied prior to</p> <p>-----</p> <p>Waiting List applicants Date of registration of application</p>

Squatter and THA clearees applying for rental flats; no restriction if applying for HOS flats using "Ordinary Green" status

Applicants under Civil Closing date of application Service quota (applicants who are due to retire in or before 1995/96 will be subject to six-month restriction only prior to closing date of application)

Applicants under THA Closing date of application Trawling exercise

Applicants under the Restriction at the time of Compassionate Rehousing investigation only quota

RESTRICTIONS FOR SITTING TENANTS

6. Under existing policies, there is nothing to debar a tenant from owning private property upon taking up a tenancy in public housing. A property-owning tenant in rental estate can apply for a HOS flat using Ordinary Green (i.e. ordinary priority) form; he will be accorded with the first priority in HOS application if the housing block in which he lives is formally announced for redevelopment in the coming 18 to 24 months. Apart from these, a property-owning tenant, like any other tenants, is fully eligible for inheriting the tenancy on the death of the principal tenant, although in such cases, the rental income generated from the self-owned property will be taken into account in determining the rent to be paid.

7. The only restriction on account of property ownership for sitting tenants applies when the tenant wishes to obtain another public housing flat for relief of overcrowding, or apply for voluntary transfer on medical, social or other reasons. Under such circumstances, a property-owning tenant will be regarded as having the means to resolve his own housing problem, and will therefore be ineligible for such an application.

EXISTING SCOPE OF RESTRICTION

8. It is worth noting that under the existing policies, the scope of the Authority's restriction is confined to registrable immovable properties for domestic use in Hong Kong. The Authority does not seek to impose restriction on properties for other use, such as commercial or industrial properties, or properties outside Hong Kong, such as Mainland China or other countries. As the Authority's responsibility lies with housing but not other assets, it does not seek to restrict persons on the grounds that they own assets other than realty, such as stocks, shares, gold and vehicles, although sitting tenants who are due for income re-assessment under the Housing Subsidy Policy are required to declare the income generated from their assets such as landed properties and commercial vehicles (see the Income Declaration Form at Annex D).

COMMUNICATION WITH APPLICANTS AND TENANTS ON EXISTING RESTRICTIONS

9. The requirement to declare property ownership is spelt out in the housing application form as well as communicated to the applicant during the vetting interview. In the housing application form, it is also stipulated that under Section 26(1) of the Housing Ordinance, any person who knowingly makes any false statement in respect of an application for a lease shall be guilty of an offence and shall be liable on conviction to a fine of \$20,000 and to imprisonment for six months.

NEED FOR REVIEW

10. In the past when the question of property ownership restriction was discussed, the Authority came across many different views as regards the adequacy of the existing system. Some felt that the 24-month restriction period was still too lenient for property-owners and was unfair to non-owners in genuine need of public housing. Some believed that the existing restrictions were too lopsided towards new applicants while there was hardly any restriction on persons upon taking up tenancies in public housing.

11. Apart from the above, it must be recognised that there are areas which present themselves as loopholes for persons who have the means to take care of their housing need to benefit from subsidised housing. For example, the present policies do not seek to restrict the sole proprietors of limited companies formed for the purchase of private domestic flats. Also the existing policies do not seek to stratify the treatment to be given to property-owners in accordance with the number of properties owned and value of such properties. References to the Interpretation and General Clauses Ordinance and Inland Revenue Ordinance (extract at Annex E) point to a wider definition of "property" and "owner", which may provide some food for thought when the Committee considers questions relating to property ownership in the course of its deliberations.

12. As proposed in the work plan in paper CPPPO 2/94, ways to deal with sitting tenants having private properties will be further examined at the next two meetings. A detailed review of the existing restrictions as regards new applicants will be conducted at the fourth meeting, after Members have examined various aspects concerning property ownership.

DISCUSSION

13. This paper is presented to Members for information and discussion at the Ad Hoc Committee meeting on 8 October 1994.

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