

**THE HONG KONG HOUSING AUTHORITY**

**Memorandum for the Home Ownership Committee**

**Refinancing of Tenants Purchase Scheme (TPS) Flats  
after the First Two Years of Alienation Restriction Period**

**PURPOSE**

To inform Members of the relaxed conditions for refinancing of Tenants Purchase Scheme (TPS) flats which have passed the first two years of alienation restriction period.

**BACKGROUND**

2. Under paragraph 4(a) of the Schedule to the Housing Ordinance, the approval by the Director of Housing is required for any mortgage or charge over HOS/PSPS/TPS flats for refinancing by owners.

3. As laid down in Paper No. HOC 36/93, refinancing will be permitted if an owner suffers from genuine financial hardship and it is necessary to provide finance for medical care, funeral costs, education expenses, etc. The parameters in determining financial hardship have been expanded to cover financial hardship cases arising from business or commercial activities vide Paper No. HOC 73/98.

4. To safeguard the interest of the Authority, the approval of the refinancing will normally be subject to the following conditions -

- (a) the refinancing mortgage will not be guaranteed by the Authority;
- (b) the original mortgage to finance the purchase of the flat as guaranteed by the Authority will have priority of claim over the refinancing mortgage; and

- (c) the total of the original and the refinancing amounts cannot exceed 80% of the estimated price payable by the Authority in case the flat is offered for sale to the Authority.

5. A case has arisen in which the department was challenged on the assessed refinancing amount of a TPS flat as being unduly low.

## ARGUMENTS

6. The existing conditions governing assessment of the refinancing amount apply primarily to HOS/PSPS flats where no credit is offered to a purchaser and thus no requirement for return of credit to the Authority in case of buyback by the Authority. In the event of default of the mortgagor of a TPS flat outside the first two years of alienation restriction period, the bank may dispose the flat through either sale to the Authority or sale in the secondary market. In the buyback by the Authority of a TPS flat, the estimated price payable by the Authority would have to account for the return of the credit to the Authority. Hence, the amount that can be raised through refinancing in the buyback scenario is unduly reduced *vis-à-vis* disposal in the secondary market scenario which requires no repayment of credit and hence results in a substantially higher net realizable amount. This is especially so in the event of a falling market where the credit to be returned is a fixed sum regardless of changes in the market.

## RECOMMENDATION

7. It is **recommended** to relax the conditions for refinancing of TPS flats that have passed the first two years of alienation restriction period, *viz.* to modify one of the conditions for approval, i.e. paragraph 4(c) above, by adding to the condition the following -

*“-----sale to the Authority. For TPS flats after two years from the date of first assignment, the total of the original outstanding mortgage loan and the refinancing amount cannot exceed 80% of the estimated price payable by the Authority in case the flat is offered for sale to the Authority plus 80% of the repayable Credit Amount upon buyback by the Authority”.*

8. This would in effect substantially increase the refinancing amount to 80% of the estimated price assuming the flat is offered for sale in the secondary market less the original outstanding mortgage loan.

## **FINANCIAL AND OTHER IMPLICATIONS**

9 The refinancing loan will not be subject to the default guarantee of the Authority. It therefore follows that –

- (a) there would be no financial implications on the Authority;
- (b) in the event of default outside the first two years of alienation restriction period, the owner may not be able to revert to tenant status as a corollary to the bank's conceivable enforcement of its power of sale in the event of foreclosure and demand of vacant possession.

## **PUBLIC REACTION**

10. The proposed relaxed conditions for refinancing will avoid an unduly low refinancing amount to be assessed and should be welcomed by owners.

## **INFORMATION**

11. This paper is issued for Members' information.

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