

Synopsis of Cases under Formal Investigation by The Ombudsman

New cases in the quarter

Mishandling the arrangements for issuing and collecting ballot papers; not recounting ballot papers despite the request of a candidate; and delay in responding to the complainants' enquiry letters
L/M (1549) in HD(R) 1/125 - OMB 1999/2829-2836

The complainants are TPS owners of Heng On Estate. They complained against the Department for mishandling the balloting arrangements for the formation of the Heng On Estate Owners' Corporation (OC) at a meeting held on 23 August 1998. The complainants alleged that the Department had failed to check the identities of owners, and as a result, some participants who were not owners had been issued ballot papers and given the right to vote. Since no serial numbers were printed on the ballot papers, the complainants suspected that counterfeit ballot papers were counted.

The Housing Authority (HA) has treated those purchasers of property as owners as long as they have completed the relevant assignments. It is expected that more owners would come forward in the OC formation meeting to enhance a higher level of participation and representation. This has, unavoidably, represented a different interpretation with the Building Management Ordinance whereby 'owner' means a person needed to be registered in the Land Registry.

Different colour had been used for balloting papers to represent different % of undivided shares and to ease the counting procedures. In order to avoid identifying the identity of the voters, no serial numbers were printed on the ballot papers.

On completion of the counting procedures for the third stage of election, an unsuccessful candidate (who is one of the complainants) requested for recounting of ballot papers. However, the estate staff did not make the recounting arrangement on the same day as requested. In this connection, the complainants sent two enquiry letters to the Department on 19 and 25 September 1998 and was dissatisfied that the Department did not give them a reply until 14 October 1998.

When the unsuccessful candidate lodged his request, some of the voters had already voted for the fourth stage of election and some of the owners had already left the venue. After discussing with the

representative of Home Affairs Department and taking careful consideration of the environment, the Department decided that it was inappropriate to recount the ballot papers on the same day. The ballot papers were sealed on the spot and recounted on 3 September 1998.

A detailed case report has been forwarded to The Ombudsman in November 1999. Findings of the investigation are awaited.

Mishandling of a request for maintenance services in Kam Fung Court, hence delaying the owner's claim for compensation from the Contractor L/M (1570) in HD(R) 1/125 - OMB 1999/2691-2692

The complainant is a flat owner of Kam Fung Court. He took over the flat in May 1997. He reported defects to the management agency which took 41 days to complete the maintenance works. The complainant alleged that due to the unfair judgment made by the estate office, he was rendered to take more than two years to get compensation from the Contractor.

The complainant reported to the management agency about peeling of plaster in the living room ceiling and dirt on aluminium windows in June 1997. Though both items were not included in the defect report submitted after intake, they were made good by the Contractor. The complainant, however, alleged that the repair work had adversely delayed his intake and thus claimed for damages. After prolonged negotiation, the complainant finally reached an agreement with the Contractor on the sum of compensation.

The complainant also complained that the Department did not observe his request and referred his complaint letter to the management agency to reply.

The complainant further complained against the Department for the delay in handling his complaint about exposure of steel reinforcement in external walls of the window sill. The Contractor would arrange for the repair works upon confirmation of the complainant on the date available.

A detailed case report has been forwarded to The Ombudsman in November 1999. Findings of the investigation are awaited.

Refusal of a request from Portland Street rooftop squatters for rehousing to interim housing in Kwai Chung/Tsuen Wan, but reserving those interim housing for Diamond Hill squatters
L/M (1607) in HD(R) 1/125 - OMB 1999/3357-3360

The complainants are rooftop squatters in Portland Street. The Building Department issued the clearance order in October 1999. The Housing Department has arranged to rehouse the affected clearnees to Long Bin Interim Housing (IH) in Yuen Long.

The complainants were not satisfied with the environment and facilities in Long Bin IH, such as poor fire safety equipment, water seepage, lack of social facilities, etc. They requested to be rehoused to IH in Kwai Chung/Tsuen Wan. Their request was turned down by the Department because the IH in Kwai Chung/Tsuen Wan had been reserved for rehousing the squatters affected by the clearance of Diamond Hill Squatter. The complainants alleged that the arrangement was unfair.

The complainants sent a letter to CHA on 1 November 1999 and was dissatisfied that no substantive reply was received until 7 December 1999.

There were a total of six families affected by the clearance. Two families were eligible for Anticipatory Housing through the General Waiting List. One of them had already accepted public rental housing (PRH) and the other was awaiting PRH offer. As regards the remaining four families, two of them would be offered IH units at Shek Lei Estate (II) whilst the other two families had been referred to Social Welfare Department for consideration of compassionate rehousing to PRH.

Detailed case reports have been forwarded to The Ombudsman in January and February 2000. Findings of the investigation are awaited.