

Synopsis of Cases under Formal Investigation by The Ombudsman

I. Cases brought forward from the 4th quarter of 1998

Mishandling the complainant's application for deletion of tenancy from an HOS flat
L/M (1313) in HD(CR) 1/125 - OMB 1998/3120

The complainant applied in 1993 on grounds of marriage to transfer his share of ownership of an HOS flat in Ka Lung Court to his mother. The deletion of tenancy, however, had not been effected because the necessary supporting documentation (e.g. marriage certificate) were not provided as required. The deletion request was finally effected in January 1999.

In processing the request for deletion of tenancy, the complainant was asked to sign an undertaking to forfeit all future public housing benefits without making reference to his marriage, which was the reason for tenancy deletion.

A revised circular (Management Branch Instruction No. M30/98 of 31 December 1998) on deletion in HOS and PSPS Estates has been issued for compliance of all estate staff.

Investigation Report issued by The Ombudsman in May 1999 concluded the case as partially substantiated. The Ombudsman recommended that the Department should consider :

- (a) issuing a letter of apology to the complainant for the inconvenience caused by making incorrect reference to the Departmental Instruction; and
- (b) strengthening the staff training and the monitoring on the administration of policies, instructions and procedures related to deletion/addition of HOS tenancy to avoid the occurrence of a similar mistake in future.

The Ombudsman's recommendations have been accepted

by the Department and a letter of apology has been issued to the complainant on 30 April 1999.

II. Cases brought forward from the 1st quarter of 1999

Delay in reducing the noise emanating from a water pump room, and failure of the Environmental Protection Department (EPD) to take prosecution action against the HD for breach of the Noise Control Ordinance
L/M (1267) in HD(CR) 1/125 - OMB 1998/3081 & 3082

The complainant lives in a 1/F flat, Oi Wai House, Tsz Oi Court. He lodged a complaint in November 1997 (upon intake of the flat) to the Department and EPD about the excessive noise generated from the water pump room located at the G/F of the building. The Department has since carried out remedial works in the water pump room to reduce the noise level.

Investigation Report issued by The Ombudsman in May 1999 concluded the case as not substantiated. The Ombudsman recommended that :

- (a) HD should consider employing an acoustic consultant or contractor to carry out noise measurements with a view to expeditiously handling any noise problem; and
- (b) EPD should consider reviewing its 'Guidelines on Noise Control' in relation to noise complaints against government or government-managed buildings, so that more effective measures (including law enforcement actions) can be taken more efficiently to resolve noise pollution problems if the problems cannot be resolved within a reasonable period of time.

The Ombudsman's recommendations have been accepted by the two departments.

Delay in the refund of rental deposit to a TPS buyer of

Wah Kwai Estate and poor working attitude of estate staff
L/M (1344) in HD(CR) 1/125 - OMB 1998/3580

The complainant purchased a TPS flat in Wah Hau House, Wah Kwai Estate on 30 June 1998, and was dissatisfied that she was invited to collect the refund of rental deposit on 30 November 1998 after a lapse of some 5 months. In collecting the refund, the complainant was dissatisfied with the attitude of the estate staff towards her father-in-law and her husband when requiring them to make statutory declaration on the loss of the original rental deposit receipt. The complainant claimed that when her family moved into the estate in December 1997, she had only been given a photocopy of the receipt and had been told that the original receipt would be retained by the estate office. The refund of rental deposit was completed on 2 December 1998.

The relatively long time taken in processing refund of rental deposit was mainly attributed to the large number of tenants (over 80%) joining the TPS. It has been a standing practice that estate office would issue the original rental deposit receipt to tenants, and retain the duplicate for record.

Investigation Report issued by The Ombudsman in July 1999 concluded the case as partially substantiated. The Ombudsman recommended that the Department should:

- (a) formulating guidelines and procedures on the issue of rental deposit receipts for estate staff compliance; and
- (b) reviewing procedures on the refund of rental deposit and strengthening the monitoring on the refund progress with a view to improving the quality of service.

The Ombudsman's recommendations have been accepted by the Department.

Delay in notifying the complainant of the cancellation of

his PRH application, and mishandling the complainant's written requests for interview and early reinstatement of his PRH application

L/M (1358) in HD(CR) 1/125 - OMB 1999/0024

The complainant (a public housing applicant under the Single Elderly Priority Scheme) attended a vetting interview on 20 November 1997. His application was cancelled by the Department on 5 March 1998 because he had exceeded the prescribed income limit. He complained that the Department had deferred the cancellation date from 20 November 1997 to 5 March 1998 and thus deferred his earliest date to become eligible for review by some 5 months (since his application could be reviewed after 1 year). He also alleged that his two letters, handed personally to the Department on 21 May 1998 and 9 September 1998 requesting for interview and early reinstatement of his application, were mishandled by the Department.

Investigation Report issued by The Ombudsman in August 1999 concluded the case as substantiated. The Ombudsman recommended that the Department should consider:

- (a) reviewing the procedures of processing PRH applications by the elderly, with a view to ensuring the compliance with the Performance Standards of the Department; enhancing the communication with the applicants and briefing them in advance how the cancellation date of applications will be determined; and stating clearly in the notification letters the dates on which their applications will be reinstated and put on the Reserve Waiting List so as to avoid any misunderstanding; and
- (b) reviewing the existing procedures for the receipt and filing of documents so as to prevent the recurrence of similar incidents.

Following a re-organisation of the Applications Section from April 1998 and the introduction of on-line computerised facilities, the procedures for processing applications by the elderly have already been improved, and the time required for processing applications is within the targets laid down in the Performance Standards. Besides, a new system is now in place to monitor the progress of all applications.

Overdue cases can easily be detected for necessary action.

Furthermore, the opening of the Customer Service Centre in Wang Tau Hom is expected to further improve the Department's services to the general public. Customer service assistants, security guards and receptionists have been reminded to pay special attention to elderly applicants.

Failure of the Housing Department, Lands Department (Lands D), Home Affairs Department (HAD), Highways Department (Hy D) and Building Department (BD) to take enforcement action against a reported illegal structure at the rear lane of Sun Lee Building, Ngoi Man Street, Shaukeiwan.

L/M (1386) in HD(CR) 1/125 - OMB 1998/3787-3791

The Incorporated Owners (IO) of Sun Lee Building and Hung Lee Building lodged complaints in October 1998 with the Eastern District Office of HAD, the District Lands Office/Hong Kong East, BD, Hy D and the HD against an illegal structure erected at the rear lane adjacent to Sun Lee Building on the grounds that the illegal structure was unhygienic, obstructing the pedestrian traffic, and used for criminal activities. The IO was dissatisfied that none of the departments had agreed to take up the enforcement responsibility or to pursue the matter any further.

The structure in question had been covered by the 1986 freezing survey conducted by the HD. It is therefore subject to clearance by being included in the Environmental Improvement Clearance (EIC) Programme (coordinated by HAD and Lands D) and its clearance must be triggered by a formal Clearance Application. However, the EIC Programme have been discontinued by Lands D since 1994 due to its staff constraint.

Investigation Report issued by The Ombudsman in July 1999 concluded the complaint against HD as not substantiated. The Ombudsman recommended that DHA, D of L, and D of H should jointly consider formulating specific handling procedures such that, when similar cases arise in the future, the concerned DO will coordinate the Government's replies to complainants, while all concerned

departments will carry out their respective functions or take parallel actions in accordance with the agreed procedure.

The Ombudsman's recommendations have been accepted by the three departments.

III. New Cases in the quarter

Delay in handling the drainpipe blockage, hence causing backflow of foul water and damage to the tenant's property.

L/M (1274) in HD(CR) 1/125 - OMB 1998/3092

The complainant lives in a 2/F flat of On Wu House, Cheung On Estate. In 1996, he reported 2 incidents of backflow of foul water caused by blocked drainpipe of his flat. On both occasions, the estate office had taken prompt actions. The complainant had made a claim against HA for the damage caused by the incidents on 9 July 1996, but the claim was rejected by the insurance company on the grounds that blockage of the drainpipe was accidental and without fault or negligence on the part of HA.

Two separate reports of blockage of drainpipe from the complainant were received by the Department on 27 July 1998 and 2 August 1998 respectively. On both occasions, the estate office had taken prompt remedial actions.

The complaint was originally referred to the Department for enquiries but was re-classified for formal investigation in April 1999. Investigation Report issued by The Ombudsman in August 1999 concluded the case as not substantiated.

Delay in handling the application for addition to a PRH tenancy

L/M (1350) in HD(R) 1/125 - OMB 1999/0071

The complainant (a registered tenant of two PRH flats in Tai Wo Hau Estate), alleged that the Department had delayed in handling her application for addition of her daughter-in-law and two grandsons to the tenancy.

In 1993, one of the complainant's son had successfully purchased an HOS flat by 'green' form. According to the prevailing housing policy, the complainant should surrender one of her PRH flats within two calendar months after taking over the HOS flat. The complainant had signed an undertaking to that effect. Despite repeated actions taken by the estate office in the years 1993 to 1995, the complainant refused to surrender her flat. In 1995, the complainant submitted an application for addition of her another son's wife and two grandsons to the tenancy. It is the Department's view that since the complainant failed to fulfill her undertaking of surrendering one of her flats, her application for addition of household members is rendered unable to be processed.

The complaint was originally referred to the Department for enquiries but was re-classified for formal investigation in April 1999. The Draft Investigation Report issued by The Ombudsman in June 1999 initially concluded the case as substantiated. The Ombudsman recommended that the Department should consider reviewing the procedures in handling the applications for addition.

Refusal to accept the submission of HOS application form, and unsatisfactory working attitude of the estate staff.

L/M (1352) in HD(R) 1/125 - OMB 1999/0048

In submitting an HOS (green) application form to Tai Wo Estate Office on 5 December 1998 (Saturday), the complainant was dissatisfied with the reluctance of the estate staff to accept his HOS application form because the officer responsible for his block was away attending a training course. Upon his request, his HOS application was checked by another officer and he was dissatisfied that his application could not be accepted because his son (being a family member but was studying in Canada) had not signed on the application form.

The complainant then requested to see the HM in

connection with his HOS application. He claimed that he had waited for some 20 minutes, and not until he said that he would lodge a complaint he was told that the HM was on duty outside the office and he might ask his son (in Canada) to signify his agreement to the HOS application by fax.

On 7 December 1998, the complainant submitted his HOS application together with the relevant fax document to the estate office. His application was accepted and passed to the HOC for further processing.

The complaint was originally referred to the Department for enquiries but was re-classified for formal investigation in May 1999. Investigation Report issued by The Ombudsman in August 1999 concluded the case as partially substantiated. The Ombudsman recommended that the Department should consider:

- (a) reviewing procedures in handling HOS applications and issuing the relevant guidelines for staff compliance with a view to improving the quality of service; and
- (b) formulating clear guidelines for the knowledge of the estate staff concerned on the administrative arrangement of estate supervisory staff on duty and performing outdoor work.