

# **SAFEGUARDING RATIONAL ALLOCATION OF PUBLIC HOUSING RESOURCES**

## **Consultation Document**

**December 1995**

**Hong Kong Housing Authority  
Ad Hoc Committee on Private Domestic Property  
Ownership by Public Rental Housing Tenants**

## Invitation of Public Comments

This consultation document summarizes the recommendations of the Hong Kong Housing Authority's Ad Hoc Committee on Private Domestic Property Ownership by Public Rental Housing Tenants and the considerations underlying them. The Ad Hoc Committee welcomes public views on this consultation document.

Any comments on the contents of this document should be forwarded in writing before 6 March 1996 to -

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## **SUMMARY**

### **Policy Objective**

In order to ensure rational and reasonable distribution of public rental housing (PRH) resources, tenants of public rental housing who have the financial ability to look after their own housing needs should cease to receive PRH subsidy. Should they choose to remain in PRH, they should pay market rent (MR).

### **Target**

The immediate targets are those who have stayed in PRH for over ten years, and possess the best financial means. About 30,000 households, whose household income exceeds 3 times the Waiting List Income Limits (WLIL), are now paying double rent (DR) under the Housing Subsidy Policy (HSP). It is proposed that they should be required to declare assets, in order to assess whether they should continue to receive PRH subsidy.

### **Main Recommendations**

#### Removal of PRH subsidy

- \* Better-off tenants are encouraged to filter up to Home Ownership Scheme (HOS) or private sector flats through their own volition by imposing MR and removing PRH subsidy. In the interest of social stability, the option of forced eviction is not recommended.

#### Priority to purchase HOS flat

- \* Tenants paying DR or MR and are not in possession of domestic property should enjoy second priority status in the purchase of HOS flat. Those who are in possession of domestic property should enjoy ordinary Green Form status.

## Declaration of income/assets and payment of MR

- \* PRH tenants should be able to enjoy rental housing for ten years. Thereafter, they should declare income under the HSP and pay the determined rent.
- \* Households paying DR under the HSP will be required, at the next declaration cycle, to declare assets.
- \* Declarable assets include cash in hand, bank deposits, land and landed properties, vehicles, taxi and public light bus licences, mutual funds, unit trust funds, listed shares, deposits with brokers, paper gold, commodities future, certificates of deposits and bonds, as well as assets owned in the name of business companies. Assets held outside the territory are also required to be declared
- \* Tenants with household income exceeding 3 times the WLIL and net asset value exceeding 110 times the WLIL, or those who choose not to make a declaration, would have to pay MR.
- \* Tenants paying MR can revert to paying normal rent or the determined rent under the HSP if their income or net asset value falls below the prescribed limits for a continuous period of 3 months.

## Tenants on non-voluntary transfers

- \* Upon implementation of the new policy, tenants affected by non-voluntary transfers (such as the Comprehensive Redevelopment Programmes) would have to declare income under the HSP and to declare assets under the new policy after rehousing. However, tenants who have received formal written notification for transfer before the new policy comes into effect would continue to be exempted from HSP for 10 years after rehousing.

### Tenants exempted from the new policy

- \* Comprehensive Social Security Assistance recipients, households on shared tenancies and households whose members are all at age sixty or above are exempted.

### Central Investigation Team

- \* A Central Investigation Team should be set up to conduct comprehensive checks on selected income/asset declarations, and to step up investigation into abusive use of PRH flats.

### Penalty for making a false declaration

- \* The Housing Ordinance should be amended to provide for a fine, at 3 times the rent undercharged for the relevant period, to be imposed upon tenants who make a false declaration. Moreover, the Housing Authority should terminate the tenancy of households who are found to have made a false statement when declaring income or assets under the HSP and the new policy.

## **I. BACKGROUND**

### **Housing Subsidy Policy**

1.1 Since the 1970's, there have been continual debates on whether public housing tenants who can afford to take care of their own housing needs (shorthand "better-off tenants") should continue to occupy public rental housing (PRH) at the expense of more needy families on the Waiting List (WL). In 1987, the Housing Authority (HA) introduced the Housing Subsidy Policy (HSP) which requires better-off tenants to pay higher rents. The intention is to ensure effective and rational allocation of housing resources. The current HSP, which was last revised in 1993, is described in **Annex A**.

### **Private Domestic Property Ownership**

1.2 As part of the mid-term review of the Long Term Housing Strategy (LTHS), a research was conducted in November 1992 to assess the extent of private domestic property ownership among PRH tenants. It was estimated that about 13% of PRH households (74,000 out of 580,000 households at the time) owned private domestic properties. The findings elicited strong public reactions and a demand for the HA to redress the apparent inequity of allowing these households to continue to occupy public rental flats at the expense of more needy households on the WL.

1.3 In June 1994, the HA decided to look into the matter. An Ad Hoc Committee on Private Domestic Property Ownership by Public Rental Housing Tenants (the Committee) was established in August 1994. The membership of the Committee is set out in **Annex R**

### **Expansion Of The Committee's Terms Of Reference**

1.4 After several meetings, members of the Committee came to a unanimous conclusion that it would neither be fair nor effective to single out for special treatment owners of domestic property, which is only one of many forms of assets which constitute one's wealth. In March 1995, the HA approved an expansion of the Committee's terms of reference to cover other forms of asset in its study. The revised terms of reference are in **Annex C**.

## **Studies Conducted By The Committee**

1.5 The Committee held a total of sixteen meetings. Two surveys were conducted in 1995 on property ownership by PRH tenants. In early 1995, a survey re-confirmed that about 13% of PRH tenants owned private domestic properties. In August 1995, a survey was conducted on property ownership by households paying double rent (DR) under the HSP. 42% of DR payers were found to own private properties (including domestic and non-domestic properties), at an average net asset value (with outstanding mortgage loans deducted) of \$1.8 million. 6 % of DR payers were found to own three private properties or more; quite a few of them own properties of an aggregate value of more than \$ 10 million.

## II. BASIC PRINPCIPLE

2.1 The Committee's recommendations are premised on the following principles which Members thoroughly examined and debated at the outset.

### **Public Housing Is A Public Asset**

2.2 The huge PRH stock of 670,000 rental units was built with heavy public subsidy, including concessionary land grants and capital injection, over the past 40 years. It is a public asset, the use of which should be determined by public policy. It should be recognized that staying in PRH is a privilege accorded to eligible PRH tenants. The prime objective of the current policy review is to re-affirm the fundamental principle that PRH is a public asset and to dispel any possible misconception that PRH residence is a perpetual right. As Hong Kong continues to prosper with corresponding social development, HA has the responsibility to reassess regularly PRH tenants' continuous housing need so as to safeguard the rational allocation of limited public housing resources.

### **Housing Subsidy In Relation To Need**

2.3 One of the key objectives of the LTHS is to ensure that public housing subsidy is allocated in relation to need. Accordingly, PRH tenants who can afford alternative forms of housing should cease to enjoy PRH subsidy  
<sup>(Note 1)</sup>. The Committee reaffirms this principle which is hardly disputable.

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<sup>(Note 1)</sup> Government subsidies granted to PRH comprise the following -

(1) until 31 March 1995, Government had allocated free of charge a total of more than 1,100 ha of land at an aggregate historical value of \$141.9 billion; and

(2) until 31 March 1995, Government has made available to HA a total capital amount of \$26 billion, out of which \$13.5 billion is interest-free, non-repayable capital, and \$12.5 billion is a low-interest bearing loan.

Since separation of the domestic recurrent account from that of commercial properties in 1988/89, the domestic recurrent account has always incurred a deficit on an annual basis. In 1995/96, a deficit of \$1.4 billion is forecast. The subsidy actually enjoyed by PRH tenants is the difference between PRH rents and market rents. Current PRH rents are normally between 18% and 33% of market rents.

2.4 In assessing a PRH household's affordability for alternative accommodation, hence the case for continuous PRH subsidy, the Committee considers it necessary to take account of both income and assets which together make up the total wealth of the household. A household with strong earning powers can rent, or support a mortgage loan, even without much savings. On the other hand, a household with sufficient savings can afford to buy a flat with a substantial downpayment and thereafter live comfortably even with a modest income. Therefore, a household which earns a high income and possesses considerable assets should be able to look after its housing need and should cease to receive PRH subsidy.

### **Freedom Of Investment**

2.5 The Committee distinguishes between ownership of property for investment and for shelter. We recognise that the economic success of Hong Kong is built on, among other things, the free market system which allows open competition for all on a level playing field. We consider it wrong in principle to introduce measures which would penalise and deter PRH tenants from investing in the private property market and making plans to meet the household's longer-term accommodation needs. To do so would distort investment decisions and encourage continual reliance on public housing. The Committee therefore is of the view that property ownership should not be singled out for consideration when considering a PRH household's ability to afford alternative housing.

2.6 The Committee also recognises that some households, or members of household, who own private domestic properties and are no longer living in public housing, still retain their PRH flats. We condemn such abusive use of public housing resources and recommend strengthening of tenancy enforcement action and regular updating of tenancy records to reflect the actual occupancy position.

### **Household As A Unit**

2.7 Under existing housing policies, each household is regarded as an integral entity, regardless of the composition and relationship of its members. The total income of every member of household is taken into account in assessing the household's eligibility for public housing and in determining the level of rent payable under the HSP.

2.8 The Committee reaffirms the principle that each income-earning member of household has a responsibility to contribute towards the overall household expenses, including rent or property mortgage repayment. It is unreasonable to expect society to continue to subsidise a reasonably well-off household simply because some members of the household are unwilling to contribute financially towards meeting the household's accommodation needs.

2.9 The Committee notes that any requirement to include the income and assets of every member of household may inspire deletion of household members so as to get round the rules and avoid paying high rents. We respect the choice of the individual household as it is common that second generation members of a household will start their own families when they grow up. Nevertheless, when a household member moves out, the tenant should, as required by the relevant tenancy conditions, report to the Estate Office. If the space occupied by the remaining family members in the household exceeds the relevant maximum space allocation standard, the household will be required to transfer to a smaller flat<sup>(Note 2)</sup>.

## **Social Stability**

2.10 From an equity point of view, there is much to be said for requiring better-off tenants to give up their rental flats so that these can be reallocated to more needy people on the WL or other rehousing categories. Only through compulsory recovery of flats can we increase housing supply, hence reduce the waiting time for those who are in need of subsidised housing.

2.11 However, given that Hong Kong is in a historic period of transition, the Committee sees the merits of building on, rather than drastically changing, existing policy for the benefit of social stability. The Committee therefore is in favour of using the market mechanism to induce better-off tenants to move out by removing PRH subsidy, i.e. payment of market rent (MR). This would minimise social disruption and allow more flexibility in catering for special circumstances which cannot be exhaustively covered in a general policy.

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(Note 2)

Due to the more generous space allocation standards adopted in recent years, a household which was rehoused sometime ago probably would not have to be transferred to a smaller flat even after deletion of one or two household members. For a two-person household, the maximum space allocation standard is 35 m<sup>2</sup>.

## **Exceptionally Well-off Tenants**

2.12 The Committee understands that some PRH households are in possession of huge assets and undoubtedly can take care of their own housing need. They really should not continue to live in PRH. The Committee had considered a more robust option of terminating the tenancies of these exceptionally well-off tenants.

2.13 However, after careful examination of the option, the Committee concludes that forced eviction is in conflict with the spirit of the package of proposals in the document even though it might be more effectual than payment of MR in terms of the number of flats to be recovered. Besides, the option will also render it necessary for more DR paying households to declare assets in order to avoid termination of tenancy. For the benefit of maintaining social stability, the Committee is inclined to make use of the market mechanism of requiring well-off tenants to pay MR to induce them to vacate from PRH.

### III. POLICY PROPOSALS

#### Underlying Considerations

3.1 In formulating its recommendations, the Committee has taken account of the basic principles set out in Chapter II, and has had regard for the following considerations -

- (1) better-off tenants should cease to receive PRH subsidy;
- (2) better-off tenants should be induced to give up PRH flats through encouragement;
- (3) any new scheme must be reasonably simple to explain and understand, and accepted by the general public; and
- (4) the administrative cost of implementing the new measures should not be excessive.

#### Policy Objective

3.2 One of the prime responsibilities of HA is to provide PRH for those in need. To meet the demand for PRH, HA has continued with its massive public housing development programme and has taken on the responsibility of managing the huge PRH stock (670,000 flats). **The Committee is of the view that HA should help cultivate, among PRH households, the civic awareness that PRH is a public asset, the use of which is to help those who are in need of assisted accommodation. PRH households who can afford alternative accommodation in Home Ownership Scheme (HOS) or private sector flats should give up their PRH flats for reallocation to those in need.**

#### The Proposals

##### Target Group

3.3 According to the usual family cycle, PRH households are more likely to be in a better financial position after a period of residence in PRH, as their career progresses and when the second generation members of the household begin to work. The Committee therefore considers it reasonable that households should be allowed a continuous period of residence of ten years. Thereafter, they will have to justify their need for continuous PRH subsidy.

3.4 Consistent with the objective of minimising social disruption, the Committee recommends that the new policy should target at the undisputedly better-off tenants, i.e. households whose income exceeds 3 times the Waiting List Income Limits (WLIL) and who have to pay DR under the existing HSP will be required to declare assets. In so doing, about 30,000 DR households, or 5 % of PRH tenants, will be required initially to declare assets every two years.

3.5 In other words, **PRH tenants with less than ten years of residence will not be required to make any declaration of income or asset, as is the present case. Upon reaching the tenth year of residence, they will be required to declare their household income. Those whose income exceeds 3 times the WLIL, or who choose not to declare, will pay DR. Two years later, i.e. by the next cycle of declaration, these DR households will be required to declare the asset holdings of all members of the households.**

### **Income And Asset Criteria**

3.6 The Committee proposes to use both income and assets in determining a household's financial capability in meeting its own housing need. Members discussed extensively whether eligibility for public housing subsidy should cease when either income or asset exceeds the prescribed limits, or whether both the income and asset limits have to be exceeded.

3.7 The Committee considers that the approach of using a single criterion would necessitate a very high income or asset ceiling, in order not to create undue hardship for households who depend heavily on savings to support a living, or who have a high income but very little savings. However, setting high income or asset limits would let go many more households who may have a more balanced proportion of income and assets, which after all is the norm for most households.

3.8 The Committee recognises that, in applying both the income and asset limits, households who may have high income but very low savings, or vice versa, will not be affected. However, the Committee reckons that, in the Hong Kong context where the propensity to save is high, it is unusual for a household with high income not to have any asset at the same time. Similarly, it is most unlikely that a household (except retirees) with low income would hold a large amount of assets.

3.9 On balance, the Committee decided to ignore the extreme situations, which could be handled on a case by case basis through an appeals procedure, and recommended that **both income and assets should be considered together in determining a household's continuous eligibility for public housing subsidy. A household should cease to receive PRH subsidy if both its income and net asset value <sup>(Note 3)</sup> exceed the prescribed limits.**

### **Declarable Income**

3.10 Under the existing HSP, tenants are required to report household income which includes income generated from assets as follows -

- (1) income from principal employment, including allowances, overtime pay, bonus, double pay and commission, etc. If self-employed, the net profit from business, whether in sole proprietorship or in partnership, has to be declared;
- (2) dividends and interest from investment, including interest from fixed deposits, bonds and loans;
- (3) the net rent received from landed properties after deducting rates and allowing 20% of the remaining for expenses and outgoings. If the premises are not let out, the rateable value of the properties, after deducting rates and allowing a 20% for expenses and outgoings, will be taken as rental income;
- (4) net income derived from commercial vehicles, after deducting depreciation and expenses (such as registration fee, insurance premium); and
- (5) any other income, such as pension, income from part-time jobs.

3.11 The Committee proposes to maintain the existing income declaration.

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<sup>(Note 3)</sup> In calculating a PRH household's net asset value, the household's liabilities, including mortgage loans for property/taxi licence/shares etc, will be deducted.

## **Declarable Assets**

**3.11 The Committee decided to focus on assets which can generate a recurrent income.** They already form the basis of income declaration under the existing HSP. Having regard to public concern about privacy, other assets which will have to be declared will be restricted to those which are publicly registrable.

3.12 On this basis, the Committee recommended that the following categories of assets should be included in the declaration -

- (1) cash in hand, and bank savings and fixed deposits;
- (2) landed properties, including both completed and uncompleted domestic and non-domestic properties;
- (3) land, including lease agreements and Letters A or B entitlements;
- (4) vehicles, including private and commercial vehicles etc;
- (5) transferable commercial vehicle licences, including taxi and public light bus licences etc;
- (6) other investment assets, including mutual funds, unit trust funds, listed shares, deposits with brokers, paper gold, commodities futures, certificates of deposits and bonds; and
- (7) for those engaged in business, all categories of assets owned by the companies will need to be declared

3.14 The Committee recognises the difficulty of verifying the declaration in respect of some items listed above, but considers it necessary, as a matter of principle, to put the onus on PRH tenants to declare truthfully and comprehensively, so as to reflect accurately their financial standing. For this reason, the Committee also considers it necessary to include assets both local, overseas and in China, since it has become more common for Hong Kong people to acquire properties and assets overseas and in China. There is anecdotal evidence to suggest that some tenants have emigrated and bought properties overseas and in China, but retain the PRH flat in Hong Kong as a second home.

## **Net Asset Limits**

3.15 The Committee considers it reasonable that net asset limits should be set at a level which would enable a household to acquire alternative accommodation of a standard comparable to the PRH flat which it currently occupies. For this purpose, the Committee has taken reference of HOS flat prices, which currently range from \$700,000 for a 2-bedroom New Territories flat of 39 m<sup>2</sup> saleable floor area (SFA) to \$1.5 million for a 3-bedroom urban flat of 60 m<sup>2</sup> SFA.

**3.16 Since housing cost varies with the space requirement, the Committee proposes that the net asset limits likewise should vary with household sizes. For a 4-person household, 110 times the WLIL works out to be \$1.496 million. A household with net asset value exceeding this limit and an income exceeding \$40,800 (3 times the WLIL) should have the financial means to afford alternative housing and should not stay in PRH.**

3.17 On this basis, the income and net asset limits in respect of different household sizes are set out in **Annex D**. The income limits will vary automatically with the annual revision of the WLIL. The net asset limits will also be reviewed annually, having regard to prevailing HOS prices.

## **Market Rent**

**3.18 Households whose income and net asset value both exceed the prescribed limits, or who choose not to make a declaration, will be required to pay MR if they continue to occupy PRH flats.**

3.19 At present, domestic rent of each estate is set having regard to tenants' affordability, estate location, estate facilities and transport links, etc. Rent payable for each flat will be determined by applying the unit rent on the floor area of the flat.

3.20 To determine the MR of PRH flats, the Committee recommends that the unit rateable value of the estate be compared with its respective unit rent to derive a multiple factor. In general, the current unit rent of an estate is about 18% to 33% of its unit rateable value; market rent will therefore range around 3 to 5.5 times of normal PRH rent.

3.21 As an illustration, a 4-person family living in a flat (34.65m<sup>2</sup>) in North Point Estate on Hong Kong Island now pays a rent of \$1,250 per month. Market rent for that flat is estimated at 5.2 times the normal rent, i.e. \$6,500 per month. The monthly rent of a flat (35.12 m<sup>2</sup>) in Tai Yuen Estate in Tai Po is now \$1,200. MR for that flat is estimated at 3.8 times the normal rent, i.e. \$4,600 per month.

## IV. RELATED POLICY RECOMMENDATIONS

### Priority For Buying HOS Flat

4.1 It has always been HA's policy to encourage PRH tenants to buy HOS flats by offering them priority Green Form status. Tenants who have been paying additional rent (AR) for three or more years are given second priority status <sup>(Note 4)</sup> for purchasing HOS flats under a quota of 500 for each phase of sale. The Committee sees the merit of encouraging better-off tenants to give up their PRH flats voluntarily through the purchase of HOS flats.

4.2 The Committee is also aware of strong community sentiment against giving priority to better-off tenants who already own private domestic properties. To strike a balance between these considerations, **the Committee proposes that, with effect from the policy commencement date, all DR/MR paying households who do not own private domestic property should be given second priority status in buying HOS flats, without any quota restriction.** Those who already own private domestic properties will continue to enjoy the same priority as other ordinary Green Form applicants, such as sitting PRH tenants.

### Home Purchase Loan Scheme

4.3 Since its introduction in 1988, the Home Purchase Loan Scheme (HPLS) <sup>(Note 5)</sup> has provided assistance to PRH tenants who wish to upgrade to private sector housing. All applications have been granted approval over the years. The Committee recommends that HA should continue to encourage better-off tenants to make use of the HPLS to move to private sector housing. To maintain the attractiveness of the HPLS, HA should keep in review the loan amount and the corresponding monthly subsidy offered under the Scheme, taking into account private property prices.

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<sup>(Note 4)</sup> Second HOS priority status is offered to (a) PRH tenants living in blocks due for redevelopment within the next three years but who have not yet received a formal written notification to vacate; (b) prospective PRH tenants from the "clearance", "natural disasters" and "civil servant" rehousing categories, as well as qualified Waiting List applicants who hold the Certificate of Green Form Status; and (c) PRH tenants who have paid AR under the HSP for a continuous period of three years. Their priority to purchase a HOS flat is second to those on first priority status but above those on the ordinary Green Form and White Form status. There is no quota restriction for this category of purchasers, with the exception of AR payers under the HSP.

<sup>(Note 5)</sup> Other than PRH sitting tenants, White Form applicants for HOS flat can also apply for HPLS.

## Non-voluntary Transfer

4.4 At present, households affected by HA's transfer programmes, mainly the Comprehensive Redevelopment Programmes (CRP), are exempted from the HSP for ten years upon rehousing. In other words, they are not required to declare income for another ten years. Households originally paying AR also revert to paying normal rent upon relocation.

4.5 The Committee has taken tenants' affordability into account when setting income and asset limits above which tenants would be required to pay MR if they continued to live in PRH. Compared with a median income <sup>(Note 6)</sup>, a 4-person PRH household earning more than \$40,800 a month will have far higher disposable income for non-housing expenses after paying MR, which will not exceed \$10,000 per month even for a new 2-bedroom Harmony flat. The Committee therefore recommends removal of the ten-year exemption from the HSP upon rehousing for tenants affected by the CRP. Otherwise, an anomalous situation could arise in which CRP tenants originally paying MR might revert to paying lower rents upon rehousing into a bigger flat with much improved environment.

4.6 However, as an encouragement for upgrading to HOS, **the Committee recommends that non-voluntary transferees should continue to enjoy first priority <sup>(Note 7)</sup> in HOS purchase, irrespective of whether they own private domestic properties. Such priority is not available to other better-off tenants.**

4.7 **The Committee recommends removal of the ten-year exemption from the HSP upon rehousing of CRP tenants. This will only apply to tenants who receive formal written rehousing notification <sup>(Note 8)</sup> from the Housing Department (HD) after commencement of the new policy. They will have to continue to declare income every two years under the HSP and pay the appropriate rent. DR payers will have to declare assets at the next declaration cycle. However, all CRP tenants will continue to enjoy first priority status in HOS purchase, without any restriction on property ownership.**

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<sup>(Note 6)</sup> According to the Household Expenditure Survey conducted by the Census & Statistics Department, the median monthly non-housing expenditure of a 4-person household which rents a private flat is about \$10,000 (at current price level).

<sup>(Note 7)</sup> First priority status is offered to PRH tenants living in blocks affected by CRP, and who have been formally notified to move out. They have absolute priority in HOS flat selection and purchase, and are not subject to any quota restriction.

<sup>(Note 8)</sup> Rehousing notification is normally issued 18 to 24 months before the clearance operation.

## **Exemptions**

4.7 The following categories of PRH households are currently exempted from the HSP -

- (1) recipients of Comprehensive Social Security Assistance;
- (2) households on shared tenancies; and
- (3) households whose members are all sixty years of age or over.

As the Committee's proposals are built on the existing HSP, the Committee recommends that these households should continue to be exempted from income and asset declarations.

## V. ISSUES OF PUBLIC CONCERN

5.1 The proposal to require some PRH tenants to declare assets has aroused concern in some quarters. The Committee has examined possible areas of public concern and would like to offer the following clarifications.

### **Privacy And Human Rights**

5.2 One major area of concern is whether the requirement to declare assets would be an unlawful interference of personal privacy which is protected under Article 14 of the Hong Kong Bill of Rights Ordinance.

5.3 The Committee notes the decisions of the Courts in regard to the Bill of Rights Ordinance which illustrate that the Courts seek to strike a balance between the interests of an individual and those of the society. The rulings suggest that an exercise of statutory powers which may be considered as an interference with a person's privacy will not be unlawful and in contrary to Article 14 of the Bill of Rights Ordinance provided the measures taken are reasonable and proportionate to the wider interests which are to be safeguarded.

5.4 Having regard to the role of HA in providing subsidized housing to those in need whilst safeguarding public interests in the use of public funds and resources, the Committee comes to the view that the exercise of the power under section 25(1) of the Housing Ordinance (HO) (see **Annex E**) to require PRH households to furnish personal and financial information to determine their eligibility for continued residence in subsidized housing should be lawful. The HD will ensure that the information required is reasonable and proportionate for the purpose. The Committee takes note that income and asset declaration is now required of applicants under the Sandwich Class Housing Scheme, the Local Student Finance Scheme and the Comprehensive Social Security Assistance Scheme.

## **Data Protection**

5.5 A related concern is on the protection of personal data collected. The Committee recognises and HA assures the community that the use and storage of information collected from PRH tenants will be regulated by strict internal procedures and guidelines, and in compliance with the data protection principles set out in Schedule 1 to the recently enacted Personal Data (Privacy) Ordinance.

## **Asset Or Property Ownership Not Restricted In Tenancy Conditions**

5.6 Some concern groups have argued that there is no provision in existing tenancy agreements restricting tenants from owning property or undertaking investment. Neither are there any conditions stipulating that tenants will cease to receive housing subsidy by payment of MR if their income and assets reach certain levels.

5.7 The Committee understands that the purpose of a tenancy agreement is to regulate the use of the PRH premises and the relationship between the landlord and the tenant in this regard. There has never been any intention to include housing policies in tenancy agreements. The Committee also notes that the existing HO already empowers HA to increase rent or to terminate tenancy according to prevailing policy. Moreover, PRH tenancies are not perpetual in that both HA and the tenant can determine the tenancy by giving the other party one month's notice.

## **Myth Of PRH As A Form Of Compensation**

5.8 Because carees were not required in the past to declare income or assets on admission, PRH was often perceived as a form of compensation in resumption and clearances. This is a misconception.

5.9 The Government is required by the relevant provisions in the Crown Land Resumption Ordinance (Hong Kong Law Cap 28) to pay full compensation to all legal land/property owners or renters who are affected by land resumption and clearances. It has always been Government policy to pay for any compensatable rights by way of full ex-gratia allowances payable in cash <sup>(Note 9)</sup>. PRH is not a form of compensation.

5.10 As a matter of fact, many clearerees were squatters who are not entitled to any form of compensation since the structures built were illegal in the first place. As regards holders of Crown Land Licences, Short Term Tenancies and Modifications to Tenancies, the licences/tenancies clearly state that these are temporary provisions which can be terminated at any time by Government without payment of any compensation.

5.11 The offer of PRH to clearerees is to avoid rendering anyone homeless as a result of Government clearance operations. It is a compassionate arrangement rather than a form of compensation.

### **Some Public Rental Housing Tenants Admitted Without Income-testing**

5.12 There is an argument that as some categories of people were rehoused into PRH without going through income-testing (squatter clearerees, victims of natural disasters or other emergency situations), they should not be required to declare income and assets under the new policy. The fact that these people were exempted from income-testing, in recognition of their accommodation needs at the time, does not confer upon them a permanent right to subsidized housing. Once admitted into public housing, all tenants are treated alike irrespective of their origin. There is no justification in any proposal to offer life-long exemption from income and asset declaration to those PRH tenants who were not subject to income test on admission.

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<sup>(Note 9)</sup> In the 1970's and 1980's, Letters A/B entitlements were offered as partial compensation in land resumptions in the New Territories.

## VI. IMPLEMENTATION

### **Declaration Cycle**

6.1 The Committee upholds the principle that the new policy should be simple to administer and easy to understand. It therefore recommends that the income/asset declaration be built on the cycle of declarations under the existing HSP.

6.2 In brief, the declaration cycle will be as follows -

- (1) **all PRH tenants will not have to declare income or assets in the first ten years of residence in PRH;**
- (2) **after ten years, PRH tenants are required to declare income;**
- (3) **as from the eleventh year, tenants are required to pay rent as determined under the HSP. Tenants who choose not to declare income or whose household income exceeds 3 times the WLIL will be required to pay DR;**
- (4) **DR paying households will be required to declare assets at the next cycle of declaration (two years from the last declaration);**
- (5) **households with net asset value exceeding 110 times the WLIL, or those who choose not to declare assets, will be required to pay MR;**
- (6) **all DR payers will be required to declare assets at two-yearly intervals; and**
- (7) **DR/MR payers will be required to declare property ownership when they apply for HOS so as to determine whether they are eligible for second priority status.**

A flowchart illustrating the procedures is at **Annex F**.

## Rent Adjustment For Hardship Cases

6.3 Under the existing HSP, tenants paying AR are allowed to pay lower rent or revert to normal rent if they can prove that their household income has fallen below the prescribed limit for a continuous period of three months. The Committee considers this arrangement reasonable and recommends that **tenants paying MR in future should also be allowed to revert to paying a lower rent or normal rent if they can prove that their household income or net asset value falls below the prescribed limit for a continuous period of three months.**

## Checking Mechanism

6.4 The Committee recognizes that to require checking of all declarations will be costly and unrealistic. It therefore recommends a three-pronged approach as follows -

- (1) an honour system of self-declaration;
- (2) rigorous checking on randomly selected cases<sup>(Note 10)</sup>; and
- (3) heavy penalty to deter false declaration.

6.5 Having regard to the overall package of recommendations, which provide incentives for home ownership, the Committee sees no reason for DR payers to make false declarations and risk heavy penalty for so doing. They can take advantage of their priority status to apply for HOS and pay MR while awaiting rehousing into HOS. Those who prefer to stay behind in PRH can also avoid asset declaration if they are prepared to pay MR. Nonetheless, to deter false declaration, the Committee recommends that HD should set up a dedicated team to conduct comprehensive checks on selected declarations in a professional and rigorous manner.

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<sup>(Note 10)</sup> To deter false declaration, not less than 5% of cases will be selected.

## Staffing Arrangement

6.6 The Housing Subsidy Unit (HSU) and the Special Investigation Teams (SIT) of HD are now responsible for investigation into income declarations made under the HSP and suspected cases of tenancy abuses respectively. Given the correlation in their nature of work, the Committee recommends that the HSU and the SIT be combined to form a central investigation team which will be responsible for investigation into tenancy record, and income and asset declarations made under the HSP and the new policy. With improved flexibility in staff deployment, it should be possible to implement the new policy without substantial staff increases. The Committee also recommends that HI should explore the possibility of setting up a procedure for data matching with relevant government departments so as to reduce staffing resources in investigation.

## Maximum Penalty On False Information

6.7 Anyone who knowingly provides false information required by HA under section 25(1) of the HO commits an offence under section 26(1) of the HO. The maximum penalty at present is six months' imprisonment and a fine of \$50,000. However, there has never been any case of imprisonment or maximum fine actually imposed under section 26(1). To deter false declaration, the Committee recommends that the HO be amended to include a mandatory fine to be imposed on a PRH tenant who is convicted of furnishing false information. With reference to a similar provision in section 80(2) of the Inland Revenue Ordinance, **the additional fine for furnishing false information is proposed to be set at three times the rent undercharged for the period concerned**<sup>(Note 11)</sup>.

6.8 Under current policy, HA will evoke its powers under section 19(1)(b) of the HO (see **Annex E**) and terminate the tenancy of a PRH tenant who is found to have made a false statement in his application for PRH. **The Committee recommends that, after implementation of the new policy, a tenant who is found to have made a false statement when declaring income under the HSP or when declaring assets under the new policy should be served a Notice-to-Quit under section 19(1)(b) of the HO and be required to vacate from PRH.**

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<sup>(Note 11)</sup> The penalty collected will be charged to Government's General Revenue. It will not be HA's revenue.

## **Complaints/Appeal Channels**

6.9 In line with the existing HSP arrangement, any complaints on requirement to pay MR should be handled by HA's Complaints Committee.

6.9 Any tenant who is aggrieved by a decision to terminate his/her tenancy may appeal to the Appeal Panel, for a review of the decision. The Panel is established independently of HA, in accordance with sections 20(1) and (2) of the HO (see **Annex E**). The Chairman of the Appeal Panel, in accordance with section 7A of the HO (see **Annex E**), will appoint an Appeal Tribunal to review the case.

## VII. CONCLUDING REMARKS

7.1 Hong Kong's public housing programme has had over 40 years of history and provides accommodation for 2.4 million people, who were rehoused under different categories. The underlying premises of public housing policy is to provide PRH subsidy to low income families who are in need of assistance. This basic principle is widely accepted within the community.

7.2 PRH is a public asset, not private property. PRi1 tenants eligibility for receiving PRH subsidy should be reviewed after a period of residence. Tenants who are found to possess the financial means to afford alternative housing should look after their own housing needs and return the PRH flats to HA for reallocation. If they choose to remain in PRH, they should pay MR. The Committee considers it imperative to drive home the message that PRH tenants do not have a permanent right to PRH. They have to justify their continuous need for PRH from time to time.

7.3 It is in the long term interest of Hong Kong that scarce public housing resources should be allocated strictly in accordance with need. The key purpose of the present exercise is to safeguard this basic principle.

**THE CURRENT HOUSING SUBSIDY POLICY  
(Revised on 1 April 1993)**

Tenants with ten years of residence in public rental housing are required to declare household income. Households with income exceeding two times the Waiting List Income Limits (WLIL) have to pay 1.5 times net rent plus rates. Those with income exceeding three times the WLIL, or who choose not to declare income, have to pay double net rent plus rates.

All elderly households are exempted from the policy. Individual households with special justification may apply for exemption on a case-by-case basis.

Tenants who have paid double rent or 1.5 times rent for three years are given priority in applying for Home Ownership Scheme flats.

Tenants paying higher rent are allowed to revert to paying lower/normal rent if their household income drops below the prescribed limits for a continuous period of three months.

The income restriction on tenants in applying for overcrowding relief is waived.

## MEMBERSHIP

- Chairman**      **Professor YEUNG Yue-man**  
Professor of Geography,  
The Chinese University of Hong Kong  
Member, Hong Kong Housing Authority
- Members**      Hon Edward HO Sing-tin,  
Member, Legislative Council  
Member, Hong Kong Housing Authority
- Hon LEE Wing-tat  
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- Mr YEUNG Ka-sing  
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Principal Assistant Secretary (New Territories),  
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**Secretary**

Ms Mimi LEE Mei-mei  
Senior Administrative Officer (Administration)  
Housing Department

## TERMS OF REFERENCE

### *Revised Terms of Reference*

Having regard to the overall objective of providing subsidized housing to those in need -

- (a) to ascertain the extent of private domestic property ownership among public rental housing tenants;
- (b) to recommend to the Housing Authority whether any policies should be introduced and, if so, whether they should also take account of other forms of asset, and be applicable equally to sitting and new tenants; and
- (c) to recommend how the policies, if any, should be implemented and co-ordinated with other existing policies of the Authority.

**PROPOSED INCOME/ASSET CRITERIA**

<b>Waiting List Income Limits (WLIL) [With effect from 1.4.1995]</b>		<b>Income Limits</b>	<b>Net Asset Limits</b>
<b>Household Size</b>	<b>\$ per month</b>	<b>Income exceeding 3 x WLIL (equivalent to \$)</b>	<b>Net asset value Exceeding 110 x WLIL (equivalent to \$)</b>
1	5,500	<b>16,500</b>	<b>605,000</b>
2	9,100	<b>27,300</b>	<b>1,001,000</b>
3	11,100	<b>33,300</b>	<b>1,221,000</b>
4	13,600	<b>40,800</b>	<b>1,496,000</b>
5	14,700	<b>44,100</b>	<b>1,617,000</b>
6	16,800	<b>50,400</b>	<b>1,848,000</b>
7	18,300	<b>54,900</b>	<b>2,031,000</b>
8	20,700	<b>62,100</b>	<b>2,277,000</b>
9	22,200	<b>66,600</b>	<b>2,442,000</b>
10 and above	23,900	<b>71,700</b>	<b>2,629,000</b>

## Quoted Sections of the Housing Ordinance

Below are relevant sections of the Housing Ordinance which have been quoted in this consultation document.

<u>Section</u> [reference paragraph in document]	<u>Content</u>
7A [6.10]	<p style="text-align: center;"><b>Appeal panel and tribunals</b></p> <p>(1) For the purpose of hearing appeals under section 20(1), the Secretary for Housing shall appoint a panel of persons ("the panel") comprising a chairman and 11 other members, none of whom shall be a public officer.</p> <p>(2) (a) A person who for the time being holds an appointment under subsection (1) shall be ineligible for membership of the Authority.</p> <p style="padding-left: 40px;">(b) A person who for the time being is a member of the Authority shall be ineligible for appointment under subsection (1).</p> <p>(3) A person who holds an appointment under subsection (1) may surrender his appointment by letter addressed to the Secretary for Housing.</p> <p>(4) Subject to subsection (3), an appointment under subsection (1) shall remain in force for such period as is specified in the appointment, being a period of not more than 2 years beginning on the date of the appointment.</p> <p>(5) Where an appointment under subsection (1) expires, the person concerned shall be eligible for reappointment.</p> <p>(6) Where a person appeals to the panel under section 20(1), the chairman of the panel shall appoint from the members thereof a tribunal consisting of a chairman and not less than 2 other members, to determine the appeal.</p> <p>(7) The Secretary for Housing may make rules regulating the procedure for appeals to the panel.</p>

19(1)(b) [6.8]

**Termination of lease**

Notwithstanding the terms thereof, the Authority may terminate any lease

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- (a) without notice, if, in the opinion of the Authority, the land held under the lease has become unfit for human habitation, a nuisance, dangerous to health or unsafe; or
- (aa) without notice, if, in the opinion of the Authority, no person authorized under the lease to occupy the land or part thereof occupies the land or part thereof; or
- (b) otherwise, by giving such notice to quit as may be provided for in the lease or 1 month's notice to quit, whichever is the greater.

20(1) & (2)  
[6.10]

**Appeal against termination**

- (1) Where a lease has been terminated under section 19(1)(a) or (aa), or where a notice to quit has been given under section 19(1)(b), the tenant may appeal to the panel, appointed under section 7A(1), not later than 15 days after the date on which -
  - (a) service of the notice of termination has been effected under section 19A(2); or
  - (b) notice to quit has been given under section 19(1)(b), as the case may be:

Provided that where the chairman of the panel is satisfied that the tenant is unable to appeal by reason of ill-health, absence or other cause thought sufficient by the chairman, he may permit an appeal to be made on behalf of the tenant by a person authorized under the lease to occupy the land or part of it.

- (2) An appeal under subsection (1) shall be in writing and shall state the grounds of the appeal.

25(1)  
[54]

**Power to obtain information**

The Authority and any authorized officer may, for the purposes of this Ordinance, serve on the owner or occupier of any land, whether or not in an estate, a requisition in the specified form requiring him to furnish to the Authority or the authorized officer, within the time stated in the form, the particulars specified in the requisition.

FLOWCHART ON INCOME/ASSET DECLARATION CYCLE  
UNDER THE NEW POLICY

