

**Memorandum for the Subsidised Housing Committee of
the Hong Kong Housing Authority**

**Sale of Remaining Surplus Home Ownership Scheme Flats and
New Home Ownership Scheme Flats**

PURPOSE

This paper seeks Members' endorsement on the sale of the some 800 remaining Surplus Home Ownership Scheme (HOS) flats and the details of the sale, as well as the implementation arrangements for the New HOS.

BACKGROUND

2. There are currently 832 Surplus HOS flats remaining unsold. 825 of these flats are in Tin Chung Court, comprising 640 unsold flats and 185 flats bought back by the Housing Authority (HA). The other seven flats are scattered in five other HOS courts. The majority of these flats were withheld from Sale of Surplus HOS flats Phase 6 which took place in August 2010 as a result of the prevailing dispute over management fees with the Owners' Committee (OC) of Tin Chung Court. The Subsidised Housing Committee (SHC) agreed on 30 November 2010 that the HA should proceed to make arrangements to put up the Surplus HOS flats for sale, notwithstanding that there was no settlement with the Tin Chung Court OC on management fee.

3. Separately, the Government announced in 2011 a new policy for the resumption of the HOS, in response to the aspirations of low and middle-income families to buy their own homes. HA is responsible for producing the New HOS flats and for working out the implementation details, including the allocation ratio between green form and non-green form applicants, income and asset criteria for non-green form applicants, price benchmarks based on affordability and premium payment arrangements. The Administration has set a planning objective to provide some 17 000 flats under the New HOS over the four years from 2016/17 onwards. When more sites are identified in future, the target is to provide some 5 000 flats on average per year. However, the actual number of flats to be rolled out will be subject to the prevailing circumstances at the time.

RECOMMENDATIONS

4. We have been preparing for the sale of the remaining unsold Surplus HOS flats. To address the pressing home ownership aspiration of the community, we propose to release these flats for sale in early 2013. As the 832 remaining flats are part of the existing stock, we intend to apply the implementation arrangements of the traditional HOS for their sale, including setting of price and premium payment.

5. We have sought legal advice in view of the fact that the prevailing dispute in management fee may lead to litigation proceedings affecting title. Accordingly, we will make full disclosure of the dispute and the consequence of the potential encumbrance on title in the sale documents, particularly in the Agreements for Sale and Purchase (ASP). A clause will be added in the ASP to the effect that in case of any claims, demands and/or litigation made or instituted against the purchasers in respect of the prevailing dispute in management fee, HA will be entitled to take over and conduct in the name of the purchasers the defence or settlement of any of the claims.

6. As regards the New HOS units, SHC previously discussed implementation details such as price-setting and calculation of premium (vide Paper Nos. SHC 6/2012, 20/2012 and 21/2012). We note that since then different views have been expressed in the community. We further note that the community generally considers that arrangements for the traditional HOS have been working effectively over the years and are well known to the public, especially as regards price-setting and premium payment. Having further careful consideration, and taking into account the various views of the community, on balance we suggest adhering to the arrangements under the traditional HOS for the sale of future HOS flats. The details of such arrangements are set out in the following paragraphs.

Setting of Flat Price

7. Under the traditional HOS, starting from 1982^{Note 1}, flat prices have been determined by applying a discount rate to the market value of flats. The discount rate is related to the affordability of the households within the HOS income limit. To determine affordability, there were two guiding

Note 1 Before Phase 3B (i.e. before February 1982), the sale prices of HOS flats were fixed at cost (including land, construction and development costs). In other words, HA set the sale prices of the HOS flats on a cost-recovery basis. Since Phase 3B, selling prices of HOS flats have been tied to the prevailing market value and affordability of the applicants, without any reference to cost.

principles – (a) eligible households to have a mortgage-to-income ratio of not more than 40%; and (b) at least 50% of the flats for sale should be “affordable” as defined in (a) after applying a discount rate to the market value of flats. In 1991, HA agreed that, under normal circumstances, HOS flats should be sold at 30% discount with respect to the market value, but a higher discount rate could be offered if the affordability test as mentioned in (b) above could not be satisfied^{Note 2}. The 30% discount guideline was reaffirmed in 2006 for the sale of Surplus HOS flats.

8. **We will use the above formula to set the price for the 800 plus remaining Surplus HOS flats. We also propose to adopt this established formula for the sale in future of HOS flats. As in the past practice, to take into account the latest economic data, we will submit a proposed programme of sale with proposed flat prices for this Committee’s endorsement about one month prior to the sale of the remaining Surplus HOS flats and for future HOS flats.**

Premium Payment

9. The traditional HOS flats were sold at a discounted price and are subject to alienation restrictions. For HOS flats before Phase 3B (the sale prices of which were set on a cost-recovery basis), the owners are free to dispose of their flats on the open market after the expiry of the resale restriction period and no premium payment is required. Since Phase 3B in 1982 (when the selling prices have been tied to the prevailing market value and affordability of the applicants), owners must pay a premium for removal of the restrictions before they can sell, let or assign the flats on the open market.

10. The existing methodology for calculating the premium payable for a HOS flat is set out in the Schedule of the Housing Ordinance (Cap. 283) as follows -

$$\text{Premium} = \text{Prevailing market value} \times \text{Discount rate}$$

where,

$$\text{Discount rate} = \frac{\text{Initial market value} - \text{Purchase price}}{\text{Initial market value}} \times 100\%$$

Note 2 HA offered bigger discounts for HOS flats sold in the 1990s in order to meet the guiding principles.

11. The initial market value and purchase price are stated in the assignment of the flat from HA to a purchaser. For example, for a flat with the initial market value at \$1,600,000 and the purchase price at \$960,000 i.e. a discount rate of 40%, the premium payment would be \$800,000 if the prevailing market value is assessed at \$2,000,000.

12. **We intend to use the above established formula to calculate the premium payable for the remaining Surplus HOS flats and propose to do the same for future HOS flats.**

Green Form / White Form Allocation Ratio

13. Like the traditional HOS, the remaining Surplus HOS flats and the New HOS flats will be open for application by Green Form (GF) and White Form (WF) applicants. For GF applicants, the purpose is to facilitate the turnover of public rental housing (PRH) flats for reallocation to those in genuine need. For WF applicants, the objective is to help people with limited means who wish to purchase their own homes to do so, particularly first-time home buyers. **We propose, as with the traditional HOS, to set an allocation quota for GF / WF applicants in the sale of the remaining Surplus HOS flats and the future HOS flats. As in past practice, a proposed allocation ratio between GF and WF will be submitted to this Committee for consideration about one month prior to sale of each lot, in order to take into account prevailing circumstances.**

Domestic Property Restriction for WF Applicants

14. Since Phase 15C in 1993, there has been a two-year domestic property restriction for WF applicants under the traditional HOS ^{Note 3}, **i.e. neither the applicant nor any member of the family can own or co-own any domestic property in the 24 months prior to the application for the HOS. We propose applying the same domestic property restriction for those with WF status applying to purchase the remaining Surplus HOS flats and future HOS flats.**

Note 3 Before Phase 15C in 1993, the domestic property restriction period was six months. In September 1993, it was revised to 24 months to tie in with the criteria under the Sandwich Class Housing Loan Scheme.

Income and Asset Limits for WF Applicants

15. Apart from the domestic property restriction, WF applicants under the traditional HOS were subject to the income and asset limits. Under the established formula for the traditional HOS, the amount of total household expenditure, i.e. both housing and non-housing expenditure, were taken into account when setting the income limits (details of the established formula are at Annex). **We propose to employ the established formula to derive the income and asset limits for those with WF status applying to purchase the remaining Surplus HOS flats and future HOS flats.** Following the practice of traditional HOS, we suggest that the **exact income and asset limits of the target group**, including that for one-person applicants^{Note 4}, **should be decided in accordance with the established formula about one month before launching the sale exercises in the light of the latest economic statistics.** We will submit our proposal to this Committee nearer the time.

Mortgage Guarantee

16. Under the Sale of Surplus HOS Flats Phase 6, HA offered mortgage guarantee for up to 30 years (counted from the date of the first assignment of the flats) in respect of loans granted by banks and other authorised financial institutions for the purchase of HOS flats, so that purchasers could borrow up to 95% (for GF applicants) or 90% (for WF applicants) of the sale price. To continue to facilitate flat buyers to make mortgage arrangements to finance their flat purchase, **we propose to adopt the same arrangement to provide mortgage guarantee for buyers of the remaining Surplus HOS flats and future HOS flats, i.e. 95% (for GF applicants) and 90% (for WF applicants) of the sale price.**

Resale Restrictions

17. Under the Schedule to the Housing Ordinance, during the first five years following the date of first assignment from HA, if the flat owner wants to sell his flat, he is required to offer to sell it back to HA at the original price within the first two years from the date of first assignment, or offer to sell back to HA at an assessed price (the price being set at the assessed market value less the discount at the time of purchase) from the third to fifth year from the date of first assignment. If HA declines to buy back the flat, the owner can sell the traditional HOS flat on the open market after payment of the premium.

Note 4 For the sale of Surplus HOS flats, the income and asset limits for one-person applicants were set as half of those for families.

Moreover, after two years have lapsed from the date of the first assignment, the flat owner may sell the traditional HOS flat on the Secondary Market to a prescribed nominee at his own negotiated price without payment of premium. Since 2007, HA has ceased to exercise the buyback option as stipulated in the Schedule to the Housing Ordinance. **We propose applying the same resale restrictions to buyers of the remaining Surplus HOS flats and future HOS flats, i.e. the flat owner may sell on the Secondary Market after two years from the date of first assignment. We further propose that HA should continue to decline buyback requests as with Phases 1 to 6 of Surplus HOS flats, i.e. the flat owner can sell on the open market at any time after first assignment upon payment of the premium.**

ELIGIBILITY OF PRH TENANTS ALLOCATED THROUGH EXPRESS FLAT ALLOCATION SCHEME

18. In considering the sale of Surplus HOS flats, SHC endorsed vide SHC paper No. 33/2007 that if those GF applicants who obtain a PRH unit through the Express Flat Allocation Scheme (EFAS) exercise from 2007/08 onwards apply for the Surplus HOS flats within three years from intake of their PRH units, they will be treated as if they were WF applicants in the flat selection order, and any Surplus HOS flats taken up by this category of GF applicants would be counted against the WF quota.

19. Since the implementation of the above measure from Phases 3 to 6 of the Sale of the Surplus HOS flats, only two among a total of 133 applications from these EFAS tenants have successfully purchased Surplus HOS flats. The above figures have suggested that the administrative measure is effective in achieving the purpose of preventing PRH applicants to use EFAS as a fast track to obtain GF status to purchase HOS flats.

20. In the light of the above experience, we consider that the same measure should be extended from Surplus HOS flats to cover also all future HOS flats. In other words, if GF applicants who obtain PRH units through EFAS exercises from 2012/13 onwards apply for the future HOS within three years from intake of their PRH flats, they will be treated as if they were WF applicants in the flat selection order, and any flats taken up by this category of GF applicants will be counted against the WF quota. Upon purchase of the HOS flats, this category of GF applicants, similar to other GF applicants, will have to surrender their PRH units to HA.

ADVICE SOUGHT

21. Members are invited to endorse the following recommendations:
- (a) release the 832 remaining Surplus HOS flats for sale in early 2013;
 - (b) use the arrangements under the traditional HOS as set out in paragraphs 7 to 17 above for the sale of the remaining Surplus HOS flats and future HOS flats; and
 - (c) extend the special measure to cover the all future HOS flats, i.e. if GF applicants who obtain PRH units through the 2012/13 EFAS exercises onwards apply for the future HOS within three years from intake, they will be treated as if they were WF applicants in the flat selection order. Under this arrangement, any flats taken up by this category of GF applicants will be counted against the WF quota, and the applicants will have to surrender their PRH units to HA upon successfully purchasing the HOS flats.

DECLASSIFICATION

22. It is recommended that this paper be declassified upon endorsement of the recommendations above. The paper will be made available to the public at the HA / Housing Department (HD) homepage, the HD Library and through the Departmental Access to Information Officer if it is declassified.

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Established Formula for Deriving the Income and Asset Limits under the Traditional Home Ownership Scheme

Assumptions for Deriving the Income and Asset Limits

- Under the traditional Home Ownership Scheme (HOS), one of the guiding principles to determine affordability is that eligible households could afford the flats with a mortgage-to-income ratio of no more than 40%.
- The assumptions for determining affordability as applied to the sale of Surplus HOS flats in Phase 6 are that 10% of the flat price to be used as downpayment, and flat owners would pay the remaining 90% of the flat price (i.e. the mortgage) for 20 years at the prevailing interest rate with a maximum mortgage-to-income ratio of 40%.
- The reference flat for deriving the income and asset limits was a 10-year-old private flat of 40 m² saleable area in the Extended Urban area or the New Territories.

Income Limit for Families

- The amount of total household expenditure, i.e. both housing and non-housing expenditure, required to purchase a reasonably sized flat in the private sector (i.e. the reference flat) constitutes the basis for deriving the income limit under traditional HOS. The formula for deriving the income limit for families is as follows:

$$\begin{aligned} \textit{Household Expenditure} &= \textit{Housing Costs} + \textit{Non-Housing Costs} \\ \textit{Contingency Provision} &= 5\% \times \textit{Household Expenditure} \\ \textbf{Income Limit} &= \textit{Household Expenditure} + \textit{Contingency Provision} \end{aligned}$$

Asset Limit for Families

- The asset limit for families under traditional HOS is derived from the amount of expenditure required to finance the downpayment (10% of the flat price), as well as the related transaction costs and decoration expenses, for acquiring the reference flat.

Income and Asset Limits for Singletons

- Under traditional HOS, the income and asset limits for singleton applicants are half of those for families.