

## **Section B**

### **Chapter 8: Housing Arrangements for Divorced Couples in Public Rental Housing (PRH) Flats**

In view of the complexity of divorce matters, a common sense and flexible approach, taking individual circumstances into consideration, is always adopted by the Housing Department (HD).

In general, HD will not take active step to secure removal of either party during their separation as this may only create burden to the family in marital crisis, and exclude the chance of reconciliation.

Upon finalization of the divorce proceedings, tenant and/ or his/ her ex-spouse should approach local estate office. HD staff will explain relevant tenancy management policy to the divorcee(s) during interview. Information contained in ensuing paragraphs is for general reference purpose only.

#### **Divorce Cases Not Involving Additional PRH Resources**

If an agreement cannot be reached by the divorcees on the public housing tenancy, HD will generally favour the grant of the tenancy to-

1. the party having the custody of all children (if there are no other authorised occupants in the tenancy); or
2. the party comprising all authorised occupants (such as grown-up children, parents, in-laws etc.); or
3. (for joint custody cases) the party having the legal right to live with the offspring continuously and permanently (if applicable).

The single party who has not been given custody of any child or with no authorised occupant in the tenancy opting to live with will be required to leave the PRH flat upon divorce. In case of difficulties in finding accommodation, he/ she may -

1. apply for a one-person interim housing unit in Po Tin Interim Housing in the New Territories subject to fulfillment of the eligibility criteria (including the criteria on income and asset limits and ownership of domestic property in Hong Kong); and
2. apply for PRH through registration of one-person application and be given a credit of waiting time equivalent to the length of the former tenancy up to a maximum of 3 years.

## **Divorce Cases Involving Additional PRH Resources**

If each divorcee has the custody of one or more children, or each divorcee has one or more authorised occupants (such as grown-up children, parents, in-laws etc.) in the tenancy opting to live with him/ her respectively, separate housing units may be allocated to the divorced parties provided that both of them satisfy the following criteria (test separately) -

1. Comprehensive means test (CMT), i.e. the household (family members who are going to live together if the application for additional housing unit is approved) income and asset do not exceed the Income and Asset Limits of application for PRH; and
2. Domestic property test (DPT) (Note 1), i.e. all family members must not own any domestic property in Hong Kong.

Alternatively, both or either party may apply for a Green Form Certificate (valid for one year) to purchase a flat under the subsidised housing schemes in lieu of the offer of a PRH.

Upon allocation of separate PRH flats, irrespective of their length of residence in PRH, both parties are required to declare biennially (Note 2) the occupancy status; and the household income and assets pursuant to the “Well-off Tenants Policies”, including whether they own any domestic property in Hong Kong, so as to determine the eligibility for continuous renting the PRH and the level of rent payable. Starting from October 2023, PRH tenants are required to declare to HA every two years (Note 2) whether the principal tenant and all members of the household own any domestic property in Hong Kong since admission to PRH and to undertake to declare to HA within one month after having acquired a domestic property in Hong Kong (within one month of entering into any agreement, including provisional agreements). Besides, they are also required to declare whether they have retained regular and continuous residence in PRH units and complied with the terms in the tenancy agreement regarding occupancy status.

## **Divorce Cases Ineligible for Additional PRH Resources**

Any party who fails either the CMT or DPT will be required to move out from the PRH flat. For a non-property-owning party who fails the CMT, a one-year temporary stay in Po Tin Interim Housing in the New Territories may be granted upon application (market licence fees will be charged during this period).

In case both parties fail any of the tests, they may be allowed to withdraw their application for allocation of separate PRH flats and they should make their own accommodation arrangements.

## **Divorce between Cohabiting Tenants or Authorised Occupants**

The policy on Housing Arrangements for Divorced Couples in PRH Flats is not applicable to cohabiting tenants or authorised occupants (such as offspring and his/ her spouse in the tenancy). These households will have to make their own accommodation arrangements. Tenant should not be deprived of the tenancy right because of the divorce between authorised occupants. Normally, the divorcee who is not directly related to the tenant (e.g. the in-laws) will be required to move out and be deleted from the tenancy.

## **Conditional Tenancy**

If the legal proceedings involved in the case are expected to be protracted ones and the aggrieved party with dependent children concerned has genuine and urgent need for a separate PRH unit, HD will, upon recommendation by the Social Welfare Department (SWD), provide them with temporary accommodation in a PRH estate in the form of a conditional tenancy (CT) under the Compassionate Rehousing (CR) Category.

With effect from 29.11.2001, the CT policy is extended to include the following persons who **fall victims to domestic violence and have petitioned for divorce -**

1. spouses having no offspring; and
2. spouses bringing along no dependent children.

Nevertheless, CTs will only be offered to those with a genuine need and assistance upon the SWD's recommendation.

Upon finalization of divorce proceedings, CT beneficiary is required to pass the CMT with income and asset limits pitched at the prevailing levels for PRH application, the DPT and to be granted the custody of dependent child(ren) before conversion of a CT into a normal tenancy.

CT beneficiary who fails any of the conversion test(s) should surrender the PRH flat. However, if he/ she is reconfirmed to be eligible for CR, a normal tenancy for the flat under existing CT will be granted.

Note 1: Domestic property test (DPT) means all the household members must not:

- (i) own or co-own any domestic property in Hong Kong or any interest in such kind of property; or
- (ii) enter into any agreement (including preliminary agreement) to purchase any domestic property in Hong Kong; or own more than 50% of the shares in a company which directly or through a subsidiary company own any domestic property in Hong Kong; or

(iii) be a beneficiary of the estate of any deceased person which includes any domestic property or land in Hong Kong.

“Domestic properties” include any domestic property, uncompleted private domestic property, rooftop structures approved by the Buildings Department, domestic building lots and small house grants approved by the Lands Department in Hong Kong

Note 2: First review may be less than 2 years.