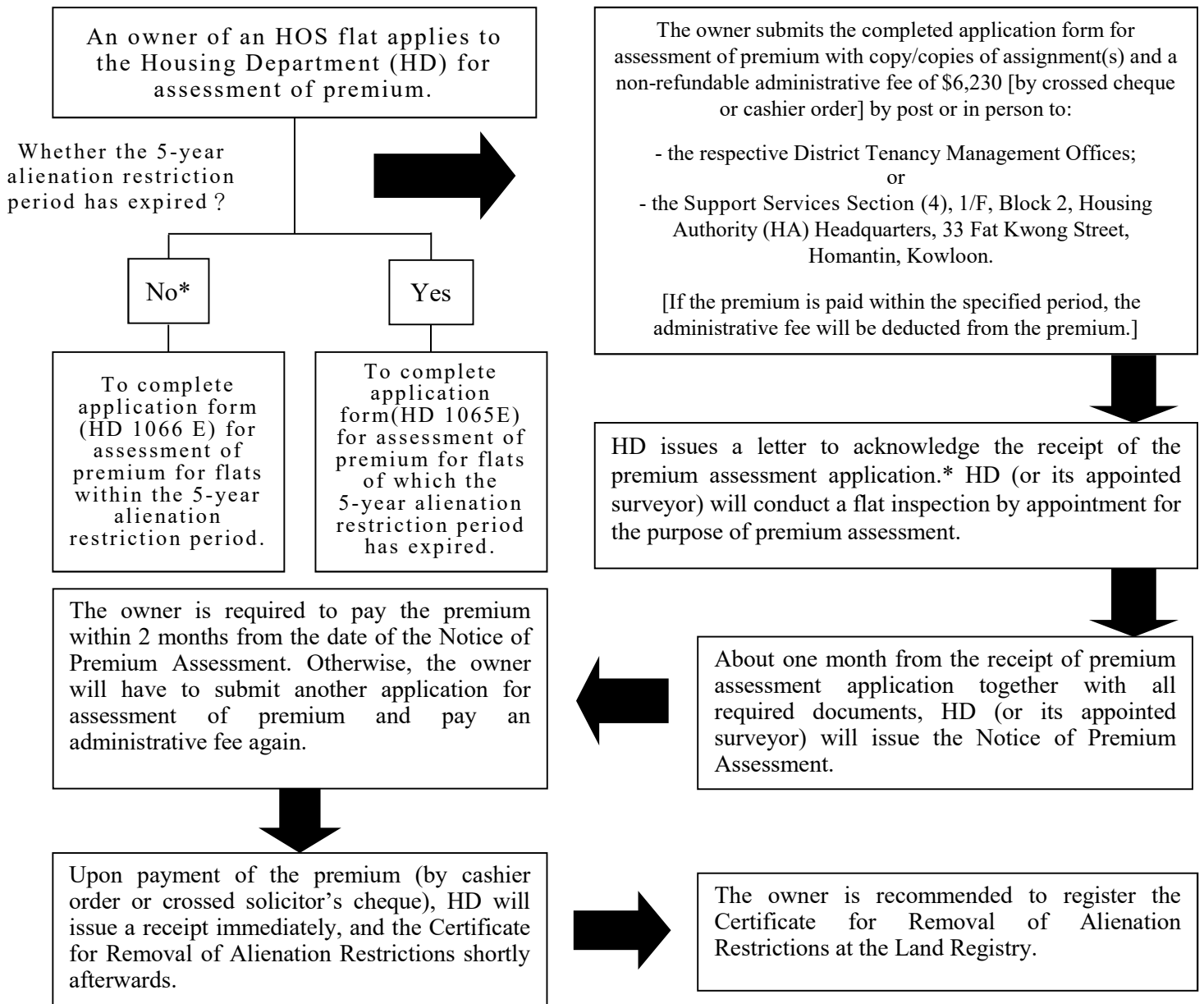


Premium Payment Procedures for Home Ownership Scheme (HOS) Flats



Attention

* The owner of flat within 5-year alienation restriction period may only enter into agreement for sale and purchase (including provisional/formal agreement) after receiving an acknowledgement of the premium assessment application. Otherwise, he/she will be in breach of section 27A of the Housing Ordinance. The agreement for sale and purchase entered into by him/her will also be void. Any person who commits an offence under section 27A of the Housing Ordinance is liable to a fine of \$500,000 and to imprisonment for 1 year.

No matter the flat is within 5-year alienation restriction period or not, the owner can only enter into agreement for sale and purchase (including provisional/formal agreement) provided that it is a condition of such agreement that the premium as assessed by the Director of Housing be paid prior to the assignment and within 28 days of the date of the agreement or within such period as may be otherwise stipulated by the Director of Housing. Any person who sells, lets, assigns or otherwise alienates the flat before payment of the assessed premium commits an offence under the Housing Ordinance and is liable to a fine of \$500,000 and to imprisonment for 1 year and such alienation or assignment will also be void.

- Notes :
- (i) This leaflet only serves as a brief introduction to the procedures and arrangements for assessment and payment of premium for HOS flats and does not itself carry any legal effect.
 - (ii) The HA reserves the right to modify, alter or amend this leaflet without prior notice.
 - (iii) Administrative fee is subject to annual review. Revised administrative fee, if any, will take effect on 1st April each year. For postal applications, the amount of administrative fee payable shall be determined by reference to the date of the postal stamp.

Premium Payment Arrangements for Home Ownership Scheme Flats

Background

The Home Ownership Scheme (HOS) was introduced by the Hong Kong Housing Authority (HA) to enable public housing tenants and households who meet the income limits to purchase domestic flats at below market prices. To curb speculative activities, the HA imposes alienation restrictions on HOS flats. The discount rate that HOS owners enjoyed when purchasing their flats will form the basis for premium assessment for removal of the alienation restrictions.

Alienation Restrictions

All HOS/Private Sector Participation Scheme/Mortgage Subsidy Scheme/Buy or Rent Option/Middle Income Housing Scheme (Melody Garden) flats offered for sale or resale by the HA since the launch of HOS Phase 3B in May 1982 up to Phase 24A in July 2002; and all HOS flats sold from 2007 onwards are subject to alienation restrictions as stipulated either in the Schedule to the Housing Ordinance (Cap. 283) or under Government Leases. Flats subject to alienation restrictions are not allowed to be sold, let or otherwise alienated in the open market. The existing alienation restriction period is 5 years ^(Note 1) under the Schedule to the Housing Ordinance (Cap. 283) or 10 years ^(Note 2) under Government Leases.

Alienation Arrangements

- (A) For HOS flats sold on or before HOS Phase 24A, the 5-year alienation restriction period has already expired. The HA will not accept the buyback offer of flats of which the 5-year alienation restriction period has expired. Flat owners may either sell, let or otherwise alienate the flats in the open market after payment of a premium to the HA; or sell their flats in the HOS Secondary Market ^(Note 3) to eligible persons in possession of Certificate of Eligibility for Purchase issued by the HA (CEP holders) at a freely negotiated price without payment of a premium.
- (B) For HOS flats sold from 2007 onwards including Sale of Surplus HOS Flats Phases 1 to 7 and HOS flats first put up for sale during 2014 to 2017, the HA will decline all buyback offers for these flats. The flat owners may sell, let or otherwise alienate the flats in the open market after payment of a premium to the HA. Upon expiry of 2 years from the date of first assignment, flat owners may opt to sell their flats in the HOS Secondary Market to CEP holders at a freely negotiated price without payment of a premium.
- (C) For HOS flats first put up for sale in 2018 ^(Note 4), flat owners are required to offer to sell the flats to the HA during the first 5 years from the date of first assignment. The HA will not

^(Note 1) Alienation restriction period is counted from the date of first assignment which refers to the date when the HA/developer (for PSPS flats) first assigns a flat to a purchaser. For returned flats bought back from individual purchasers and resold by the HA, the basis for identifying the date of first assignment shall remain the same and should not be interpreted as the date of the resale assignment executed by the current owner. For PSPS flats purchased from the developer by the HA and resold to individual purchasers, the date of the first assignment refers to the date when the HA first assigns such flats to purchasers.

^(Note 2) For HOS flats first put up for sale in 2019 and onwards, alienation restriction period is stipulated under Government Leases and the alienation restriction period is 10 years from the date of first assignment of respective flats.

^(Note 3) For more information regarding the sale of flats in the HOS Secondary Market, please refer to the Application Guide for the HOS Secondary Market.

^(Note 4) All these flats are not eligible for application for assessment of premium within their respective alienation restriction period.

buy back the flats but will nominate successful White Form applicants (excluding owners of Tenant Purchase Scheme flats) under the White Form Secondary Market Scheme to buy the flats at the original price during the first 2 years from the date of first assignment; or at market values less discount during the third to fifth year from the date of first assignment. Upon expiry of 2 years from the date of first assignment, flat owners may opt to sell their flats in the HOS Secondary Market to CEP holders at a freely negotiated price without payment of a premium. Upon expiry of 5 years from the date of first assignment, flat owners may sell, let or otherwise alienate the flats in the open market after payment of a premium to the HA.

- (D) For HOS flats first put up for sale in 2019 and onwards ^(Note 4), flat owners may sell, let or otherwise alienate the flats in the open market after 10 years from the date of first assignment upon payment of a premium to the HA. Alternatively, flat owners may sell the flats at no more than the original price to CEP holders in the HOS Secondary Market during the first 2 years from the date of first assignment; or at a freely negotiated price to CEP holders in the HOS Secondary Market from the third year from the date of first assignment without payment of a premium.

Entering into ASP, Sell/Let or Mortgage

(for HOS flats subject to 5-year alienation restriction period under the Schedule to the Housing Ordinance (Cap. 283))

For flats within the 5-year alienation restriction period, is it possible for the owner to enter into an agreement for sale and purchase before making application for premium assessment?

No. Pursuant to the Schedule to the Housing Ordinance, an owner of flats within the 5-year alienation restriction period (including Sale of Surplus HOS Flats Phases 1 to 7 and HOS flats first put up for sale during 2014 to 2017) may only enter into agreement for sale and purchase (including provisional/formal agreement) after his/her offer to assign his/her flat to the HA is declined by the HA. In other words, **an owner may enter into agreement for sale and purchase only after his/her application for premium assessment and receipt of an acknowledgement letter on the application.** If the owner enters into agreement for sale and purchase before the HA's acceptance of his/her premium application, he/she will be in breach of section 27A of the Housing Ordinance (Cap. 283). The agreement for sale and purchase entered into by him/her will also be void. Any person who commits an offence under section 27A of the Housing Ordinance is liable to a fine of \$500,000 and to imprisonment for 1 year.

A flat owner may enter into agreement for sale and purchase (including provisional/formal agreement) after the HA has accepted his/her premium application, provided that it is a condition of such agreement that the premium as assessed by the Director of Housing be paid prior to the assignment and within 28 days of the date of the agreement or within such period as may be otherwise stipulated by the Director of Housing. Any person who sells, lets or otherwise alienates a flat in the open market before payment of the assessed premium will be in breach of the Housing Ordinance and is liable to a fine of \$500,000 and to imprisonment for 1 year. Such agreement, assignment or alienation will also be void.

For flats of which the 5-year alienation restriction period has expired, is it possible for the owner to enter into an agreement for sale and purchase before making an application for premium assessment?

Yes. **For flats of which the 5-year alienation restriction period has expired, a flat owner may enter into agreement for sale and purchase (including provisional/formal agreement) before making an application for premium assessment,** provided that it is a condition of such agreement that the premium as assessed by the Director of Housing be paid prior to the assignment and within 28 days of the date of the agreement or within such period as may be otherwise stipulated by the Director of Housing. Any person who sells, lets or otherwise alienates a flat in

the open market before payment of the assessed premium will be in breach of the Housing Ordinance and is liable to a fine of \$500,000 and to imprisonment for 1 year. Such agreement, assignment or alienation will also be void.

Is it possible for the owner to mortgage the flat for payment of the premium?

As with the case of selling a flat, it is, generally speaking, not allowable to mortgage a flat before payment of the premium or without the prior approval of the Director of Housing. However, flat owners may make arrangements with their solicitors and banks to execute the mortgage deed on the day when the Certificate for Removal of Alienation Restrictions takes effect. Any person who mortgages his/her flat before payment of the premium or without the prior approval of the Director of Housing will be in breach of the Housing Ordinance, and the said mortgage deed will also be void.

Is it possible to pay the premium without selling the flat?

Yes. Owners can pay the premium without selling their flats. Upon payment of the premium, the owners will be issued a Certificate for Removal of Alienation Restrictions, which enables them to sell, let or otherwise alienate their flats freely in the open market.

Calculation of Premium

How is the premium assessed?

The premium is assessed with reference to the prevailing market value of the flat without alienation restrictions, the initial market value and purchase price of the flat as specified in the first deed of assignment ^(Note 5) or (for a resale flat) the last deed of assignment between the HA and a purchaser, and calculated by using the following formula as stipulated in the Schedule to the Housing Ordinance. In other words, the premium is calculated by applying the original discount of the purchase price ^(Note 6) to the current value :

$$\text{Premium} = \text{Prevailing Market Value} \times \frac{(\text{Initial Market Value} - \text{Purchase Price})}{\text{Initial Market Value}}$$

For example :

| | | |
|--|---|-------------|
| Prevailing Market Value | = | \$2,100,000 |
| Initial Market Value (at the time of purchase) | = | \$2,000,000 |
| Purchase Price | = | \$1,400,000 |

$$\begin{aligned} \text{Premium} &= \$2,100,000 \times \frac{(\$2,000,000 - \$1,400,000)}{\$2,000,000} \\ &= \$2,100,000 \times 30\% \\ &= \$630,000 \end{aligned}$$

^(Note 5) The discount at the time of purchase may vary for each flat. The owners should calculate the discount according to the difference between the full market value and the purchase price of the flat as specified in the first deed of assignment or (for a resale flat) the last deed of assignment between the HA and a purchaser.

^(Note 6) If a list price is specified in the relevant deed of assignment, the list price should be adopted.

Application Procedures

How to apply for assessment of the premium?

In accordance with the Schedule to the Housing Ordinance (Cap. 283), if flat owners wish to alienate their flats within the 5-year alienation restriction period, the flat owners must first offer to assign the flats to the HA and after the HA has declined to accept the assignment, the owners can sell, let or otherwise alienate the flat in the open market subject to payment of a premium to the HA. The flat owner should submit an **application form for assessment of premium for flats within the 5-year alienation restriction period (form HD1066E)**. The said application for premium assessment includes the application to assign the flat to the HA and the application for assessment of premium. Upon receipt of the said application from the owner, the HA may decline the application to assign the flat to the HA and process the application for assessment of premium in accordance with the Schedule to the Housing Ordinance.

If the 5-year alienation restriction period from the date of first assignment has expired, owners should submit the completed **application form for assessment of premium for flats of which the 5-year alienation restriction period has expired (form HD1065E)** to the Housing Department (HD).

Application forms for assessment of premium are available free of charge at the respective District Tenancy Management Offices and the Support Services Section (4) of HD or can be downloaded from the HA website. HD (or its appointed surveyor) will assess the prevailing market value of the flat and calculate the amount of premium payable.

Will an administrative fee be charged?

Yes. An administrative fee, currently at \$6,230, (Administrative fee is subject to annual review. Revised administrative fee, if any, will take effect on 1st April each year. For postal applications, the amount of administrative fee payable shall be determined by reference to the date of the postal stamp) payable to “Hong Kong Housing Authority” by crossed cheque/cashier order should be submitted. The address of the property concerned should be stated on the back of the cheque/cashier order. If the premium is settled within the specified period, the administrative fee will be deducted from the premium.

Where should the application form be submitted?

The completed application form, together with the administrative fee and a copy/copies of the deed(s) of assignment, should be delivered to or sent by post to the respective District Tenancy Management Offices or the Support Services Section (4) at 1/F, Block 2, Housing Authority Headquarters, 33 Fat Kwong Street, Homantin, Kowloon.

Will the Certificate for Removal of Alienation Restrictions be issued after the payment of premium?

Yes. Upon payment of premium (only cashier order or solicitor’s crossed cheque will be accepted) by a flat owner, HD will issue a Certificate for Removal of Alienation Restrictions certifying that the premium stipulated in the Schedule to the Housing Ordinance (Cap. 283) has been paid, and the alienation restrictions on the flat concerned have been removed. The flat owner is recommended to register the Certificate for Removal of Alienation Restrictions at the Land Registry.

Premium Assessment

Who is responsible for the assessment of premium?

Assessment of premium will be carried out by HD.

Validity Period of the Assessed Premium

For how long will the assessed premium remain valid?

Currently, the assessed premium is valid for 2 months. If the assessed premium is not settled within the validity period, the assessment shall lapse. Any subsequent request for premium assessment will have to be made by submitting a fresh application together with an administrative fee. Any future changes in the validity period will be set out in the Notice of Premium Assessment.

Channels for Lodging an Objection/Appeal

What should I do if I disagree with the prevailing market value assessed by HD (or its appointed surveyor)?

The flat owners who disagree with the prevailing market value assessed by HD (or its appointed surveyor) may lodge an objection in writing to the Support Services Section (4) of HD or its appointed surveyor within 28 days from the date of the Notice of Premium Assessment. Pursuant to the Housing Ordinance, the flat owners may also lodge a formal appeal to the Lands Tribunal within 28 days from the date of the Notice of Premium Assessment. Late objections/appeals will not be accepted. The above procedure and objection/appeal period apply both to the initial premium assessment and subsequent review.

If the flat owners have already lodged an appeal with the Lands Tribunal, can HD (or its appointed surveyor) revise the assessed premium before the case is heard?

HD (or its appointed surveyor) may revise the assessed premium at any time before the Lands Tribunal has made a determination.

Having lodged an objection with HD or an appeal with the Lands Tribunal, can the flat be sold, let, assigned or mortgaged?

Before concluding the objection/appeal, flat owners may sell, let, mortgage or otherwise alienate the flat in the open market after payment of the premium within the time limit specified in the Notice of Premium Assessment. However, upon concluding the objection/appeal, if the assessed premium is reduced, the reduced amount will be refunded to the owner. On the other hand, if the assessed premium is increased, the owner will be required to pay the increased amount to the HA.

Enquiries

For enquiries, please call the HA hotline at 2712 2712 or visit HA website :

<http://www.housingauthority.gov.hk>

For further information or assistance, please contact the respective District Tenancy Management Offices, or the Support Services Section (4) at 1/F, Block 2, Housing Authority Headquarters, 33 Fat Kwong Street, Homantin, Kowloon.