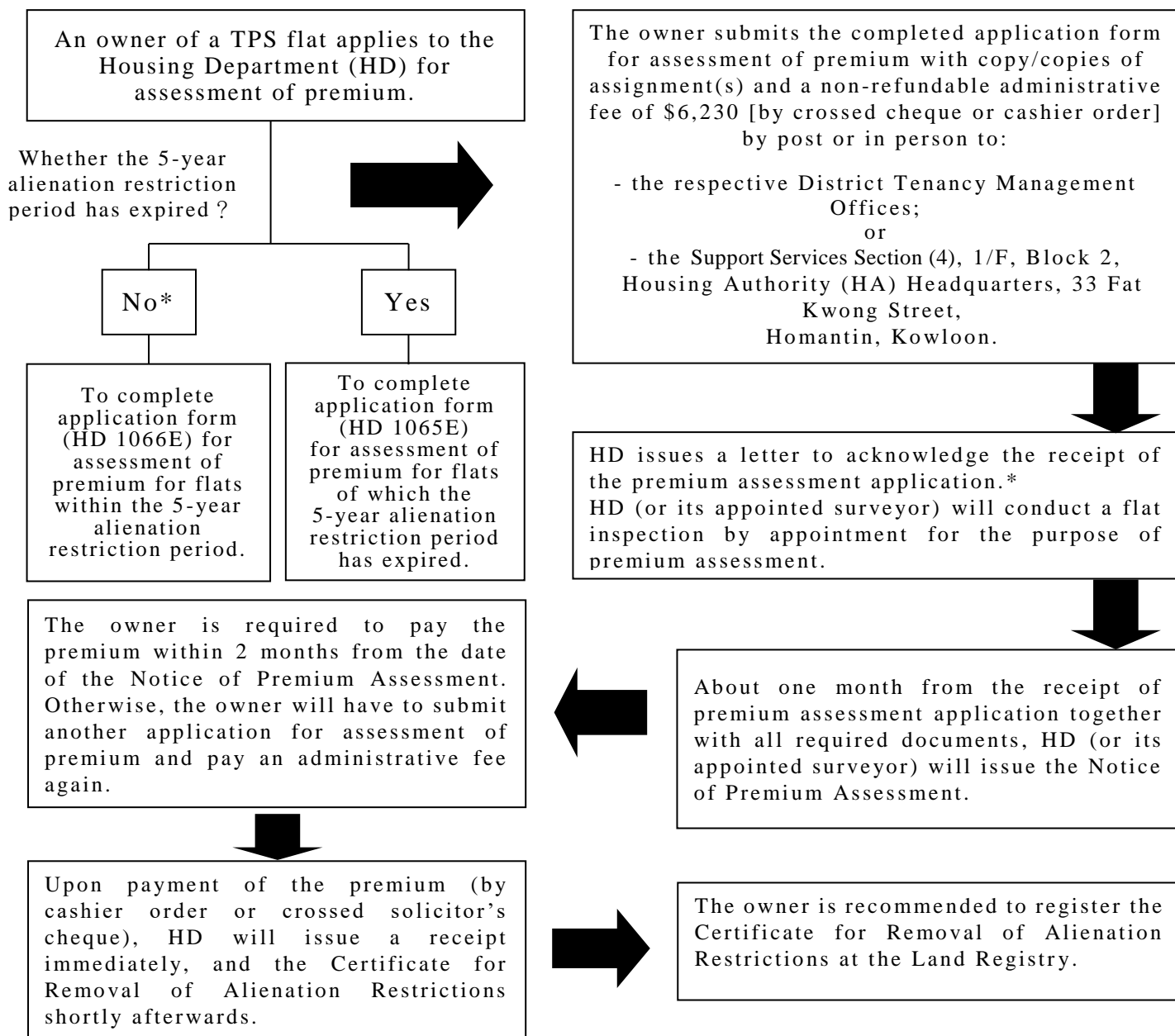


Premium Payment Procedures for Tenants Purchase Scheme (TPS) Flats



Attention

* In accordance with the Schedule to the Housing Ordinance (Cap. 283), if flat owners wish to alienate their flats within the first 2-year alienation restriction period, they can only offer the flats for sale to the HA or its nominees. As such, the HD will not accept any application for assessment of premium for flats within the first 2-year alienation restriction period. For flats within the 3rd to 5th year alienation restriction period, owner may only enter into agreement for sale and purchase (including provisional/formal agreement) after receiving an acknowledgement of the premium 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 Tenants Purchase Scheme Flats

Background

The Tenants Purchase Scheme (TPS) was introduced by the Housing Authority (HA) to enable public housing tenants to purchase the flats which they occupied at affordable prices. To curb speculative activities, the HA imposes alienation restrictions on TPS flats. The discount rate that TPS owners enjoyed when purchasing their flats will form the basis for premium assessment for removal of the alienation restrictions.

Alienation Restrictions

All TPS flats offered for sale or resale by the HA since the launch of TPS Phase 1 in 1998 are subject to alienation restrictions as stipulated in the Schedule to the Housing Ordinance (Cap. 283). 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).

Alienation Arrangements

TPS flat owners may alienate the flats under the following arrangements:

- (1) Within the first 2 years from the date of first assignment
If flat owners wish to alienate their flats, they can only offer the flats for sale to the HA or its nominees at the list price specified in the deed of assignment ^(Note 2).
- (2) Within the 3rd to 5th years from the date of first assignment
 - Flat owners may opt to sell the flats back to the HA or its nominees. The buyback price is calculated on the basis of the assessed market value less the original purchase discount ^(Note 2); or
 - If the HA declines the owners' offer to sell the flats back to the HA, the owners may sell, let or otherwise alienate the flat in the open market after payment of a premium to the HA ^(Note 3); or
 - Flat owners may opt to sell their flats in the HOS Secondary Market ^(Note 4) to eligible persons in possession of Certificate of Eligibility for Purchase issued by the HA at a freely negotiated price without payment of a premium;

^(Note 1) Alienation restriction period is counted from the date of first assignment which refers to the date when the HA 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.

^(Note 2) TPS flat owners shall return the actual amount of special credit enjoyed at the time of purchase to the HA upon assignment.

^(Note 3) The Subsidised Housing Committee of the HA endorsed a new arrangement for premium payment on 26 May 2005 in which TPS flat owners are allowed to choose to pay premium after the lapse of the first 2 years of the 5-year alienation restriction period.

^(Note 4) For more information regarding the sale of flats in the HOS Secondary Market, please refer to the Application Guide for the HOS Secondary Market.

- (3) Upon expiry of the 5-year alienation restriction period (i.e. 5 years from the date of first assignment)
- Flat owners may opt to sell their flats in the HOS Secondary Market to eligible persons in possession of Certificate of Eligibility for Purchase issued by the HA at a freely negotiated price without payment of a premium; or
 - Flat owners may sell, let or otherwise alienate their flats in the open market after payment of a premium to the HA.

Under the current policy, the HA will not accept the buyback offer of flats of which the 5-year alienation restriction period has expired.

Entering into ASP, Sell/Let or Mortgage

For flats within the 3rd to 5th year of the 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 3rd to 5th year of the alienation restriction period 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 list 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 list price ^(Note 6) to the current value :

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

For example :

Prevailing Market Value	:	\$1,200,000
Initial Market Value (at the time of purchase)	:	\$1,000,000
List Price	:	\$500,000

$$\begin{aligned} \text{Premium} &= \$1,200,000 \times \frac{(\$1,000,000 - \$500,000)}{\$1,000,000} \\ &= \$1,200,000 \times 50\% \\ &= \$600,000 \end{aligned}$$

^(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 list 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) The list price does not include the special credit offered to the tenants who purchased their flats within a specific time limit.

Application Procedures ^(Note 7)

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 3rd to 5th year of the 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

^(Note 7) In accordance with the Schedule to the Housing Ordinance (Cap. 283), if flat owners wish to alienate their flats within the first 2-year alienation restriction period, they can only offer the flats for sale to the HA or its nominees. As such, the HD will not accept any application for assessment of premium for flats within the first 2-year alienation restriction period.

Land Registry.

Premium Assessment

Who is responsible for the assessment of premium?

Assessment of premium will be carried out by HD (or its appointed surveyor).

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.