

LCQ15: Retrofitting of public facilities in common areas of public rental housing estates

Following is a question by the Hon Wilson Or and a reply by the Acting Secretary for Transport and Housing, Dr Raymond So Wai-man, in the Legislative Council today (July 11):

Question:

It has been reported that when the Hong Kong Housing Authority (HA) divested in 2005 certain retail and car parking facilities of its public rental housing (PRH) estates to The Link Real Estate Investment Trust, which has been renamed as Link Real Estate Investment Trust (Link REIT), it sold in the same lot the titles to some common areas in certain housing estates. If such common areas are involved in the public facilities the addition of which is intended by HA or the owners' corporations of the housing estates concerned, the relevant works may be carried out only after the consent of Link REIT (or the new owners) has been obtained. At present, a number of works projects for retrofitting public facilities cannot commence as such consent has not been obtained. For example, the lift and escalator projects at Po Tak Estate, Kwun Tong, have dragged on for 10 years, and no date has been fixed for implementing the lift retrofitting works for a centre for the elderly in Lower Wong Tai Sin Estate, resulting in the elderly with impaired mobility having to walk up and down tens of steps to commute to and from the centre every day. In this connection, will the Government inform this Council:

(1) of the number of complaints, received by the Government since 2005, alleging that HA's selling the titles to some common areas in PRH estates has resulted in a failure to retrofit public facilities to those estates; the mechanism currently in place to handle such cases;

(2) whether the Government has, since 2005, conducted any study on the impact on the residents caused by the sale by HA to Link REIT of the title to some common areas in PRH estates; if so, of the outcome; if not, the reasons for that; and

(3) whether the Government will consider invoking the Lands Resumption Ordinance (Cap 124) to resume the titles to the common areas concerned so as to retrofit the relevant public facilities; if so, of the details; if not, the reasons for that?

Reply:

President,

My consolidated reply to various parts of the question raised by the Hon Wilson Or is as follows.

As with private housing projects in general, in the public housing projects jointly owned by the Hong Kong Housing Authority (HA) and other owners (including owners of the commercial facilities, owners of individual residential flats, etc.), the titles of the common areas are co-owned by the owners in accordance with the Deeds of Mutual Covenant (DMCs). The responsibility for the management and maintenance of these common areas shall, in accordance with the provisions of the respective DMCs, be borne by all owners. For the estates or courts with Owners' Corporations (OCs) formed, matters relating to the day-to-day management are discussed and resolved by the OCs in accordance with the requirements under the Building Management Ordinance (BMO) and the DMCs through convening meetings of the Management Committee or owners' meetings. As one of the owners, HA will, apart from paying the management fees according to its management shares, also nominate representatives to participate in the OCs' affairs.

Works relating to the installation of common facilities in the common areas are subject to the consent of the relevant owners. The costs of the works and future maintenance are also shared by all owners according to the DMC or other agreements. If the proposed installation of common facilities involves changes to the land use or land lease conditions, approval from the Lands Department is required. Other owners of the lot are also required to give consent in the application process. Besides, when considering the installation of common facilities in these common areas, consideration should be given on the technical feasibility, topographical factors, social acceptance and compliance with the Buildings Ordinance and related planning requirements. Depending on the actual circumstances of individual estates and courts, HA and other owners will, in accordance with the mechanism above, follow up various works proposals of common facilities. As regards the cases of Po Tat Estate and Lower Wong Tai Sin Estate mentioned in the question, HA has already conveyed views on the installation of common facilities to the relevant organisations and stakeholders in accordance with the prevailing mechanism and is actively exploring various feasible options.

The Government does not maintain statistics on the number of complaints relating to the installation of common facilities in public housing projects under HA since 2005, and has no plan to conduct a study on the matters mentioned in the second part of the question.

At present, the Government has no plan to recover the titles of common areas in public housing developments under HA by invoking the Lands Resumption Ordinance.

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LCQ20: Bank accounts of licensed money service operators

Following is a question by the Hon Shiu Ka-fai and a written reply by the Acting Secretary for Financial Services and the Treasury, Mr Joseph Chan, in the Legislative Council today (July 11):

Question:

At present, operators of money changers must possess a licence granted by the Commissioner of Customs and Excise for operating money changing service, a kind of money service. Some operators of money changers have relayed to me that in recent years, some banks have not only rejected their applications for opening new accounts but also suddenly frozen or cancelled the existing accounts of money changers and the personal accounts of their operators, dealing a serious blow to their business operations. In this connection, will the Government inform this Council:

- (1) of the number of licensed money changers in each of the past five years;
- (2) of the number of complaints or requests for assistance about the opening/maintenance of bank accounts received by the authorities from operators of money changers in the past five years; whether the authorities have taken follow-up actions, including gaining an understanding from the banks of the reasons for that; if so, of the details; if not, the reasons for that;
- (3) whether the authorities intend to eradicate the money changing service operated by money changers; if so, why they have not made any announcement on this; if not, why the authorities have all along allowed banks to refuse the opening/maintenance of bank accounts by money changers;
- (4) whether it knows (i) the respective numbers of accounts of money changers and personal accounts of their operators which were cancelled by banks in each of the past five years, and (ii) the number of existing bank accounts belonging to money changers; if it does not know, whether it will request banks to provide the relevant information;
- (5) whether the Hong Kong Monetary Authority has issued guidelines regarding the circumstances under which banks may refuse to open new accounts for money changers and cancel/freeze their existing accounts; if so, of the details; if not, the reasons for that; whether the authorities will request banks to give an explanation for such decisions to the affected operators of money changers; if so, of the details; if not, how the authorities safeguard the proper interests of operators of money changers; and
- (6) given that the Customs and Excise Department (C&ED) will examine the records of new applicants for a licence of money service operator or those of applicants for renewal of the licence every two years, and will issue/renew

the licence only after it has ascertained that such applicants have met all the requirements, and that C&ED will conduct compliance inspections on existing money changers, whether the authorities will consider assisting those operators with good records in opening bank accounts; if so, of the details; if not, the reasons for that?

Reply:

President,

Our consolidated reply to the above questions is set out as follows:

Under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, any person who wishes to operate a remittance and/or money changing service in Hong Kong is required to apply for a money service operator (MSO) licence from the Customs and Excise Department (C&ED). The C&ED is responsible for the supervision of licensed MSOs' compliance with the customer due diligence (CDD) and record-keeping obligations and other licensing requirements, as well as combating unlicensed operation of money service.

In the past five years, the number of licensed MSOs continues to increase, as follows:

	2014	2015	2016	2017	First 6 months of 2018
Licensed MSOs	1 206	1 226	1 231	1 309	1 402

In recent years, as the international community intensifies its efforts in combating money laundering and terrorist financing (ML/TF), financial institutions around the world (including banks in Hong Kong) have generally strengthened the related controls, including undertaking more in-depth CDD and on-going monitoring on customers and adopting control measures commensurate with customers' background and risk levels. Where suspicious transactions are identified, financial institutions are required by law to report to law enforcement agencies.

In accordance with international standards and local laws, the Hong Kong Monetary Authority (HKMA) monitors the anti-money laundering and counter-terrorist financing (AML/CTF) controls of the banking industry. The HKMA has been reminding the banking industry that, in implementing robust AML/CTF controls, they should take care not to unreasonably impede access to banking services by legitimate businesses and ordinary citizens. The HKMA has also issued guidance to banks in the past two years, stressing that banks should apply a risk-based approach to the CDD process, instead of adopting a one-size-fits-all approach. Meanwhile, banks should maintain proper communication with customers throughout the CDD process, which should be transparent, reasonable and efficient, as required by the "Treat Customers Fairly" principle. In response to the guidance, banks have taken various steps to enhance transparency and improve customer experience; for example, all retail banks have established mechanisms to review unsuccessful applications. The

HKMA also set up a dedicated webpage on its website and launched a dedicated email account (accountopening@hkma.gov.hk) to facilitate customers' submission of enquiries and feedback.

In practice, individual banks will determine whether to establish business relationships with individual customers based on their own business strategies and risk assessments and after taking into account various relevant factors. After accounts are opened, banks and customers should follow the relevant terms and conditions to operate the accounts. Generally speaking, where banks, during their on-going monitoring process, suspect that certain accounts may be involved in irregular or suspicious transactions (for example, a personal account is being used for business purpose, or if a customer is not able to provide background information as required by a bank), they should undertake appropriate risk mitigating measures, such as by filing a suspicious transaction report in accordance with the law, or terminating the accounts and business relationships as appropriate. The HKMA requires banks to explain to customers the reasons for rejecting account opening applications or closure of accounts where permitted by law. Should a customer consider that a bank has not handled his/her case properly, he/she can make a complaint to the bank concerned or the HKMA and request review for his/her case.

Since the launch of the dedicated email account last year, the HKMA has received, amongst other enquiry/assistance seeking cases, six cases concerning MSOs. As for complaint cases, the statistics is set out below:

Types of Complaint	2014	2015	2016	2017	First 6 months of 2018
Refusal of account opening application by banks	11	37	0	3	0
Closure of accounts by banks	1	6	0	0	0

The HKMA will follow up on each and every complaint. Where appropriate, it will remind the bank concerned to understand more about the business nature of MSOs and give due consideration to the fact that MSOs are regulated by the relevant government department. The HKMA also requires banks to properly distinguish the risk levels of individual MSOs, and adopt appropriate and effective CDD and on-going monitoring measures accordingly. The HKMA considers that it will be more effective to monitor the situation through complaints lodged by customers and handling of the cases directly, and therefore does not collect statistics about bank accounts relating to MSOs.

The C&ED has been maintaining communication with the HKMA to facilitate deeper understanding of the MSO sector by the HKMA and the banking sector. For instance, C&ED participates in seminars organised by the HKMA to brief banks on the mode of operation of MSOs and the regulatory regime for the industry. The C&ED will continue to work with the HKMA to strengthen banks'

confidence in licensed MSOs.

The HKMA will also continue to maintain communication and work together with the banking industry, business community and relevant stakeholders (including MSOs) to tackle this global and complex issue. The aim of the HKMA is to maintain a robust AML/CTF regime in Hong Kong, without compromising access by legitimate businesses and ordinary citizens to basic banking services.

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LCQ9: Planning for retirement and health protection

Following is a question by the Hon Shiu Ka-chun and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (July 11):

Question:

Last year, the Secretary for Labour and Welfare (the Secretary) pointed out that in some two decades to come, there would be about one elderly person (i.e. a person aged 65 or above) in every three Hong Kong people, and that any retirement protection measure should have due regard to fiscal sustainability, in order not to impose a heavy burden on public finances and the next generation. Regarding the planning for retirement and health protection, will the Government inform this Council:

(1) of (i) the latest projected elderly population, (ii) the projected expenditure for the Elderly Health Care Voucher Scheme and (iii) the projected expenditure on public healthcare services, in each year from now to 2066;

(2) among the elderly persons, of the respective numbers and percentages of those receiving the Comprehensive Social Security Assistance, the Old Age Allowance, the Normal Old Age Living Allowance (OALA) and the Higher OALA in

each year from now to 2066, as well as the respective percentages of such expenditures in public expenditure;

(3) as the Secretary indicated earlier that as far as OALA was concerned, public annuities would not be counted as assets but the monthly payouts received would be regarded as an income, whether the authorities have estimated (i) the number of elderly persons who will participate in the public annuity scheme each year from its launch to 2066 and (ii) the number of elderly persons who are ineligible for OALA owing to their receipt of monthly payouts from the public annuity scheme, as well as the amount of public expenditure saved as a result; if so, of the details; if not, the reasons for that; and

(4) as the Commission on Poverty pointed out in its consultation paper published in 2015 that elderly expenditure in 2064-2065 would be two to four times of that in 2014-2015, and the Working Group on Long-Term Fiscal Planning pointed out in its report published in 2014 that a structural deficit could strike in as early as 2021-2022 under the public service enhancement scenario, of the measures to be put in place by the Government to ensure that retirement and health protection is financially sustainable in the long run?

Reply:

President,

Having consulted relevant bureaux and departments, my reply to Member's question is as follows:

(1) In respect of elderly population projection, with the availability of up-to-date benchmark population data from the 2016 Population By-census, the Census and Statistics Department released in 2017 the latest set of population projections covering the period from 2017 to 2066. The mid-year population projections of elderly persons aged 65 and above (excluding foreign domestic helpers) are at Annex.

In respect of the Elderly Health Care Voucher (EHV) Scheme, according to information provided by the Food and Health Bureau (FHB), the EHV Scheme was launched on a pilot basis in 2009 to subsidise elderly persons to use private primary healthcare services. The EHV Scheme became a recurrent programme in 2014. At present, each eligible elderly person aged 65 and above is provided with an annual voucher amount of \$2,000. As at the end of June 2018, over 1.09 million elderly persons had made use of EHV (around 87 per cent of the eligible elderly population). Expenditure for the EHV Scheme has increased from \$49 million in 2009-10 to \$1,697.5 million in 2017-18. The estimated expenditure for 2018-19 is around \$3,156 million. As the population ages, even if the operational details of the EHV Scheme remain unchanged, it is expected that the expenditure involved will rise as the elderly population increases.

In respect of public healthcare services, the Hospital Authority (HA) is

the major provider. According to information provided by the FHB, the overall recurrent subvention to the HA amounts to \$61.5 billion in 2018-19. Starting from this financial year, the Government will increase the recurrent funding for the HA progressively on a triennium basis having regard to population growth and demographic changes. Under this triennium funding arrangement, the additional full-year recurrent provision will be \$10.83 billion with effect from 2020-21. In estimating the overall operating expenditure of HA and the funding required, the model adopted by the Government and the HA is based on the population of Hong Kong, taking into account factors such as the overall demographic and age distribution, and the increase in service costs as a result of changes in the modes of service delivery with the introduction of new medical technology. In finalising the subvention for the HA, the Government will take into account a number of factors, including the population growth and ageing in Hong Kong, the demand for public healthcare services, the need for service enhancement and the Government's overall fiscal position. The Government will continue to liaise closely with the HA in its overall consideration of the level of subvention to the HA.

(2) In respect of expenditure on social security for elderly persons (including the Old Age Allowance and Old Age Living Allowance (OALA)), according to information provided by the Office of the Government Economist, based on the aforementioned population projections and 2018 price levels and after taking into account the two OALA enhancement measures (i.e. relaxing the asset limits of Normal OALA and implementing Higher OALA), it is crudely estimated that the average recurrent government expenditure on social security for elderly persons would be around \$60.9 billion per annum during the 49-year period between 2018 and 2066.

It must be noted that the above estimation covers an extremely long period of time and hence the relevant figure is subject to significant limitations and uncertainties. In addition, the Government does not possess accurate information on assets owned by elderly persons (e.g. cash, bank deposits, values of shares and investment funds, etc) and cannot estimate their eligibility for receiving social security. There will inevitably be a discrepancy between the above crude estimate and the eventual figure.

(3) According to information provided by the HKMC Annuity Limited, public response has been generally positive since the announcement of the HKMC Annuity Plan. In addition, to dovetail with the Plan, while the Social Welfare Department will count the payout provided under the Plan as monthly income under OALA (including both Higher OALA and Normal OALA), the one-off lump-sum premium payment placed with the Plan will not be counted as asset, unless an recipient surrenders or partially surrenders an annuity scheme; and in such cases, the surrender value (if any) will be regarded as his/her asset under OALA.

Whether elderly persons participate in the Plan launched by the HKMC Annuity Limited is a matter of personal choice. At this stage, it is difficult to estimate the number of applicants for the Plan or the Plan's impact on the number of OALA beneficiaries.

(4) According to information provided by the Financial Services and the

Treasury Bureau, based on the Medium Range Forecast conducted in the 2018-19 Budget, the Government will have an overall surplus from 2018-19 to 2022-23. The fiscal position of the Government is healthy in the medium term. On the premise of ensuring the health of public finance, the Government will continue to adopt forward-looking and strategic financial management principles in optimising the use of surplus to invest for Hong Kong and relieve our people's burdens.