

LCQ9: Uses of divested shopping centres in public housing estates

Following is a question by the Hon Cheung Kwok-kwan and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (January 27):

Question:

It has been reported that two shopping centres, which are located in Tin Wan Estate in Aberdeen and Hing Man Estate in Chai Wan and have been divested by the Hong Kong Housing Authority, were rented out in the year before last and last year respectively to international schools for use as school premises. Due to the substantial reduction in the area of shops catering for people's daily living, residents of the public rental housing (PRH) estates concerned not only have to travel a long distance to purchase daily necessities but also are left with fewer shopping choices, causing much inconvenience to their daily lives. In this connection, will the Government inform this Council:

- (1) of the names, addresses and types (e.g. Direct Subsidy Scheme and private) of kindergartens, primary schools and secondary schools whose school premises are currently located in the shopping centres of PRH estates;
- (2) whether the Education Bureau, when vetting and approving in future applications for registration of schools whose premises are located in the shopping centres of PRH estates, will include "if putting the relevant premises to such a use will cause inconvenience to the residents of the PRH estates concerned in their purchase of daily necessities" as one of its considerations;
- (3) whether the current land leases of the various divested shopping centres of PRH estates have specified the maximum percentage of area in the gross floor area allowed for non-livelihood related uses (e.g. school premises and residential care homes for the elderly); and
- (4) of the new policies or measures put in place to ensure that residents of PRH estates can purchase daily necessities near their homes and have more choices?

Reply:

The President,

Having consulted the Education Bureau (EDB) and the Development Bureau, my reply to the question raised by the Hon CHEUNG Kwok-kwan is as follows:

- (1) According to EDB's record of the address of registered schools, as at

mid-January 2021, there are 1 private secondary school, 1 private primary school and 24 kindergartens located in shopping centres of public housing estates. No Direct Subsidy Scheme schools are located in shopping centres of public housing estates.

(2) For application of school registration, if a proposed school is to be operated in premises which are not designed for the purpose of a school, EDB would request the clearance from the Lands Department that the relevant use of premises is in compliance with the lease conditions, as well as the clearance from the Town Planning Board that the proposed school use does not require planning permission or planning permission has already been obtained (subject to the circumstances of each case). Furthermore, in accordance with section 12(1) of the Education Ordinance, the relevant premises are also required to obtain certificates/ notices issued by the Fire Services Department and the Buildings Department / competent authority, proving that the premises are safe and suitable for school purposes. The relevant requirements aim to ensure the safety and well-being of the students as well as making sure that students can study in safe premises. Therefore, in addition to the documentary proof issued by the aforesaid government bureaux/departments and the documents and information in respect of the curriculum, tuition fees, registration of school manager, etc., an applicant for school registration is also required to submit to the EDB documents such as the duly signed tenancy agreement or sales and purchase agreement etc., to prove the right to use the premises. The EDB will consider issuing a Certificate of Provisional Registration after the relevant documents are checked and found in order. In other words, at the time of submitting application for school registration to EDB, the applicants should have signed the tenancy agreement with the landlord of the concerned premises and started carrying out renovation work for schools. As regards whether there are other impacts caused by using the relevant premises as school, it is not a consideration in school registration applications.

(3) Conditions of government leases (commonly known as "land leases") for non-domestic properties divested by the Hong Kong Housing Authority (HA) vary depending on the individual circumstances of each housing estate. Generally speaking, the lease conditions would stipulate users of the concerned lot; total gross floor area (GFA); GFA restrictions on residential, commercial, as well as community and social welfare facilities (if applicable). Whether there are further restrictions on different types of commercial uses under the commercial GFA stipulated in the leases (if applicable) would depend on the divestment arrangements at that time. Taking the shopping centres in Tin Wan Estate and Hing Man Estate as examples, there are no restrictions on the percentage of area to be occupied by commercially-operated educational facilities or residential care services for the elderly under the commercial GFA permitted in the leases.

(4) As members of the general public, residents of public housing have their shopping needs fulfilled through different channels, including facilities provided by all kinds of public and private organisations.

As regards the non-domestic properties divested by HA, the owners of the

divested properties are governed by laws, conditions of land leases, Deed of Mutual Covenant and the relevant restrictive covenants in the assignment deeds. As long as the owners comply with the statutory requirements and land lease conditions, the Government cannot interfere with their lawful right to use their properties, including leasing arrangements and trade mix. Likewise, as long as the owners concerned do not breach the aforementioned covenants with HA, HA cannot and will not interfere with their daily operation and commercial decisions.

The retail facilities in HA's non-domestic properties are determined when developing new public housing estates. During the process, HA will follow the relevant government policies and planning requirements, and take into account the scales of the estates under planning, the provision of shopping centres and retail facilities in the vicinity, etc. Relevant department / organisations will also be consulted.